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## **7.0 INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION**

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### **7.1 SUMMARY**

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This Section contains a discussion of the institutional issues and a set of specific recommendations for implementing a Monterey/Santa Cruz passenger rail project. In other studies, consultants are working on both Monterey and Santa Cruz passenger rail projects separately. This section of the final report provides recommendations on institutional issues and implementation strategies and should be taken into account by the counties as they decide on the next steps to take.

#### **Key Issues**

1. The two counties have each developed separate proposals to initiate passenger rail service.
2. It would be advantageous to find a way to merge the interests of both counties and develop a single passenger rail initiation proposal to reduce costs and make the project more attractive for financing agencies.
3. Responsibility for program implementation and operations oversight needs to be assigned to an organization given the passenger rail assignment for both counties.
4. To assure efficient use of resources and to avoid establishing another Monterey or Santa Cruz transportation agency, it would be best to use existing institutions and resources without creating a new agency for passenger rail. A new policy body should be established from existing policy level transportation decision-making bodies and should use one or more existing agencies to provide all administrative and staff support.

#### **Recommendations**

1. A new policy making body and Joint Powers Authority should be created using a Joint Exercise of Powers Agreement between the Transportation Agency for

Monterey County (TAMC) and the Santa Cruz County Regional Transportation Commission (SCCRTC).

2. Policy body members should be appointed respectively from members of the respective Rail Policy Groups already organized in TAMC and SCCRTC.
3. Three persons, hired sequentially and at an appropriate timetable for implementation, should be put in place as the core staff to run the passenger rail program.
4. A managing agency should be selected among four candidates (TAMC, SCCRTC, SCMTD, MST) to house the core staff and to provide administrative support to the Joint Powers Authority in a similar manner as SAMTRANS houses the PCJPB staff and BART houses the Capitol Corridor Joint Powers Board staff. All work on the rail program would be subject to direction by the Joint Powers Board of the Joint Powers Authority.
5. The Joint Powers Authority should carry out its responsibilities through a small core staff supplemented by administrative support from an existing organization and contracts with third-parties for every other aspect of the operation.

Institutional arrangements must be proposed, considered, and accepted to carry out the plan to implement coordinated passenger rail services linking Santa Cruz and Monterey with the San Francisco Bay area by the year 2002 and, further, to expand the initial service to an Around the Bay passenger rail service that also links the two downtowns (Santa Cruz and Monterey) by the year 2005.

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## **7.2 INSTITUTIONAL ANALYSIS**

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### **Current Institutions**

The Counties of Monterey and Santa Cruz have separately organized transportation functions required by California and Federal law. One organization has multi-county responsibilities as the Metropolitan Planning Organization (AMBAG-the Association of Monterey Bay Area Governments); two organizations are responsible for programming transport planning and project funds (TAMC-the Transportation Agency for Monterey County and SCCRTC-the Santa Cruz County Regional Transportation Commission); and two organizations are responsible for the operation and delivery of public transport services (SCMTD-Santa Cruz Metropolitan Transit District and MST- Monterey-Salinas Transit).

## **Historic Separation**

The nature of the historic separation of the interests of the two counties is an important feature of the consideration of institutional recommendations for passenger rail services. In order to develop proposals that join the counties interests and make it possible to make bi-county decisions in open forums and with a business-like atmosphere, any proposal must be seen as equitable by both counties.

## **Joint Interests**

With respect to passenger rail, the two counties have a mutual interest in initiating services for citizens and tourists. The motivation for these interests is similarly focused on quality of life issues, the needs for mobility options in light of significant constraints for the growth of internal and external highway connections and a keen sense of competition for the attractiveness of each community as a tourist and visitor destination. This latter issue may be internally competitive between the counties, however, given their proximity, they have a mutual interest in competing with other destinations on a national, statewide, and regional basis. In the case of Santa Cruz and Monterey, their combined attraction adds up to a major competitive edge.

## **Intercity Passenger Rail Project Interests**

The Counties are advocating passenger rail services to connect to the San Francisco Bay Area. Each county has defined its project separately, however, the common elements of the projects are extremely important to note:

Both projects seek to tap the potential traveler from the **San Francisco Bay area**, one (Monterey) by establishing direct service from the downtown San Francisco train station at Fourth and Townsend and the other (Santa Cruz) tapping this market by trains leaving from San Jose and connecting in San Jose with Capitol Corridor and Caltrain trains.

Both projects would seek to tap the potential traveler from the greater **San Jose area**.

Both projects would use the Union Pacific Railroad right-of-way used by Caltrain and the subject of a Caltrain/Union Pacific Railroad trackage rights agreement between **San Jose and Gilroy**.

Both projects would use the Union Pacific Railroad right-of-way used only by Amtrak and the Union Pacific Railroad and subject now to no trackage rights agreements for other passenger rail service between **Gilroy and Pajaro**.

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Both projects require additional trackage rights agreements or right-of-way acquisition from the **Union Pacific Railroad** (Monterey needs access to the Union Pacific Railroad on the main line from Pajaro to Castroville and on the Monterey Branch line from Castroville to Seaside and Santa Cruz needs access to the Union Pacific Railroad on the Santa Cruz Branch Line from Watsonville to Santa Cruz).

Both projects require administration, cost allocation, financing and the identification of an entity to actually provide for train operations (crews).

Both projects require financing and other agreements with **Caltrans** (California Department of Transportation), the **CTC** (California Transportation Commission), and **Caltrain** (the Peninsula Corridor Joint Powers Board).

### **Other Passenger Rail Project Interests**

For Monterey and Santa Cruz, the possibility that an Around the Bay passenger rail service could be implemented subsequent to the initiation of an intercity passenger rail service is extremely attractive. Such Around the Bay service would provide interregional mobility and internal options to link the communities and direct passengers between the two major destination areas. This target of opportunity adds another level of urgency to the common interests of the two counties.

### **Potential Institutional Arrangements**

In considering institutional arrangements to carry out potential passenger rail programs in Monterey and Santa Cruz counties, the common interests and overlapping issues which characterize the approaches taken by the two counties are persuasive. In this case, the historic differentiation of County programs needs to yield to the crafting of a common and unified approach to assure success and to assure that a cost-effective approach is developed and implemented. By merging their interests the Counties can work together to deal with the important external issues which must be dealt with to implement initial intercity passenger rail service as well as the subsequent Around the Bay service.

Under a single banner, the Counties will be able to argue persuasively that they are focused on cost-efficiency to take advantage of all of the common elements in their projects. The joining of their interests will have a significant and positive effect on how the projects are viewed by State and federal funding agencies as well as any congressional appropriators.

The counties would be able to deal together with the complex internal questions that may still be obstacles to carrying out passenger rail plans. Merging their interests

also has the benefit of focusing more interest and excitement on the possibility of a more economical approach which can deliver an Around the Bay service on a shorter timetable than otherwise.

The most important element of a common interest definition is the substitution of one train for the possibility of two trains to serve the initial service goals of the counties. Expanding from this efficient service definition will strengthen the cost-effectiveness of the bi-county rail program and help to deliver passenger rail services for far less operating and capital investment.

The establishment of a common framework to undertake passenger rail projects may be the most effective way for the counties to organize. Developing such a framework must take into account the need to craft a policy-making organization that takes into account the importance of assuring each county that its concerns will be represented. In addition, an implementing device needs to be defined to carry out the program and administer the rail operations, which will be implemented. In each case care must be taken to use existing administrative and policy organizations so that new and separate organizations for the rail purpose are not necessary.

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### **7.3 ORGANIZATIONAL MODELS**

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Section 7.3 is a discussion of the existing institutional arrangements for passenger railroad operations in the State of California. Where more than one county is involved, in every case, the counties have come together to form a Joint Powers Authority. In most cases these organizations were voluntary decisions of the counties and not provided explicitly by State law. In the case of the intercity institutions enabled under State law to transfer responsibility from the State to new regional entities, the language of the statute, SB 457, did explicitly define the organizations.

In California there are also State authorized Rapid Transit Districts and, in the case of Los Angeles County's, a Metropolitan Transportation Authority. Of these (in Sacramento, San Jose and San Diego, only the San Francisco Bay Area Rapid Transit District (BART) is a multi-county jurisdiction.

## **Criteria**

The selection of an institutional alternative is driven by the decision to unify the two-county approach now being used. If a single entity makes sense to carry out the program, a Joint Powers Authority is the easiest institution to create. In developing it, however, a series of decisions must be made as to how it will operate and what form it will take. These decisions will themselves determine the Joint Powers Authority:

- Ability to be flexible as the program moves from design, to construction to operation,
- Acceptability to the public,
- Limits of authority,
- Ability to contract for and receive funds and which funds it will be permitted to seek,
- Ability to contract for services from private and public entities and which services it will provide itself,
- Ability to minimize costs and take maximum advantage of existing agency resources, and
- Ability to balance the need for local control with the need to run a public transport business and be able to react to changing conditions.

## **Joint Powers Authority**

The Counties can use State law to exercise their right to develop a **Joint Exercise of Powers Agreement** to create a Joint Powers Authority led by a policy-making Joint Powers Board with responsibility to develop and then operate a Monterey/Santa Cruz passenger rail program. This would set-up a clearly differentiated policy-body with the appropriate authority separate from the existing institutions in both counties. It would, however, be a principle of its development to draw from existing County institutions for the appointment of its members and to contract with existing institution to carry out its work.

There are several options with respect to the actual signatories of a Joint Exercise of Powers Agreement:

### **1. TAMC and the SCCRTC**

Each of these organizations contains representation at several levels of local and county government and includes the transit operating agencies. Each has a current policy-level group dealing with rail matters.

### 2. SCMTD and MST

Each of these operating organizations has the mission of operating county bus systems and improving service to the public in the most-cost efficient manner possible. Each is operations focused and deals with day-to-day operating and investment issues. Although both organizations could serve to provide service to a new Rail Authority, their current missions may not make them the best candidates on which to build a Joint Exercise of Powers Agreement for passenger rail.

### 3. Monterey and Santa Cruz Counties

The Counties could sign the agreement and be the basis for the Authority. The precedents in both counties of delegating transportation planning and programming issues to representative organizations (TAMC and SCCRTC) and the fact that these organizations are currently working on and have been responsible for passenger rail matters seems to argue against using the Counties themselves.

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## **7.4 RECOMMENDATION**

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The agreement should be between the Transportation Agency for Monterey County (TAMC) and the Santa Cruz County Regional Transportation Commission (SCCRTC) assuming that they have legal authority sufficient to plan, develop, construct and operate passenger railroad services.

The two bodies now working on passenger rail programs would enter into a Joint Exercise of Powers Agreement forming a Joint Powers Authority for this purpose. The Santa Cruz County Regional Transportation Commission and the Transportation Agency for Monterey County have been the leaders in the efforts to secure a passenger rail program and each already has a policy level organization working on the rail program.

The Joint Powers Authority Board should be drawn from the existing TAMC and SCCRTC passenger rail policy committees. It could be up to each of the separate policy bodies to appoint the JPA members who would then act as independent JPA policy makers.

### **Voting and Methods to Assure Consideration of Views**

In order to balance the interests of the two Counties, membership should be an equal number of representatives from each County. For decisions affecting service,

performance and budget (the annual Business Plan adoption) a super majority would be required so that a decision would need to be agreed to by members from both counties. For discussion purposes, the JPA could have eight members with six members voting yes required to adopt the Annual Business Plan.

### **Rotating Leadership**

To guarantee that both Counties consider the new Joint Powers Authority an equitable distribution of power, the Chair could rotate between the Counties on a bi-annual or annual basis.

### **Coordinating Committee**

To assure proper consideration of issues and advanced preparation for formal meetings, the two Counties could develop an informal staff-level coordination mechanism, a staff coordinating committee from the SCCTC and TAMC that would meet to go over agendas and deal with issues. This mechanism has been used successfully by both the Capitol Corridor and Peninsula Corridor Joint Powers Boards.

### **Contracting for Operations**

The Joint Powers Authority should carry out its responsibilities through a small core staff supplemented by administrative support from an existing organization and contracts with third-parties for every other aspect of the operation. In the same manner as the Coaster organization in San Diego or the Altamont Commuter Express in San Joaquin County, the JPA should seek contractors to provide train crews, conduct train operations and maintain railroad rolling stock (cars and locomotives or self-propelled cars) on a turn-key basis. All pre-service activities should also be undertaken under contract including design, construction and construction oversight for non-railroad improvements and contracts with the owning railroad for improvements on the right-of-way. If, however, sections of the right-of-way are acquired, then work can be contracted out to private third parties.

### **Core Rail Staff Staffing Requirements**

After reviewing decisions on staffing made for the Capitol Corridor, the Peninsula Corridor and the Altamont Commuter Express services, a three person staff should be sufficient to oversee the operation of an initial Monterey/Santa Cruz intercity passenger rail system as well as the subsequent Around the Bay service. The staff would not be hired at once, but would be staged as the needs arise. A Rail Service Director would have overall responsibility, a Service Development Manager would

have scheduling, marketing, public relations and coordination responsibility and a Technical Manager would oversee right-of-way, rolling stock, and Safety issues.

The Authority itself would have no staff, but these individuals who would be housed in another agency.

## **Managing Agency**

Regardless of the choice for developing the Joint Powers Authority, an existing agency should be selected to house the core passenger rail staff and to provide administrative support (legal, accounting, payroll, procurements, insurances, etc.). Candidates to be “managing agency” for the JPA include its constituent organizations (TAMC and SCCRTC), and the two transit operating agencies (SCMTD and MST).

## **Responsibilities**

The Joint Powers Authority and its governing Board will be responsible for developing and implementing the Monterey/Santa Cruz passenger rail program and carrying out the operation of trains. The functions of the Authority include the following:

- Annual Business Plan development and adoption,
- Procurement and oversight of the development of final plans and design and equipment Specifications for Project Implementation,
- Procurement and oversight of Installation of all construction and equipment acquisition activities,
- Capital and Operating Budget development and adoption (within Business Plan),
- External Relations (other organizations, constituents, riders),
- Monitoring Customer Relations (customer satisfaction, complaints, etc.)
- Integration with Other Services (coordination of services, schedule coordination, service integration, fare integration),
- Administer Operating Contract (Turnkey),
- Marketing (public information, events, promotions, festival coordination),
- Fare Structure (fares, fare collection, proof of payment enforcement, cash management, etc.),
- Performance Measurement and Reporting (included in Business Plan), and
- Grants (securing program, project requests, etc.).

The Authority will carry out these responsibilities through its core staff and contracts with third parties.

## **Funding**

The Authority needs the ability to itself apply for and receive funds. Limits on the types of funds that the Authority could compete for would help differentiate its mission and financial resources from the bus operating entities. These limits could require the approval of the bus operating entities before the Authority requests funding from sources now exclusively used by them. For funds that can only be used for passenger railroad operations and capital investment, the Authority would be required to have the ability it needs to secure grants.

## **Next Steps**

The TAMC and SCCRTC could immediately initiate the development of a Joint Exercise of Powers Agreement through a series of discussions of key issues and the use of language developed by others (Capitol Corridor and Peninsula Corridor). In developing this language, the issues of voting, representation, membership, and financing would be dealt with and agreed to. Once an agreement was drafted it would go to the individual constituents for ratification and a Joint Powers Authority would be set up.

The initial work of the new Authority would be to negotiate agreements which would integrate the individual activities of the Counties focused on their respective intercity passenger rail plans and to reach agreement on how to continue these efforts through the Authority as a single effort. This would include discussions with the Union Pacific Railroad, the California Transportation Commission, Caltrain, the California Department of Transportation Rail Division, etc. During the period of securing these agreements, the new Authority would finalize all plans and specifications for the project including stations, right-of-way improvements, and equipment required for the service. As planning for the installation of required improvements takes place, the Authority could consider the use of a "DBOM" or other modified procurement strategy to procure the services required. Under these options, the Authority could issue requests for proposals and bids which could include maintenance and operations, acquisition of rolling stock, construction and installation of equipment, and construction and installation of stations and related amenities.

A “DBOM” approach could be used once the Authority is ready to begin the implementation of DMU services to both destinations and initiate Around the Bay services. This approach could reduce the number of procurements and the time it would take to complete them. This strategy could also be used to spread the financial risk of the project to a private sector group willing to make an investment in the potential success of the service under some terms provided by the Authority. In order to explore this concept, the Authority could develop a process, which would invite teams to form and to present their ideas for a “DBOM” procurement strategy to the Authority for consideration.

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## **7.5 IMPLEMENTATION PLAN**

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This section set forth a set of staged actions to implement the Monterey/Santa Cruz Intercity and Around the Bay passenger rail projects.

### **Key Issues**

1. Currently the Counties are pursuing separate projects.
2. Completion of current work is necessary before moving the project forward.
3. Federal requirements must be met in order to secure federal funds.
4. Requesting Proposition 116 funding must be accomplished in the next two years.
5. An intercity initial service project must be defined within the constraints of existing service providers and without additional rolling stock.
6. Around the Bay service with DMU vehicles could follow intercity service.

### **Recommendations**

1. Integrate the projects into one Monterey/Santa Cruz passenger rail project.
2. Carry out a single strategy to develop initial intercity service and subsequent Around the Bay service.
3. Using all of the prior work, negotiate an agreement with federal agencies to minimize additional project documentation and to define required environmental documents.
4. Develop a Program Management Plan.
5. Use as new Joint Powers Authority to direct the next steps.

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6. Continue to maintain project momentum by carrying out design, operations, financial and other tasks.
7. Consider the use of the attached draft work program for carrying out a portion of the next required tasks.

## **Strategy**

The recommended strategy rests on the proposal that a single Monterey/Santa Cruz project should be defined and pursued. Maintaining two separate efforts could jeopardize funding and require so many parallel relationships that they must be perceived as competing. Given the enormous number of joint issues and interests, the Counties can develop a scheme to work in common mutual interest to secure the funding and recognition required to initiate service. In order to carry out this strategy, the counties must internalize issues that they now can ignore with respect to the specific operating plans that they believe are necessary. The Around the Bay study has attempted to define a common program with the substantial financial benefits of a single project.

Both counties have individual consulting efforts to define implementing strategies for their respective projects. These documents are important sources of information as the counties integrate their efforts.

There are important internal problems of local policy level agreement on even the fundamental question of whether a passenger rail program should be pursued. It is important to note that if both counties are not in agreement on this issue, this entire strategy falls apart. It may be possible, to use a joint approach to bring the local decision-makers together as a consensus builds to define a cost-effective program that can be defended (better than two programs).

## **Required Actions**

1. Complete current studies.
2. Agree to an integrated plan and implementation stages.
3. Work together to determine if an extension of the State's Intercity Rail program is feasible and approvable, determine if an intercity corridor could be operated on Caltrain right-of-way between San Francisco and Gilroy.
4. Discuss and negotiate with Caltrain on extensions of its trains for weekend intercity service.
5. Discuss and negotiate with the State and the Capitol Corridor Joint Powers Authority on extensions of its trains for weekend Intercity service.

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6. Discuss the use of Altamont Commuter Express rolling stock on weekends and holidays.
7. Integrate discussions with the Union Pacific Railroad (UP) on the right to access property required for initial weekend and eventual Around the Bay service. Negotiate the required agreements with the aid of a professional negotiating team with UP experience.
8. Negotiate access agreements with Caltrain for use of the San Francisco to Gilroy right-of-way, stopping at intermediate and terminal stations and possible layover of train sets at San Jose (depending on the nature of the finally determined use of Caltrain services and the service plan).
9. Consider the possibility of an early DMU acquisition for weekend service.
10. Reach agreement on the nature of weekend service and complete and finalize all negotiations.
11. Carry out a plan to secure federal earmarks and appropriations for the project from sources that can be implemented with the fewest possible federal documentation requirements.
12. Negotiate with the federal agencies to define all required federal project documentation and undertake the work to complete the federal requirements and include State and federal environmental documentation and permitting.
13. Complete conceptual design of all right-of-way improvements and contract with the Union Pacific Railroad to carry them out on its owned segments and to third parties through competitive procurement on non-railroad owned rights-of-way.
14. Develop and submit a request for Proposition 116 funds that meets California Transportation Commission requirements.
15. Complete bridge engineering studies and finalize replacement/ rehabilitation decisions, complete preliminary and final design, secure the required permits, and procure and carry out construction.
16. Complete location studies and decisions for stations, develop conceptual designs, negotiate final designs with local officials, secure preliminary and final engineering for all station projects, secure required permits, and procure and carry out construction.
17. Develop detailed intermodal coordination plan with all public transportation modes within the counties and assure that good connections are planned outside the Counties.
18. Select a Managing Agency, develop job descriptions for core staff, and hire a Director to lead all staff efforts.

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19. Develop a marketing/public relations conceptual campaign and initiate communications with all potential recreational and tourism outlets. Determine roles and responsibilities for marketing and initiate campaign.
20. Draft a Request for Proposals for turnkey operations and maintenance contractors (train operations, right-of-way maintenance, facility operations and maintenance, station maintenance, rolling stock maintenance) using the recent Altamont Commuter Express RFP as a base and using input from the recent SCRRA RFP for operations and rolling stock maintenance.
21. Develop justification packages for sales tax measures that integrate arguments across both counties and work with sponsors to assure properly coordinated campaigns.
22. Work with Congressman Farr's Office to develop and secure appropriations earmarkings for federal funds and relief from non-essential documentation requirements.
23. Finalize fare collection strategy and specify, acquire and install ticket vending machines (if appropriate).
24. Discuss the possibility of "piggybacking" on a DMU procurement already in progress (such as Pennsylvania DOT's), specify DMU equipment, develop other interested buyers and attempt to create a joint purchase, procure and accept DMU rolling stock.
25. Finalize maintenance of rolling stock requirements, develop a requirements and conceptual design study for rolling stock maintenance to size the facility and determine what functions will be required, develop alternative facility locations, make a final site decision, undertake preliminary engineering and either move to procure a facility using a design-build method, or complete design and procure construction traditionally.
26. Work with the American Public Transit Association Commuter Rail Committee and an experienced passenger railroad insurance broker to develop an insurance program and position on liability. Secure the required insurances in conjunction with existing risk management programs for public transportation.