

**FIRST AMENDMENT TO
COOPERATIVE AGREEMENT BETWEEN
THE CITY OF SAN JOSE
AND
THE CALTRAIN JOINT POWERS BOARD
CONCERNING THE CALTRAIN MAINTENANCE FACILITY**

THIS FIRST AMENDMENT is made and entered into as of this 4th day of December, 2001 ("EFFECTIVE DATE") by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and the PENINSULA CORRIDOR JOINT POWERS BOARD, a Joint Powers Authority (hereinafter "JPB").

RECITALS

- A. JPB plans to construct a Maintenance Facility near Lenzen Avenue in the City of San Jose (the "MAINTENANCE FACILITY"); and
- B. In connection with the construction and operation of the MAINTENANCE FACILITY, CITY and JPB entered into that certain Cooperative Agreement dated as of September 19, 2000 (the "COOPERATIVE AGREEMENT") to address potential effects of the MAINTENANCE FACILITY on the surrounding residential community, and a Caltrain Maintenance Facility Task Force ("TASK FORCE") was formed to address neighborhood issues and concerns and to represent the interests of the affected neighborhoods in connection with the MAINTENANCE FACILITY project; and
- C. The parties continue to agree that it is in the public interest for CITY and JPB to work together in order to design, construct and operate the MAINTENANCE FACILITY in a mutually beneficial manner with the goal of reducing the effects of the MAINTENANCE FACILITY on the residential neighborhoods based upon shared objectives to be agreed to by JPB and CITY, as further described herein; and

- D. CITY has indicated it can support the MAINTENANCE FACILITY project so long as JPB fulfills its obligations under the COOPERATIVE AGREEMENT, as the same is amended, in good faith; and
- E. CITY and JPB, in continued recognition of the mutual benefits to be derived from the MAINTENANCE FACILITY, desire to reaffirm their commitments under the COOPERATIVE AGREEMENT and enter into this FIRST AMENDMENT to further provide for cooperation in the design, construction and future operation of the MAINTENANCE FACILITY through the approval of certain SHARED OBJECTIVES contemplated in the COOPERATIVE AGREEMENT.

NOW, THEREFORE, for mutual consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereby agree as follows:

SECTION 1. SHARED OBJECTIVES

JPB and CITY hereby reaffirm their respective commitments under the COOPERATIVE AGREEMENT and, without limiting the foregoing, further agree, as contemplated by the COOPERATIVE AGREEMENT, to abide by and timely implement the actions identified in the SHARED OBJECTIVES, attached hereto as EXHIBIT A, entitled "SHARED OBJECTIVES," and incorporated herein by this reference.

SECTION 2. JPB COMMITMENTS

- A. JPB specifically acknowledges and reaffirms its commitment in the COOPERATIVE AGREEMENT to design and operate the MAINTENANCE FACILITY in a manner that will reduce impacts on the residential neighborhood based upon the SHARED OBJECTIVES, including agreed upon design enhancements developed pursuant to the terms of the COOPERATIVE AGREEMENT.

- B. JPB further specifically acknowledges and reaffirms its commitment: (1) to work as cooperatively as possible with the CITY in the site development process for the MAINTENANCE FACILITY to reduce the impacts on surrounding neighborhoods, and (2) to continue to include in the budget for the MAINTENANCE FACILITY funds for the projected costs necessary to achieve the design enhancements described in the COOPERATIVE AGREEMENT, as amended. JPB remains committed to budget and fund these measures.

SECTION 3. GENERAL PROVISIONS

A. COUNTERPART EXECUTION

This FIRST AMENDMENT may be executed by the parties in one or more counterparts, each of which shall be deemed an original, and all of which in the aggregate shall constitute one and the same document.

B. EFFECTIVE PROVISIONS

Excepting only the amendments specifically set forth in this FIRST AMENDMENT, the terms and provisions of the COOPERATIVE AGREEMENT shall remain in full force and effect.

C. CONFLICTING PROVISIONS

In the event of a conflict between the terms and provisions of the COOPERATIVE AGREEMENT and the terms and provisions of this FIRST AMENDMENT, the terms and provisions of this FIRST AMENDMENT shall govern and control.

D. DEFINED TERMS

Any term set forth in this FIRST AMENDMENT in all capitalized letters that is not specifically defined herein shall have the meaning ascribed to it in the COOPERATIVE AGREEMENT.

WITNESS THE EXECUTION HEREOF as of the EFFECTIVE DATE first hereinabove written.

"CITY"

CITY OF SAN JOSE, a municipal corporation

By *Patricia L. O'Hearn*
Name: Patricia L. O'Hearn
Title: City Clerk

APPROVED AS TO FORM:

By *Renee A. Guerra*
Senior Deputy City Attorney

"JPB"

JOINT POWERS BOARD, a Joint Powers Authority

By *MJ Scanlon*
Name: MICHAEL J. SCANLON
Title: EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

By *Michael J. Scanlon*
Attorney

Caltrain Maintenance Facility - SHARED OBJECTIVES

Assume all commitments will be performed in accordance with all applicable laws, rules and regulations of the federal, state and local governments

CATEGORY	GOAL	ACTION
A. Noise	Eliminate objectionable noise during night time hours. Include design features and operational policies to reduce general noise output from the facility to the maximum extent feasible	<p>PREVIOUS COMMITMENTS: Construct a wall or walls along the westerly property boundary between Taylor Street and Lantzen Avenue to provide a positive barrier between the facility and the neighborhood receptors in areas where existing buildings do not provide a barrier. Length, height, and limits of the wall(s) shall be determined by JPB, in cooperation with and with input from City monitoring committee or task force, during final design and shall intercept the line of sight from locomotive and car sources. Wall construction shall be completed on or before the completion of facility construction.</p> <p>The facility shall be designed to minimize train movements between the various maintenance and storage sites to the extent possible.</p> <p>A-2 Locate sites of active maintenance away from the west side of the project site to the extent possible.</p> <p>A-3 Place shielding on heating and air-conditioning equipment and fans that have exit points above the height of walls or adjacent buildings prior to the commencement of operation of such equipment.</p> <p>A-4 Prior to the opening of the facility, establish a policy to utilize ground power instead of diesel engine power whenever possible during storage or layover of trainsets. The new operating contract includes the following statements: "Locomotives shall not be allowed to idle unnecessarily." "Any train in active service having a layover of more than one hour shall be connected to standby ground power. Train shall be retained on ground power during any cleaning and/or inspection process which requires electrical power. Locomotive Head-End power shall not be used for the equipment prior to twenty minutes before scheduled departure time." Note, it is necessary to begin warm-up of the main locomotive engine approximately 20-30 minutes prior to departure.</p> <p>A-5 On or before the completion of facility construction, provide insulation of building walls and ceilings to reduce noise. Details to be determined by JPB in cooperation with and with input from City monitoring committee or task force during design process.</p> <p>A-6 No external public address system is planned for the facility. Daily communications will be conducted using personal communication devices. Exceptions are audible emergency warning systems as required by regulatory agencies for safety. If these plans change and an external public address or other external, noise producing system is contemplated, JPB shall provide the City monitoring committee or task force with prior written notice of these planned changes in a sufficient amount of time to allow the JPB and the City oversight committee or task force to meet to discuss appropriate guidelines for use of such a system.</p> <p>A-7 Close the Lantzen Avenue grade crossing prior to the completion of facility construction.</p> <p>A-8 Construction activities will be limited to daytime hours, meaning from 7:00 a.m. to 7:00 p.m., to the extent possible. Planned activities that have the potential to impact train operations and safety may be performed during restricted timeframes including night time and weekend periods. Activities necessary to address emergency situations, whether or not planned, may be performed at any time.</p> <p>A-9 At least seven days prior written notice, by regular U.S. mail or hand-delivered filers, shall be given to the surrounding neighborhoods for any pile driving activities during construction. Contract specifications shall address these requirements.</p>

EXHIBIT A

Caltrain Maintenance Facility - SHARED OBJECTIVES

Noise (Cont'd)	
<p>APRIL 6, 2001 WORKSHOP COMMITMENTS: A-11 Prior to the completion of facility construction, enclose the train washing facility and equipment to the extent possible. This includes the sides of the washer but not the ingress/egress or overhead areas. Pumps and tanks will be housed in an enclosed structure at all times. A-12 Provide an alternate method of maintaining engine oil temperature when ambient temperature is below 40 degrees F in lieu of idling the locomotive diesel engine, which alternate method is intended to be and shall be quieter than the noise level produced by the idling engine. A-13 Limited curfew on engine load testing: Implement a policy to conduct annual load tests on locomotive engines only during daytime hours of 7 AM to 5 PM. Perform the annual load tests on the east side of the shop building at all times. This provision does not address emergency engine load testing. Such testing occurred approximately 25 times in the 14-month period ending 12/1/01, with about 25% of such testing occurring at night.</p>	<p>APRIL 6, 2001 WORKSHOP COMMITMENTS: A-11 Prior to the completion of facility construction, enclose the train washing facility and equipment to the extent possible. This includes the sides of the washer but not the ingress/egress or overhead areas. Pumps and tanks will be housed in an enclosed structure at all times. A-12 Provide an alternate method of maintaining engine oil temperature when ambient temperature is below 40 degrees F in lieu of idling the locomotive diesel engine, which alternate method is intended to be and shall be quieter than the noise level produced by the idling engine. A-13 Limited curfew on engine load testing: Implement a policy to conduct annual load tests on locomotive engines only during daytime hours of 7 AM to 5 PM. Perform the annual load tests on the east side of the shop building at all times. This provision does not address emergency engine load testing. Such testing occurred approximately 25 times in the 14-month period ending 12/1/01, with about 25% of such testing occurring at night.</p>
<p>PROPOSALS REVIEWED AFTER 4/6/01 WORKSHOP: Extension of soundwall limits south of Lenzen Avenue in area of switches.</p>	<p>ADDITIONAL COMMITMENTS APRIL 25, 2001: A-14 A wall can be accommodated across Lenzen Avenue and shall be constructed and completed prior to the completion of facility construction. Final design will consider height, length and sight distance issues. Design details shall be determined by JPB, in cooperation with and with input from City monitoring committee or task force. A-15 Trains on the maintenance yard lead track that do not pass through the mainline switch will not activate the crossing gates.</p>
<p>Design northern lead track and signal system to avoid activating Stockton crossing gates for most yard moves.</p>	<p>A-16 Prior to the opening of the facility, establish and implement a policy to limit car body repair (as needed) to day shift (7am-5pm) only. Prior to the opening of the facility, establish and implement a policy to limit engine checks for 15-day and 92-day maintenance to day shift (7am-5pm) only. Second shifts will likely be needed upon opening of the facility. Some scheduled maintenance activities are currently performed on second shifts.</p>
<p>Limit scheduled maintenance activities to only daytime shifts - need to evaluate day shift capacity.</p>	<p>A-17 Prior to opening of the facility, establish and implement a policy to utilize muffling device when performing any horn tests. A-18 Upon opening of the facility, shift performance of the daily engine run-up and horn check from CEMOF to Diridon for trains after 11:30PM. Upon opening of the facility, shift overnight storage of the first four outgoing trains to Diridon.</p>
<p>Muffler over horns during daily inspections. Alternatives to limit engine run-up noise at night as a result of daily inspections. Other alternatives for encapsulating noise at the site</p>	<p>A-19 Prior to the completion of facility construction, provide doors on the ends of shop buildings. Details to be developed during final design process by JPB in cooperation with and with input from City monitoring committee or task force. A-20 Prior to the completion of facility construction, develop and implement (all in coordination with and with input from City monitoring committee or task force) modified fence design to maximize sound attenuation.</p>
<p>Extension of sound barrier south of Lenzen Avenue behind PG&E yard</p>	<p>Evaluations would occur prior to the opening of the facility.</p>
<p>PROPOSALS REQUIRING ADDITIONAL EVALUATION: Alternatives to limit night time noise from train engines Provide alternate warning mechanism to reduce bell ringing for yard movements.</p>	<p>Minimize dispatches from CEMOF prior to 6:30am. Evaluate potential for train storage at Yonkers. Audible warnings required for worker safety. Further investigation needed to determine if pitch can be altered to reduce or eliminate noise heard in the neighborhood. Such investigation to be undertaken in cooperation with and with input from City monitoring committee or task force.</p>

Caltrain Maintenance Facility - SHARED OBJECTIVES

<p>B. Air Quality</p>	<p>Minimize diesel locomotive emissions. Minimize air quality impacts during construction of the facility.</p>	<p>PREVIOUS COMMITMENTS:</p>	<p>The facility shall be designed to minimize train movements between the various maintenance and storage sites to the extent possible.</p>
<p>B-1</p>			<p>Contaminated or hazardous materials will be handled in accordance with applicable Federal, State, and Local requirements at all times.</p>
<p>B-2</p>			<p>Caltrain rolling stock shall conform to existing applicable regulations.</p>
<p>B-3</p>			<p>Utilize propane or electric fork lifts in lieu of diesel forklifts to the extent possible. Some activities would still require the larger diesel forklifts, but their use shall be minimized to the greatest possible extent.</p>
<p>B-4</p>			<p>Utilize battery powered personnel carriers at the facility to the extent possible. Other vehicles, such as standard diesel and gas powered pickup trucks, would still be utilized, but their use shall be minimized to the greatest possible extent.</p>
<p>B-5</p>			<p>Utilize battery powered personnel carriers at the facility to the extent possible. Other vehicles, such as standard diesel and gas powered pickup trucks, would still be utilized, but their use shall be minimized to the greatest possible extent.</p>
<p>B-6</p>		<p>APRIL 6, 2001 WORKSHOP COMMITMENTS:</p>	<p>Prior to the opening of the facility, develop and implement a policy to utilize smaller engines or other transporting equipment to move locomotive and cars within the limits of the maintenance facility to the extent possible instead of using the locomotives to move unit trains. Some train movements would still be accomplished with the locomotive engine, for example but not limited to: arriving and departing from the yard, or in cases when the number of moves exceeds the available equipment. Prior to the opening of the facility, provide a budget to purchase this equipment.</p>
<p>B-7</p>			<p>Prior to the opening of the facility, establish and implement a policy to utilize ground power instead of diesel engine power whenever possible during storage or layover of transets. The new operating contract includes the following statements: "Locomotives shall not be allowed to idle unnecessarily." "Any train in active service having a layover of more than one hour shall be connected to standby ground power. Train shall be retained on ground power during any cleaning and/or inspection process which requires electrical power. Locomotive Head-End power shall not be used for the equipment prior to twenty minutes before scheduled departure time." Note, it is necessary to begin warm-up of the locomotive engine approximately 20-30 minutes prior to departure.</p>
<p>B-8</p>			<p>Prior to the opening of the facility, provide an alternate method of maintaining engine oil temperature when ambient temperature is below 40 degrees F in lieu of idling the locomotive diesel engine, which alternate method is intended to reduce emissions.</p>
		<p>ADDITIONAL COMMITMENTS APRIL 25, 2001:</p>	
	<p>PROPOSALS REQUIRING ADDITIONAL EVALUATION:</p>		
	<p>Alternate Fuel switch engines to move equipment within the yard limits.</p>		<p>LNG (Liquefied Natural Gas) powered switching engines available. Incremental cost needs to be identified and agreed to by the JPB Board.</p>

Caltrain Maintenance Facility - SHARED OBJECTIVES

PREVIOUS COMMITMENTS:	
C. Lighting	<p>Minimize light intrusion</p> <p>C-2 The height of external overhead lighting masts shall be minimized to the extent possible. All external facility lighting shall be designed and installed to minimize intrusion of light into surrounding residential areas.</p>
D. Safety	<p>Minimize fuel storage at the facility</p> <p>D-1 Fuel storage at the site will be minimized at all times in anticipation of future electrification.</p> <p>D-2 Any proposed fuel storage would be located as far away from any residential areas as is feasible.</p> <p>Provide adequate security for the facility</p> <p>Security gates and fences will be erected where determined appropriate through the design process prior to the completion of facility construction.</p>
E. Traffic	<p>Minimize facility related traffic on west side of facility.</p> <p>E-1 Employee parking will be located on the east side of the mainline railroad tracks with access via the Autumn Street extension.</p> <p>Conform to local traffic ordinances</p> <p>E-2 Construction specifications will require conformance to local traffic ordinances.</p>
F. Construction Phase	<p>Construction activities to conform to local ordinances.</p> <p>F-1 At least seven days prior written notice (via regular U.S. mail or hand-delivered fliers) shall be given to the surrounding neighborhoods for any pile driving activities during construction. Contract specifications shall address these requirements.</p> <p>Minimize construction activity impacts on neighborhoods</p> <p>F-2 Construction activities will be limited to daytime hours, meaning from 7:00 a.m. to 7:00 p.m., to the extent possible. Planned activities that have the potential to impact train operations and safety may be performed during restricted timeframes including night time and weekend periods. Activities necessary to address emergency situations, whether or not planned, may be performed at any time.</p>
G. Aesthetics	<p>Construct and maintain a facility that is aesthetically compatible with the surrounding area</p> <p>G-1 The design process will provide opportunity for timely and thoughtful community input regarding aesthetics of the shop buildings. Aesthetic treatments will be focused on the portions of the buildings that are visible from the residential areas.</p> <p>G-2 A landscaping plan will be developed for the ingress and egress points of the facility (3 locations). Landscaping shall be installed prior to the completion of facility construction and shall be maintained by Caltrain or its agents.</p> <p>G-3 Prior to opening of the facility implement a graffiti maintenance program at the maintenance facility. This program will focus on the areas that are visible from surrounding residential areas. At a minimum, this program will provide for graffiti removal on areas visible from the surrounding residential neighborhoods within 48 hours of discovery of the graffiti tagging.</p>

Caltrain Maintenance Facility - SHARED OBJECTIVES

		PREVIOUS COMMITMENTS:
H. Ongoing Community Communication	H-1	The JPB and the City agree to work with the community on identifying and implementing traffic calming mechanisms along Stockton Avenue.
	H-2	Upon the start of facility construction, and at all times thereafter, JPB will provide a staffed 24-hour community complaint telephone line that is a local contact and local telephone number.
	H-3	JPB will respond to community complaints within 72 hours of receipt. JPB shall keep a written log of all community complaints received, which log will include the date and time the complaint was received, a summary of the complaint, and the action taken to resolve the complaint. JPB will make this log available to the City or a member of the public upon request. JPB will regularly report complaints from the community to the Maintenance Facility Monitoring Committee including description of complaint, date and time received, and any action taken to resolve the complaint.
	H-4	JPB to provide adequate staff support to Maintenance Facility Monitoring Committee, including funding for newsletters and neighborhood notices.
I. General	I-1	Support future electrification of Caltrain system and future fourth track installation. Facility will be designed to accommodate future electrification and fourth track alignment.

RESOLUTION NO. 2001- 127

PENINSULA CORRIDOR JOINT POWERS BOARD
STATE OF CALIFORNIA

* * *

**AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE COOPERATIVE
AGREEMENT WITH THE CITY OF SAN JOSE CONCERNING THE CALTRAIN
MAINTENANCE FACILITY**

WHEREAS, pursuant to Resolution 2000-41, approved on September 7, 2000, the Peninsula Corridor Joint Powers Board (“JPB”) and City of San Jose (“CITY”) entered into a Cooperative Agreement (“Cooperative Agreement”) that provided for cooperation between the JPB and the City relative to design, construction and future operation of a centralized maintenance facility at the Lenzen Yard site in San Jose (“Project”), and committed both parties to remain responsive to neighborhood concerns with respect to the Project; and

WHEREAS, the JPB and the City have worked with the surrounding residential community and the Caltrain Maintenance Facility Task Force (“Task Force”) to identify community goals and JPB actions that will reduce impacts from the Project on the residential neighborhood, and have agreed to pursue implementation of the actions outlined in these Shared Objectives in conjunction with the design, construction and operation of the Project; and

WHEREAS, the Cooperative Agreement provided for development of such Shared Objectives and their adoption through an amendment to the Cooperative Agreement; and

WHEREAS, the JPB staff, the San Jose City Council and the Task Force have reviewed and approved the Shared Objectives and the amendment to the Cooperative Agreement; and

WHEREAS, the Staff Coordinating Council has reviewed the amendment and Shared Objectives and has recommended that the JPB approve the First Amendment to the Cooperative Agreement.

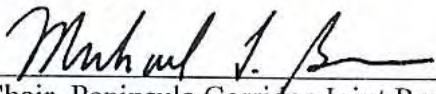
NOW, THEREFORE, BE IT RESOLVED by the Peninsula Corridor Joint Powers Board that the Executive Director hereby is authorized to execute the first Amendment to the Cooperative Agreement with the City of San Jose in a final form approved by legal counsel.

Regularly passed and adopted this 6th day of December 2001, by the following vote:

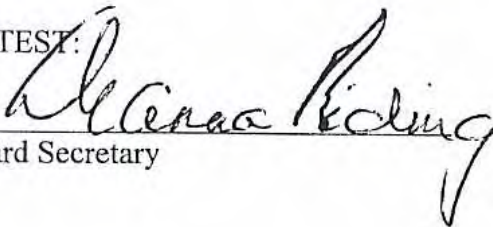
AYES: Ayerdi, Lloyd, Maxwell, Nevin, McLemore, Schmidt, Burns

NOES:

ABSENT: Valerio, Yeager



Chair, Peninsula Corridor Joint Powers Board

ATTEST:


Board Secretary