



BRIEFING: AUGUST 9, 2016 BOARD MEETING AGENDA ITEM #2

TO: Chairman Richard and Board Members

FROM: Ben Tripousis, Northern California Regional Director

DATE: August 9, 2016

RE: Consider Approving a Peninsula Corridor Improvement Plan Consisting of Funding Support for Caltrain Electrification and MOU for the San Mateo Grade Separations Project.

Summary of Action Requested

Staff seeks Board approval of a funding agreement and supplement to a 2012 Memorandum of Understanding (MOU) that further reiterates the California High-Speed Rail Authority (Authority) commitment to provide to Caltrain \$600 million in funding (as directed by the Legislature in 2012), and an additional \$113 million in funding, to support Caltrain's conversion of the San Francisco to San Jose rail corridor from diesel/non-electrified to electrified. An electrified Caltrain corridor is foundational to the Authority running its electrified trains, in a blended system with Caltrain, in the corridor. In order to provide approval, the Authority Board – as a California Environmental Quality Act responsible agency – would have to adopt CEQA findings regarding Caltrain's electrification project; staff seeks such approval.

Staff also seeks Board approval of a Memorandum of Understanding (MOU) with the City of San Mateo regarding potential funding support (\$84M) toward three connected grade separations (estimated to cost \$180M total) that, subject to future confirmations, could facilitate siting of passing track that high-speed rail trains will require in the future to support contemplated blended operations plans.

These costs (\$600 million, \$113 million, and \$84 million) were included in the capital cost estimate approved by the Board in the 2016 Business Plan.

Background

In January 2004, the Authority and the Peninsula Corridor Joint Powers Board (PCJPB) entered into a MOU to establish a framework for future cooperation between the two agencies for the development of a high-speed train system that would share the rail corridor between the City of San Jose and the City and County of San Francisco.

The Authority's 2012 Business Plan established a policy to develop the high-speed rail system utilizing a blended approach consisting of primarily a two-track blended system that will accommodate future high-speed rail trains, existing freight, and modernized PCJPB commuter rail service in the Peninsula Rail Corridor (the 'Blended System').

The Authority and the PCJPB, together with the Metropolitan Transportation Commission, the San Francisco County Transportation Authority, the Santa Clara Valley Transportation Authority, the City of San Jose, the City and County of San Francisco, the San Mateo County Transportation Authority and the Transbay Joint Powers Authority entered into a 2012 MOU that adopted an early investment strategy for the Blended System in the San Francisco to San Jose Peninsula Segment. ('2012 Nine Party MOU').

The 2012 Nine Party MOU includes the Authority's commitment to secure approval and release of \$600 million of Proposition 1A funds and \$106 million of Proposition 1A "connectivity" funds to complete, at the earliest possible date, the Peninsula Corridor Electrification Infrastructure and Advanced Signal System projects.

In July 2012, the Legislature passed and the Governor signed Senate Bill 1029 for the appropriation of \$600 million of Proposition 1A funds and \$106 million of Proposition 1A connectivity funds for early improvement projects in the Phase 1 Blended System, consistent with the 2012 Nine Party MOU.

In May 2013, the Authority and PCJPB entered into an agreement to establish partnership principles and an action plan for the implementation of the PCEP projects and Blended System service.

Construction of an advanced signal system, commonly known as PCJPB's 'CBOSS' project that was partially funded with \$106 million of connectivity funds appropriated in SB 1029 is proceeding and will incorporate federally mandated Positive Train Control necessary for the Authority to operate on the Blended System.

There are three primary elements to the improvements being funded with the Proposition 1A \$600 million Authority investment, along with State Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account, local transportation funds, Federal Transit Authority (FTA) funds and bridge toll funds, identified in the 2012 Nine Party MOU. The first is the Advanced Signal System/Positive Train Control (PTC). The other two are the Corridor Electrification and associated Electrical Multiple Unit rolling stock acquisition projects ('PCEP'), estimated at that time to be \$1.456 billion.

PCJPB updated its cost estimate for the PCEP several times since the 2012 MOU, increasing the estimate each time. After receiving bids on the contracts, PCEP is now projected to cost \$1.972 billion (this does not include the cost of CBOSS).

Seven of the original nine parties to the 2012 Nine Party MOU have identified additional funding and are seeking approval to fully fund the PCEP based upon the 2016 cost estimate which will be memorialized in the Seven Party Supplement to the 2012 MOU (Seven Party MOU). Those parties and corresponding commitments are the Authority [\$113 million], PCJPB [\$9 million], the Metropolitan Transportation Commission (MTC) [\$28.4 million], the San Francisco County

Transportation Authority (SFCTA)/City and County of San Francisco (CCSF) [\$20 million], the Santa Clara Valley Transportation Authority (VTA) [\$20 million], and the San Mateo County Transportation Authority (SMCTA) [\$20 million]. Additionally, PCJPB has applied for \$647 million from the Federal Transit Authority's Core Capacity Program, which did not exist at the time of the 2012 MOU. This application is in the FTA review process, and PCJPB expects a favorable conclusion by late 2016/early 2017. Finally, PCJPB has applied for \$225 million of California State Transportation Agency's Transit & Intercity Rail Capital Program (Cap & Trade TIRCP) funds.

Although the cost of the electrification project has grown and the Authority is being asked to contribute an additional amount, the Authority's share of the total project is decreasing, due primarily to the federal funding now anticipated. The Authority's initial share was 49% of the total; it decreases to 36% under the new multi-party agreement. It is also important to note that the alternative to the blended system on the Peninsula was a dedicated system that, pending environmental approvals, was estimated to cost in excess of \$16 billion.

Since 2012, PCJBP has certified a California CEQA Environmental Impact Report (EIR) for the PCEP and has engaged in a competitive contracting process for the PCEP which has led to the recent receipt of proposals for separate design-build contracts for the Electrification and the Electrical Multiple Unit railcars. PCJPB is poised to issue the contract for Electrification and desires the funding certainty associated with this requested funding agreement and MOU Supplement in order to be comfortable issuing that contract.

Staff is also seeking approval of an agreement with the City of San Mateo at this time because it is directly tied to the electrification project. As discussed below, the Authority is participating in this grade separation project because it improves safety in the blended system corridor, but in doing so also creates the opportunity for the potential future construction of passing tracks that, subject to further technical and environmental comparative analysis and environmental clearance, would be needed for high-speed rail operations. Proceeding with the agreement now would avoid future retrofits, avoid throw-away costs, and allows the Authority to cost-share the project, as opposed to likely having to bear full responsibility if undertaken later.

Future blended operations in the Caltrain corridor will require addition of one or more sets of passing tracks to allow Authority trains (higher speeds and fewer stops) to overtake Caltrain trains (slower speeds and more stops). In a congested urban corridor like the Caltrain corridor, adding passing tracks is complicated and likely impactful to buildings and uses that generally are built up to and abutting the existing train corridor. In San Mateo, near the former Bay Meadows racetrack, the City has been planning a connected series of three grade separations that would raise the existing Caltrain tracks, thereby allowing three grade-separated road underpasses. The City has identified funding sources, but there is a shortfall. Importantly, grade separation in this location is number seven on the California Public Utilities Commission list of top priorities to complete to improve safety now, and will also greatly benefit safety in the future blended system operations scenario.

The grade separations project also involves shifting the existing Caltrain tracks laterally, thereby creating space to potentially add (by the Authority, in the future) passing tracks to support blended operations. As to timing, the grade separations project should be done concurrently with

PCEP. Otherwise, catenary and other electrical additions through PCEP in the location of the current Caltrain tracks would have to be torn out and re-done in the location of the raised and laterally-shifted new Caltrain tracks resultant from the grade separations project – throwaway costs likely the Authority's to bear. The grade separations project is lagging PCEP in terms of project development and construction readiness, and needs the funding gap closed now to be able to move forward quickly enough to be able to merge timing with PCEP's construction schedule.

Accordingly, indicating funding support to close the shortfall now through a MOU with San Mateo is in the Authority's interest: (a) to allow a needed improvement that would benefit the Authority to be cost-shared rather than borne only by the Authority; and, (b) to avoid throwaway costs that the Authority likely would have to bear in the future.

Prior Board Action

Prior Board Actions include:

- 2012 Revised Business Plan establishing the blended approach [#HSRA 12-13]
- 2012 Nine Party MOU [# HSRA 12-11]

Discussion Regarding PCEP Support

CEQA

Staff is recommending Board adoption of the PCJPB's Findings for the PCEP under CEQA as the Authority's own responsible agency findings in support of its funding of the PCEP and further recommends adoption of the PCJPB's Statement of Overriding Considerations.

Responsible Agency Status

The PCJPB is the lead agency with respect to the PCEP. The PCEP is distinct from the Authority's future project-level environmental review for the San Francisco to San Jose and San Jose to Merced sections of the high-speed train project. The Authority's role with respect to funding PCEP is that of a CEQA responsible agency, pursuant to 14 Cal. Code of Regulations (CEQA Guidelines) section 15096. Generally, a responsible agency is a government agency that issues permits to or partially funds another agency's project. For example, California Department of Fish and Wildlife (CDFW) is a responsible agency for the Authority's Merced-Fresno and Fresno-Bakersfield sections because CDFW has issued permits to allow construction.

Accordingly, in order to proceed with funding the PCJPB's PCEP, the Authority must comply with section 15096. That section requires the responsible agency to consider the environmental effects disclosed in the lead agency's EIR then to reach its own conclusions on whether and how to approve the project involved. That section also requires the responsible agency to make findings (under CEQA Guidelines section 15091) for each significant effect of the project.

To date, the Authority has served as a lead agency with respect to preparation of environmental documents for various aspects of the high-speed rail system, such as EIR for the Merced-Fresno and Fresno-Bakersfield segments. Staff's recommended set of actions below with respect to the Authority's responsible agency role in this case are consistent with actions taken by other public agencies in a CEQA responsible agency role.

Staff has reviewed the PCJPB's Final EIR for the PCEP,¹ and has further reviewed the PCJPB's CEQA Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program (MMRP). Staff recommends determining that the Final EIR, together with the CEQA Findings, is adequate for the Authority's use as a decision-making body in a responsible agency role – the Authority is not required to adopt the Final EIR.

Staff concurs with the PCJPB's CEQA Findings and Statement of Overriding Considerations. They are attached to this memorandum for the Board's review and consideration. Staff recommends that the Authority adopt the PCJPB's CEQA Findings as the Authority's own findings. Staff further recommends that the Authority adopt the PCJPB's Statement of Overriding Considerations, which describes the benefits of the PCEP (which include that PCEP is consistent with future high-speed rail blended service).

Staff has reviewed the PCJPB's MMRP for the Final EIR (attached to this memorandum). The Authority's Adoption of the MMRP is not necessary or appropriate for the Authority's responsible agency role because the mitigation measures set forth therein fall primarily under the PCJPB's jurisdiction and represent PCJPB's obligation. However, there are two discrete mitigation measures contained within the MMRP that define a role for the Authority with respect to noise and vibration analysis and mitigation for the Authority's future operations in the Corridor. The measures essentially are required by law – i.e., mitigating project-specific noise impacts (directly or through fair-share contribution with other operators) to the extent feasible, and performing vibration analysis – so do not require any special action by the Authority at this time.

Funding Agreement and MOU Supplement

Staff seeks Board approval to execute: 1) the “Agreement Regarding Commitments Toward the Peninsula Corridor Electrification Project” with the PCJPB; and, 2) the “Seven Party Supplement to the 2012 MOU” and approval to enter into a contract with PCJPB to pay the Authority's portion of the State's \$113 million commitment toward the PCEP not covered by a potential Cap & Trade TIRCP award.

Agreement Regarding Commitments toward Peninsula Corridor Electrification Project (PCJPB Agreement)

Authority commitments

This PCJPB Agreement memorializes the Authority's existing commitment to provide \$600 million in Proposition 1A funds for the PCEP, as appropriated in SB 1029, in a manner consistent with Proposition 1A and applicable legislation including those requirements set forth in SB 1029.

¹ Available at:

http://www.caltrain.com/projectsplans/CaltrainModernization/Modernization/PeninsulaCorridorElectrificationProject/FEIR_Release.html

In addition, the Authority commits to an additional \$113 million of funds above the appropriated \$600 million in Proposition 1A funds from other State sources to pay for the PCEP. PCJPB submitted an application for \$225 million of Cap & Trade TIRCP funds. CalSTA anticipates making decisions on pending TIRCP applications in the coming weeks.

All funding provided by the Authority will be available to PCJPB on a reimbursable basis and subject to satisfactory compliance with the prerequisites of obtaining such funds prescribed by Proposition 1A and SB 1029 as appropriate.

PCJPB is completing the final negotiations to award design-build contracts for both the Electrification and the Electrical Multiple Unit railcars.

The Authority commits to provide funding for PCEP upon execution of the PCEP contract executions. Project funding needs for the next fiscal year are projected to be \$117 million.

PCJPB has applied for \$647 million in FTA Core Capacity Funding. The process involves several steps culminating in a Full Funding Grant Agreement (FFGA). Although Caltrain's application process has gone through several critical steps, the award and amount of federal funds is not guaranteed until an FFGA is issued. The PCJPB anticipates receiving the FFGA in late 2016/early 2017. In order to prevent the PCJPB construction from outpacing funding certainty PCJPB commits to issue a Limited Notice to Proceed (LNTP) for the PCEP projects. This LNTP is for design and some limited material purchases. A full notice to proceed can be issued once a full funding grant agreement in the amount of \$647 million is executed between FTA and PCJPB. If the federal funding is less than the \$647 million issuance of a full Notice to Proceed will require Authority approval.

Pending availability of Proposition 1A funds, funding derived from other sources will be made available to PCJPB through the Authority to ensure the Authority's share of PCEP cash flow requirements will be met.

PCJPB commitments

This PCJPB Agreement memorializes PCJPB's commitment to negotiate an agreement in the future to facilitate Authority's shared use of the corridor and to convey to the Authority, at no cost to the Authority, a permanent and irrevocable possessory property interest in the corridor to enable future operation of Blended System service after completion of the PCEP. The property interest will be conveyed upon FTA approval and execution of the PCEP full funding grant; allocation and receipt of Proposition 1A funds or State funds in lieu; issuance of PCEP full Notices to Proceed and approval of the Project Management Funding Agreement (PMFA) required under SB 1029. The Authority Board and the Department of Finance must approve the PMFA before Proposition 1A funds can be spent. SB 1029 requires, as part of the PMFA, that PCJPB report to the Authority on a quarterly basis to ensure bond-funded activities are within the scope and cost outlined in the PMFA. Staff will present the PMFA to the Board for approval at a later date.

PCJPB also commits to convey, at no cost to the Authority, intercity passenger rights to the Authority if they are obtained from Union Pacific Railroad that currently owns these rights.

The Authority will need to obtain these intercity passenger rights prior to operating on the Corridor.

Additional Future Agreements

PCJPB and the Authority both commit to negotiate additional agreements that will address, among other things, detailed issues of future shared use and maintenance of the Corridor. Both parties also agree to invoke non-binding mediation if unresolved issues remain.

Seven Party Supplement to the 2012 MOU

Seven of the original nine parties to the 2012 Nine Party MOU have identified additional funding each will seek approval to provide. The Authority's additional commitment above the \$600 million in Proposition 1A funds is \$113 million.

Discussion Regarding MOU with City of San Mateo

The San Mateo grade separation project, led by the City of San Mateo as project sponsor, is currently undergoing environmental review and design and will be undertaking right-of-way activities in anticipation of beginning construction in Spring 2017. The engineer's estimate for the grade separation project is \$180 million. The 2016 Authority Business Plan statewide cost estimates included these grade separation projects because they greatly improve safety and traffic operations in the Authority's Blended System project section, and because they are tied to the potential location of passing tracks necessary for high-speed rail operations in a blended configuration with electrified Caltrain commuter trains. The City now requests a commitment of \$84 million in state funding to complete the funding for this project (remaining \$96M would be funded by the San Mateo County Transportation Agency (SMCTA)).

By eliminating the existing at-grade crossing, the project will improve overall access to transit and regional transit operations while significantly improving safety. The project sets the vertical alignment for the Caltrain rail corridor from San Mateo to Redwood City facilitating the planning for future blended rail service in Peninsula corridor.

The City and PCJPB anticipate beginning construction in Spring 2017 to coordinate improvements with PCEP. The timing and coordination of the two projects are important because significant cost savings will be achieved if the grade separated structure can be constructed before electrification infrastructure is installed, as described in more detail above.

Legal Approval

The Chief Counsel's office has reviewed and concurs with the adoption of the PCJPB's CEQA Findings and Statement of Overriding Considerations in connection with the Authority's funding commitment with respect to the PCJPB's PCEP.

The Chief Counsel's office has also reviewed and concurs with the Authority's ability to enter into both the "Agreement Regarding Commitments Toward Peninsula Corridor Electrification Project" with the PCJPB and the "Seven Party Supplement to the 2012 MOU" and a contract

with PCJPB to pay the Authority's portion of the State's \$113 million commitment toward the PCEP not covered by the potential Cap & Trade TIRCP award pursuant to the Authority's regulations, policies, and enabling statutes.

Chief Counsel's office has reviewed and concurs with the Authority's ability to enter into the MOU with the City of San Mateo.

Budget Implications

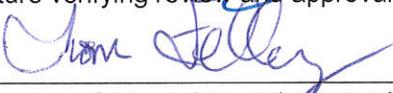
The funds associated with this request include funds that are provided for in the project budget as a component of the Phase 1 Project Development tasks. This request is consistent with the cost projections contained in the Authority's 2016 Business Plan.

Regarding the MOU with the City of San Mateo, the City of San Mateo has requested a commitment of \$84 million in state funding and this request is consistent with the cost projections contained in the Authority's 2016 Business Plan. The City of San Mateo and the PCJPB are coordinating the grade separation project and the electrification project. Based on current plans, funding from the Authority would be needed starting in May 2017; commitment now via the MOU allows the City to proceed with award of a contract and incorporation of the grade separations into the electrification project.

Recommendations

Staff is recommending that the Board adopt the Resolution: (a) adopting the PCJPB's CEQA Findings for the PCEP as the Authority's own responsible agency findings in support of its funding of the PCEP, and adopting the PCJPB's Statement of Overriding Considerations; and, (b) approving the execution of the attached "Agreement Regarding Commitments Toward Peninsula Corridor Electrification Project" with the PCJPB and the "Seven Party Supplement to the 2012 MOU" with the parties to that agreement.

It is also recommended that the Board adopt the Resolution authorizing execution of an MOU with City of San Mateo.

| APPROVED BY | |
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| Reviewer Name and Title: Russell Fong, CFO | Signature verifying review and approval:  |
| Reviewer Name and Title: Tom Fellenz, Chief Counsel | Signature verifying review and approval:  |
| Reviewer Name and Title: Ben Tripousis, Northern California Regional Director | Signature verifying review and approval:  |

Attachments

- Resolution #HSRA 12-11
- Resolution #HSRA 12-13

- 2012 Nine Party MOU
- May 1, 2013 CHSRA-PCJPB Agreement
- PCJPB's CEQA Findings and Statement of Overriding Considerations Adopted January 8, 2015
- PCJPB's Mitigation Monitoring and Reporting Program Adopted January 8, 2015
- Agreement Regarding Commitments Toward Peninsula Corridor Electrification Project
- Seven Party Supplement to the 2012 MOU
- Draft Resolution #HSRA 16-21 – Responsible Agency CEQA Findings; Agreement Regarding Funding Commitments Toward the Peninsula Corridor Electrification Project; Seven Party Supplement to the 2012 MOU
- Draft Resolution #HSRA 16-22 – MOU with City of San Mateo