



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: November 24, 2020

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Jimmy Tan, Public Works Director
Hae Won Ritchie, Deputy Public Works Director/City Engineer

SUBJECT: Receive Update on Planning Study for the South Linden Avenue and Scott Street Grade Separation Project and Provide Direction on Pedestrian/Bicycle Crossing

BACKGROUND:

The City of San Bruno has been considering a grade separation at the Scott Street railroad crossing as far back as 2005 as part of the San Bruno Avenue Grade Separation Project. The Scott Street grade separation was removed from the San Bruno Avenue project but in 2013 the City of San Bruno partnered with the City of South San Francisco and applied to the San Mateo County Transportation Authority (TA) for funding for a Planning Study for a joint project to grade separate the railroad at Scott Street in San Bruno and South Linden Avenue in South San Francisco. Currently, both South Linden Avenue and Scott Street are the only remaining at-grade crossings in their respective cities and represent an important opportunity to increase safety, spur redevelopment and accommodate economic opportunity in the area.

The railroad crossings at South Linden Avenue and Scott Street are a relatively short distance from each other, approximately 1,850 feet apart. Due to their proximity, the grade separations at South Linden and Scott Street must be evaluated together and both crossings be completed as one project because any significant change in the rail elevation at one street will impact the other.

A grade separation at Scott Street is essential to improve safety and decrease expected future traffic delays due to growth in vehicle traffic, greater frequency of Caltrain service, and the eventual addition of the high-speed rail service. In addition, the project would aid in the success of the transit-oriented development and related improvements within the transit corridors area, as identified in the San Bruno Transit Corridors Plan.

The Project Study funding was approved and on April 20, 2016 a Memorandum of Understanding (MOU) was signed by the two cities, the TA, and the Peninsula Corridor Joint Powers Board (JPB). All of the parties that signed the MOU enabling the preparation of the Project Study Report have recognized the importance of exploring grade separations as a

ITEM 6.a.

means of reducing the impacts of increased train service on traffic and safety at the South Linden Avenue and Scott Street railroad crossings. The Project Development Team (PDT) was formed in January 2018 and consists of representatives from both sponsor cities, Caltrain, and a team of consultants including AECOM, APEX Strategies, and CDM Smith. The City of San Bruno, City of South San Francisco, Caltrain and the consultants have been working collaboratively to complete the development of the Project Study Report.

The PDT has been preparing technical evaluations and gathering community feedback for the various options for grade separating at Scott Street and South Linden Avenue. A community meeting was held in August 2018 and was lightly attended. Staff gave the City Council an update on the project in October 2018 after which the City Council directed staff to improve the public outreach process, to conduct evaluations of all options and to prepare a traffic study.

Between October 2018 and August 2019, the PDT worked to follow the City Council's direction. The PDT completed a traffic study, refine grade separation options, and greatly increased its public outreach efforts, including going door-to-door in the area around the Scott Street crossing.

A second community meeting focusing on Scott Street with San Bruno residents was held on August 28, 2019 and was well attended. The three possible options that were available for the Scott Street railroad crossing were presented at the community meeting:

- Option A – no grade separation at Scott Street (leave crossing as-is),
- Option B – grade separation at Scott Street for pedestrians and bicycles but closed to motor vehicles, and
- Option C – grade separation at Scott Street for pedestrian, bicycles, and motor vehicles.

On November 26, 2019, the project status, traffic information, and the feedback received from the community were presented to City Council. Due to the negative impacts of residential property acquisition related to providing full grade separation, the City Council summarily rejected and eliminated Option C. Option A was eliminated because doing nothing would result in increased crossing safety risks and traffic delays caused by the increased train traffic resulting from the JPB's adoption and future implementation of the moderate growth service scenario examined in the Caltrain Business Plan and future high-speed rail service. City Council directed staff to proceed with Option B, to close Scott Street to motor vehicles and provide grade separation for pedestrians and bicyclists. Option B could be designed in such a way as to not require procurement of residential properties and would provide enhanced safety for pedestrians and bicyclists crossing the railroad tracks.

Between November 2019 and March 2020, the PDT further developed the alternatives for the South Linden Avenue and Scott Street Grade Separation Project based on the direction received to close Scott Street to vehicular traffic and provide for a pedestrian/bicycle crossing. The third community engagement meeting was originally scheduled for March 23, 2020. Approximately one week prior to the meeting, a shelter-in-place order was issued to reduce the spread of the novel coronavirus 2019 (referred to as SARS-CoV-2 and

COVID-19). As the shelter-in-place orders were extended in April and May 2020, and with the acceptance of transitioning public meetings online, the third community meeting was rescheduled to occur virtually in June 2020.

The alternatives for the railroad tracks and type of pedestrian/bicycle crossings were presented to the community for feedback on June 22 and 24, 2020. On August 25, 2020, staff presented the alternatives to the City Council to obtain feedback and direction. City Council directed staff to proceed with an alternative that would allow the railroad tracks to be raised by approximately 2.5 feet from the existing elevation but also directed staff to solicit additional feedback from the community regarding the pedestrian/bicycle crossing preference.

The purpose of this staff report and presentation is to provide the City Council an update on the work performed by the PDT between August 2020 and October 2020 and the community feedback, and receive direction regarding the preference for either a pedestrian/bicycle undercrossing (tunnel) or overcrossing (bridge). This is the final direction needed to complete the Project Study Report.

DISCUSSION:

Due to the relatively modest community engagement during the virtual community meetings hosted in June 2020 and City Council meeting in August 2020, the PDT took an alternative approach to gathering community input. A virtual open house was developed that allowed the community to view three dimensional models, conceptual renderings and photo simulations, as well as view a video and a table of advantages and disadvantages, and submit a survey during a period of three weeks from October 15 to November 4, 2020. The virtual open house was available any time of day for visitors during that period. A series of tutorials guided visitors on how to navigate the virtual open house and complete the survey. A welcome video provided a brief project background and what feedback was desired from the community via a survey response form. Attachment 1 provides some screenshots and images from the virtual open house. Attachment 2 is a copy of the survey questions.

San Bruno sent approximately 450 mailers to the homes and businesses within the limits of Tanforan Avenue to the north, San Mateo Avenue to the east, I-380 to the south and Huntington Avenue to the west. Staff distributed door hangers, which were prepared in English and Spanish, to the homes and businesses close to the Scott Street railroad crossing on October 15. Some locations closest to the crossing received a second round of door hangers two weeks later.

Staff knocked on the doors of the twelve properties fronting Herman Avenue between Buena Vista Avenue and Atlantic Avenue because these homes would face the potential greatest visual impacts for the pedestrian/bicycle crossing. Where access to internet was limited or as was requested, staff delivered printouts of the survey, conceptual renderings, and table of advantages and disadvantages of an under and overcrossing to these homes. Additionally, staff returned with bilingual City staff when translation services were needed.

Emails were sent to those on the project contact list. Information was posted on the project website and the City's social media including NextDoor, FaceBook, Instagram and Twitter. Information was also included in the City Manager's electronic newsletter and a special hardcopy edition of a newsletter that was distributed Citywide.

There was a total of 478 visits to the virtual open house between October 15 to November 4, with 386 unique visitors. On average, a visitor spent 12-14 minutes in the virtual open house. The following summarizes the results of the virtual open house survey. An anonymized table of the results is attached as Attachment 3.

1. There was a total of 43 survey respondents between October 15 and November 4, 2020.
2. Of the 43 respondents, 32 were residents or businesses in the Fifth Addition or immediate vicinity (for example, on Montgomery Avenue).
3. Twenty-four (24) selected the undercrossing as their preferred crossing type; 16 selected the overcrossing as their preferred crossing type; and 3 did not select a preferred crossing type.
4. The following were the considerations for the respondents in greatest to least selected order:
 - a. Lessen Encampments/Maintenance - 26 (crossing type neutral)
 - b. Shorter Travel Distance - 21 (favors undercrossing)
 - c. Greater Privacy for Residents - 19 (favors undercrossing)
 - d. Lessen Visual Impact - 18 (favors undercrossing)
 - e. Visibility of Pedestrian/Bicyclists - 15 (favors overcrossing)
 - f. Other - 8 (various responses - encampment a concern but respondent recognizes potential for creating spaces underneath supporting structure; crime; safety; accessibility/ADA; does not want grade separation; would like a tunnel for the train; tunnel is more aesthetically pleasing; minimize vertical movement of pedestrian/bike crossing)
 - g. Less Susceptible to Flooding - 7 (favors overcrossing)

The consideration to lessen encampments and maintenance was considered crossing type neutral. Aside from this crossing type neutral consideration, the considerations that were most frequently selected – shorter travel distance, greater privacy for residents, and desire to lessen visual impact – correlated with the crossing type that a majority of the survey respondents chose as their preferred option, a pedestrian/bicycle undercrossing.

Staff recommends the pedestrian/bicycle undercrossing due to the results of the community outreach, as well as the concerns about reducing the travel distance and visual impact of the crossing, and providing more privacy to the residences.

Maintenance

The terms of a maintenance agreement are typically developed and negotiated between the final design and construction, though, discussions could begin earlier. Both parties would take on specific responsibilities. Caltrain typically assumes responsibility for rail-related maintenance so in the case of pedestrian/bicycle crossing, Caltrain would likely maintain the

structure and lighting. Other maintenance tasks are subject to discussion and negotiation including, but not limited to, cleaning (and frequency of), graffiti removal, stormwater and sewer pumping systems, tree and vegetation maintenance, etc.

The City of San Bruno has an existing maintenance agreement with Caltrain (Peninsula Corridors Joint Powers Board) for the San Bruno Avenue grade separation (Attachment 4). This agreement could be used as a starting point to reflect on the project and the maintenance terms for the new grade separation at Scott Street.

FISCAL IMPACT:

There is no fiscal impact associated with receiving this update.

ALTERNATIVES:

1. No additional alternatives, other than the options outlined above.

RECOMMENDATION:

Receive update on Planning Study for the South Linden Avenue and Scott Street Grade Separation Project and provide direction to staff on the preferred pedestrian/bicycle crossing type.

DISTRIBUTION:

1. None

ATTACHMENTS:

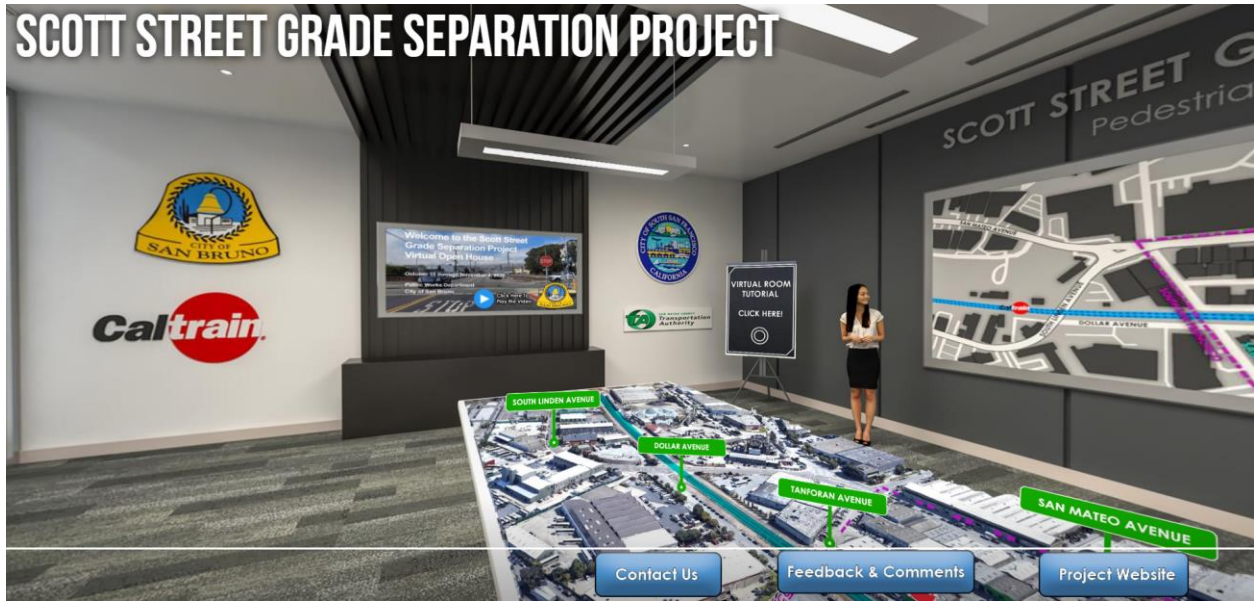
1. Screenshots and Images from the Virtual Open House
2. Copy of Survey Questions
3. Results of Scott Street Pedestrian/Bike Survey
4. Railroad Construction and Maintenance Agreement, San Bruno Grade Separation Project dated September 30, 2010

DATE PREPARED:

November 13, 2020

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ATTACHMENT 1 – SCREENSHOTS AND IMAGES FROM THE VIRTUAL OPEN HOUSE



Virtual Open House, Welcome Video and Virtual Room Tutorials



Three-Dimensional Model of the Pedestrian/Bicycle Overcrossing

ATTACHMENT 1 – SCREENSHOTS AND IMAGES FROM THE VIRTUAL OPEN HOUSE



Three-Dimensional Model of Pedestrian/Bicycle Undercrossing



Survey Easel and Advantages and Disadvantages Table

Advantages & Disadvantages of Each Option	
Option	Advantages / Disadvantages
Option 1 Pedestrian/Bicycle Undercrossing	<ul style="list-style-type: none"> Higher Visibility Not Susceptible to Flooding Structure Visible Distance Low Visual Impact Minimal 360° Pedestrian/Bicycle Undercrossing Minimal Privacy for Residents
Option 2 Grade Separation	<ul style="list-style-type: none"> Greater Front Entrance Significant Visual Impact Easy Privacy for Residents Lower Visibility More Susceptible to Flooding

ATTACHMENT 2 – COPY OF SURVEY QUESTIONS

Current Project Status:

Thank you for visiting the Scott Street Grade Separation virtual open house. Please provide the City of San Bruno with your feedback on the pedestrian/bike crossing options.

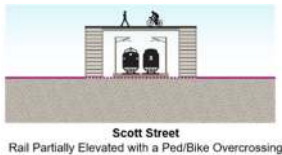
Survey:

1. What are your most important considerations for a pedestrian/bike crossing structure? (Choose up to **three**)

- Lessen Encampments and Maintenance Issues (Vandalism, Trash, Weeds)
 - Greater Privacy for Residents (avoids tall structure above neighboring homes and businesses)
 - Higher Visibility (pedestrians and bicyclists can be seen from street level for overcrossing)
 - Less Susceptible to Flooding (elevated path)
 - Low Visual Impact (majority of structure is below grade for undercrossing)
 - Shorter Travel Distance (shorter ramps, less elevation difference, less time to cross tracks)
 - Other (please specify)
-

2. Which pedestrian/bike crossing option do you prefer at Scott Street?

- Option 1 – Ped/Bike Overcrossing (Bridge over Tracks)



- Option 2 – Ped/Bike Undercrossing (Tunnel under Tracks)



3. Do you have any questions or comments about the project?

4. Where do you live?

- Fifth Addition Neighborhood
 - Other Neighborhood in San Bruno
 - Other (Please Specify)
-

5. Contact Information*

Name: _____

Email Address or Phone Number: _____

* Required field

ATTACHMENT 2

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ATTACHMENT 3

Results of Scott Street Pedestrian/Bike Crossing Survey

October 15 to November 4, 2020

Respondent Number (Note)	Date	Option	Privacy	Visibility	Flooding	Travel Distance	Visual Impact	Encampments	Other Reason	Fifth Addition or Immediate Vicinity	Residence or Business Location
1	10/17	OC		✓	✓			✓		Yes	Tanforan/Montgomery
2 (A)	10/17	UC	✓			✓		✓		Yes	Scott/Montgomery
3	10/18	UC	✓			✓	✓			Yes	Atlantic/Montgomery
4	10/18	OC		✓		✓				Yes	San Bruno (Fifth Addition)
5 (B)	10/18	UC				✓	✓	✓			San Bruno (Other Neighborhood)
6	10/19	OC		✓				✓	✓	Yes	Montgomery
7	10/19	OC		✓				✓	✓		Walnut Creek (owns property in San Bruno)
8 (C)	10/19	OC		✓ ³			✓	✓		Yes	Tanforan
9 (D)	10/19	OC	✓			✓		✓		Yes	San Bruno (Fifth Addition)
10	10/20	UC		✓		✓					San Bruno (Other Neighborhood)
11	10/20	OC		✓				✓		Yes	San Bruno (Fifth Addition)
12	10/20	UC				✓		✓	✓		San Bruno (Other Neighborhood)
13	10/20	x				✓					San Bruno (Other Neighborhood)
14	10/20	OC	✓	✓	✓					Yes	Montgomery
15	10/21	UC	✓			✓		✓		Yes	Business on Montgomery
16	10/21	UC	✓				✓	✓			Unknown
17	10/24	UC	✓			✓	✓			Yes	San Bruno (Fifth Addition)
18	10/24	UC	✓			✓	✓			Yes	San Bruno (Fifth Addition)
19	10/25	UC	✓	✓		✓				Yes	San Bruno (Fifth Addition)
20	10/26	UC					✓	✓	✓	Yes	Business on Montgomery
21	10/26	UC	✓					✓			San Bruno (Other Neighborhood)
22	10/26	UC				✓	✓	✓		Yes	Herman/Atlantic
23	10/26	UC				✓	✓	✓		Yes	Herman/Atlantic
24	10/26	UC				✓	✓	✓		Yes	Herman/Atlantic
25	10/27	UC	✓			✓		✓		Yes	San Bruno (Fifth Addition)
26	10/28	x							✓	Yes	Huntington Ave East
27	10/28	UC				✓	✓	✓		Yes	San Bruno (Fifth Addition)
28 (A)	10/28	UC				✓	✓	✓		Yes	San Bruno (Fifth Addition)
29 (A)	10/29	UC	✓		✓		✓			Yes	San Bruno (Fifth Addition)
30 (A)	10/30	UC	✓			✓	✓			Yes	Montgomery
31	10/30	UC	✓				✓	✓		Yes	San Bruno (Fifth Addition)
32	10/30	OC		✓	✓	✓					2nd Ave
33	10/31	UC	✓					✓		Yes	Bayshore Circle
34	10/31	UC	✓			✓	✓			Yes	San Bruno (Fifth Addition)
35	11/1	OC						✓		Yes	San Bruno (Fifth Addition)

ATTACHMENT 3

Results of Scott Street Pedestrian/Bike Crossing Survey

October 15 to November 4, 2020

Respondent Number (Note)	Date	Option	Privacy	Visibility	Flooding	Travel Distance	Visual Impact	Encampments	Other Reason	Fifth Addition or Immediate Vicinity	Residence or Business Location
36	11/2	OC	✓	✓				✓		Yes	San Bruno (Fifth Addition)
37	11/3	OC			✓			✓		Yes	Montgomery
38	11/3	OC	✓	✓			✓			Yes	San Bruno (Fifth Addition)
39	11/3	OC		✓	✓				✓	Yes	San Bruno (Fifth Addition)
40	11/3	OC	✓	✓				✓			Daly City (family on Scott St)
41 (E)	11/4	UC					✓		✓	Yes	Montgomery
42 (A)	11/4	OC		✓	✓			✓			San Bruno (Other Neighborhood)
43 (A)	11/4	x							✓		Unknown
Total			19	15	7	21	18	26	8	32	

Notes:

- (A) Respondent submitted the survey twice. Their input was consolidated into one form to prevent the results from being double counted.
- (B) Respondent chose "other" for Question #1, but concern was about encampments.
- (C) Respondent subsequently clarified that overcrossing was selected as the preferred option because of desire to be visible when using the crossing.
- (D) Respondent did not respond to emails requesting clarification in the inconsistency between the selected preferred option and most important considerations.
- (E) Respondent left a voice message with the City and input was entered into the online survey.

Legend

Tally

OC	16	Option 1 - Overcrossing
UC	24	Option 2 - Undercrossing
x	3	No Selection Provided (2 of 3 respondents commented on not wanting to close Scott Street to vehicular traffic)

RAILROAD CONSTRUCTION AND MAINTENANCE AGREEMENT
SAN BRUNO GRADE SEPARATION PROJECT

This Railroad Construction and Maintenance Agreement (the "Agreement") is entered into this 30th day of September, 2010, by and between the Peninsula Corridor Joint Powers Board, a public agency ("JPB" or "Railroad"), and the City of San Bruno, a municipal corporation ("City").

RECITALS

A. City is a duly established municipal corporation organized and existing under the laws of the State of California.

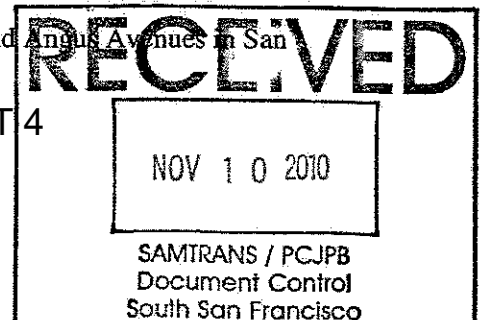
B. JPB is a public agency organized and existing under the laws of the State of California.

C. Railroad, in conjunction with the San Mateo County Transit District ("SamTrans"), is the owner of the Peninsula Corridor Railroad right-of-way in San Mateo County, and specifically that certain real property located in the City of San Bruno between MP 10.4 and MP 11.8 (the "Right-of-Way"), as depicted in Attachment A, Issue For Bid Submittal for the San Bruno Grade Separation Phase 2, dated March 12, 2010, which is incorporated by this reference.

D. Railroad operates the Caltrain commuter rail service over that segment of the Right of Way that is the subject of this agreement.

E. The City wishes to cooperate with Railroad in Railroad's design, construction and maintenance of railroad grade separations at San Bruno, San Mateo and Angus Avenues in San

ATTACHMENT 4



Bruno, adjacent improvements and the related relocation of the San Bruno Caltrain passenger station (the "Project"). These measures are described in Attachment A.

F. The parties have previously entered into that certain "Memorandum of Understanding," dated March 9, 2010, regarding the development of the grade separation and the relocation of the train station in the City of San Bruno.

G. For purposes of the Agreement, the term "Improvements" shall describe the work product of the construction activities for the Project, including the Main Improvements and whichever of the Optional Improvements Railroad decides to construct, all of which are described further below and in Attachment A of this Agreement, and shall include all necessary changes to utilities (including telephone, telegraph, signal, electrical lines and appurtenances), the relocation of any utilities and pipelines of any kind required for the Project, all temporary and permanent track work, grading, excavation, drainage, electrical, signal, communication, and any other utilities, access roadways to railroad right-of-way, the relocation of Posy Park, City streets, pedestrian underpasses, grade separation structures, station platform, station access, any and all preliminary and construction engineering, staging or temporary facilities – including: shoofly and temporary station; and any and/or all other work of every kind and character necessary to build the Project as described in Attachment A of this Agreement. In addition, both parties are working collaboratively on a separate memorandum of understanding for a decorative arch ("Archway MOU").

H. For purposes of the Agreement, the term "Design" shall describe the effort required to produce the Issue for Bid (IFB) Plans, Specifications, and Estimate (PSE) – including all project and construction schedules, reports, studies, technical evaluations, reviews, models, renderings, exhibits, project oversight and project management required to develop the PSE, as

well as any design support, change order support, responses to bidder questions during the bid, award and construction phases of the project, whether performed before or after the award of the construction contract for the work (as described in Attachment A).

I. The Project is being designed based on recognition that this portion of the Right of Way has been proposed as a location of the California High Speed Rail Project ("HSR Project") be constructed on or adjacent to the Right-of-Way. Although the Project is a separate undertaking from the HSR Project, certain design features have been included in the Improvements to make it compatible with the HSR Project, should the HRS Project be implemented.

J. The parties now desire to set forth herein their understandings and agreements relating to the Design of the Project, the construction of the Project, and the maintenance of the Improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. **Construction Costs.** Railroad shall furnish, or cause to be furnished, at its sole cost and expense, all labor, materials, tools, and equipment needed to undertake the Project and complete the Improvements, as shown in Attachment A, and shall pay for the Design, construction, construction management and indirect project costs it incurs for the Project as shown in Attachment A, except as noted otherwise in this Agreement. Notwithstanding the above, however, City shall bear its own costs related to the Project, including time that its staff or consultants spend on review of Design or inspection of the Improvements. City shall waive all

City permit or other fees with regard to the Project and the Improvements as well as any other type of fee for any and all work associated with the Project.

2. **Scope of Project.** The Project has been designed to raise the railroad in a retained embankment and to lower local roadway crossings in the railroad right-of-way from just south of the I-380 flyover to approximately San Felipe Road (MP 12.0) in San Bruno. The project shall eliminate at-grade vehicular crossings at San Bruno Avenue, San Mateo Avenue, and Angus Avenue and replace them with grade separated roadways. Pedestrian under-crossings will be constructed at Euclid and Sylvan Avenues in San Bruno and at the relocated San Bruno Caltrain Station. The existing San Bruno Caltrain station will be relocated onto an elevated structure at San Bruno and San Mateo Avenues. The former site of San Bruno Lumber will become a surface parking lot for the San Bruno Caltrain station. A new control point, CP Scott, will be constructed and the signal system will be designed accordingly to maintain consistent block spacing.

In addition, to facilitate the construction of the project, a two-track temporary shoofly and temporary station shall be constructed to divert train traffic during the construction. The construction of the shoofly shall require signal systems at the existing at-grade crossings to be relocated. The lowering of the local railways shall require the construction of significant drainage improvements.

The "Main Improvements" consist of the measures needed to construction the main portion of the Project, and include the following elements:

- Grade separated railroad alignment for almost the full project length
- Adjustment of existing two track alignment from I-380 to South Linden Ave
- Modified train signals and communications system

- San Bruno Station relocation to the elevated structure spanning San Bruno and San Mateo Avenues, including southbound platform, elevators at the Transit Center and the pedestrian bridge
- Temporary station
- Pump station
- Three grade separated street crossings (San Bruno Ave, San Mateo Ave and Angus Ave in the City of San Bruno)
- Three pedestrian under crossings (Euclid Ave, Sylvan Ave and at new San Bruno Train Station)
- Reconstruction of Artichoke Joe's parking lot on property owned by the City and County of San Francisco and former Angus Avenue right of way
- Landscape and irrigation improvements, including fountains at Stair No. 1 adjacent to the Transit Center and Ramp No. 4 adjacent to Posy Park
- Urban design and hardscape
- City street modification
- Vehicular signals, temporary and permanent
- Utility improvements and relocations
- Street lighting and site lighting
- Construction of temporary "shoo-fly" track

The "Optional Improvements" include construction of the following:

- At-grade parking lot and a new transit center including lighting, planting, hardscape.
- North bound station platform
- All station furniture and accessories for the north- and southbound stations
- Street and sidewalk improvements at 1st Avenue including landscape as agreed to with City.
- Planting, irrigation and architectural treatment at and adjacent to the north bound station platform
- Access (ramps, stairs and elevators) to the north bound platform.
- Demolition of temporary station

The complete scope of the project is more completely described in Attachment A.

Both parties are working collaboratively on a separate memorandum of understanding for a decorative arch ("Archway MOU"). All issues relative to funding of the design and construction of the decorative arch will be resolved under the Archway MOU.

3. **Staging of Project.** The Project includes the construction of the Main Improvements and, at the sole discretion of Railroad, the Optional Improvements. The decision as to construct or not construct the Optional Improvements will be made depending upon the anticipated schedule for the construction (if any) of adjacent facilities by the HSR Project. The Project will be staged such that: the construction of the Main Improvements will proceed until all of the Main Improvements have been constructed. Depending upon the status of the HSR

Project, the Railroad shall, in consultation with the City, direct the Railroad's Contractor to construct the Optional Improvements. The contractor is required to submit work plans (including any proposed changes to staging or traffic control) to the engineer six (6) weeks in advance of the date the Contractor intends to perform the work. The JPB shall forward such work plans involving changes to staging and traffic control upon receipt, but not less than 4-weeks from the date the construction is proposed.

4. **Project Scope/Phasing.** The Project is being constructed while a potentially related project, the construction of facilities to support the HSR Project, which is being undertaken by the California High Speed Rail Authority ("HSR Authority") is still undergoing environmental review and may or may not be constructed.

It is expected that the HSR Project may include:

- Grade separated railroad alignment wide enough to accommodate two additional tracks
- At grade parking lot and new transit center
- Modified train signals to account for a four track wide track bed
- A new north-bound platform for the San Bruno Station in a configuration that is wide enough to support a four track wide track bed (access ramps, stairs and elevator)
- Demolition of the temporary San Bruno Caltrain station
- The completion of three (3) grade separated street crossings (San Bruno Ave, San Mateo Ave and Angus Ave in the City of San Bruno) wide enough to accommodate four tracks
- The completion of three (3) pedestrian under crossings (Euclid Ave, Sullivan Ave and at new San Bruno Train Station) wide enough to accommodate four tracks

- Landscape and irrigation at the east side of the grade separated structures
- Complete urban design and hardscape.
- Street and Sidewalk improvements at First Avenue, including landscape improvements (design detail attached)

The Project is being designed in such a way that the Project is compatible to the extent possible with the HSR Project. The Project design attempts to minimize, to the extent possible, potential demolition or rework by the HSR Project, should it be implemented. However, it is understood that there are a number of minor features of the Project that are incompatible with the HSR Project and will require rework in the event that the HSR Project is undertaken.

5. **Sequence of Construction.** The Project will begin with construction of the Main Improvements. The decision to construct or not construct the Optional Improvements shall be based upon the timing of the construction of the HSR Project. If the construction of the HSR Project is not anticipated to occur within a reasonable length of time from the end of the construction of the Main Improvements then it is the understanding of the parties that the Railroad shall, in consultation with the City, construct the Optional Improvements. If the construction of the HSR Project is anticipated to occur within a reasonable length of time (as determined by JPB) from the end of the construction of the Main Improvements then it is the understanding of the parties that the Railroad shall not construct the Optional Improvements.

6. **Design Standards.** The Railroad has designed the Project. The design of any changes to the Improvements shall comport with Railroad's adopted standards, specifically JPB Standards, dated April 15, 2007, except when they involve city streets or property that is located outside of the Right-of-Way (the "City Improvements"), which shall be designed to City standards. If no City standards exist for changes to the City Improvements, the improvements

shall be designed to applicable Caltrans standards, or if no Caltrans standards apply, to such standards as the City deems acceptable.

7. **Changes.** Subject to the terms of this Agreement, the JPB shall have the right to make changes to the Design during bid phase or construction. The following features, shall not be materially revised without the City of San Bruno's consent:

- Improvements to be maintained by the City of San Bruno
- City Improvements
- Lighting outside the JPB ROW
- Architectural treatment, including finishes, textures, coloring, material type and size of paving at Posy Park, exterior face of MSE wall, pedestrian and vehicle underpasses.
- Planting on JPB ROW
- Signage or striping directing access, or any change in the location of the access points to the new San Bruno Station parking lot.
- Substantial changes to the elevators, water features, ramps, staircase or any other substantial change directly affecting access to the station.
- Location, size or access to any of the pedestrian underpasses
- Staging that would result in traffic or pedestrian impacts beyond that which is shown in Attachment A
- Exterior look or physical configuration of the MSE wall and station.

In order to obtain City's consent to material changes to the features listed in this Section, JPB shall provide to City documentation describing the changes to the features requiring the

City's consent ("Documents") to the City Manager and the City's Director of Public Services. City shall have fourteen (14) calendar days from the actual delivery of the Documents to provide JPB with written rejection or approval. If JPB revises the Documents in response to a rejection from the City, City shall have ten (10) calendar days from the actual receipt of the Documents to provide its rejection or approval. If City fails to provide its response within the timeframes described above, the changes shall be deemed to have been approved by the City.

8. **Schedule.** The contract for the construction of the Project is expected to be awarded by JPB prior to the end of July 2010, and the work for the Main Improvements is to be completed within 24 months from the issuance to the contractor of a notice to proceed. It is understood, however, that JPB's contract shall contain its standard provisions providing contractors with time extensions for excusable delays. In addition, the construction of the Option Improvements may take additional time. Base line schedule and monthly updates shall be forwarded to the City to make sure the City has latest information regarding project progress.

9. **Public Outreach.** During the construction of the San Bruno Grade Separation and New Station Project, Railroad will assign two staff members as principal contacts in order to respond effectively to community concerns: a Lead Outreach Representative will respond to project-related inquiries and complaints from San Bruno residents, business owners, city officials and staff; a Lead Construction Representative will be responsible for ensuring necessary corrective actions are implemented. Railroad shall provide written notice to the City and shall post the name, telephone number, and e-mail address of the Lead Representatives at conspicuous locations at the work site. Railroad shall ensure that the Railroad's Contractor prepares a San Bruno Grade Separation Health and Safety Plan (SBGSHS Plan) prior to the Railroad's Contractor commencing construction of the Project, and that the Railroad's Contractor adheres to

the SBGSHS Plan at all times. The City shall have an opportunity to review and comment on the SBGSHS Plan before approval of the SBGSH Plan. The SBGSH Plan shall address the acknowledgement and resolution of health and safety-related complaints. In addition, the Lead Outreach Representative shall make an initial acknowledgement to all other complaints within a reasonable period of time not to exceed twelve (12) hours and will respond to complaints received within one (1) business day. Follow-up of complaints will be completed by Railroad within a reasonable time following initial contact with the complainant and will include continued communication, as needed. Railroad shall take all reasonable actions to ensure that its Lead Construction Representative is authorized to and acts to ensure that necessary and appropriate corrective actions are implemented within a reasonable period of time following the initial contact with the complainant. Railroad shall respond to imminent safety concerns 24 hours a day, seven days a week. Railroad shall provide the City with emergency contact numbers at which JPB staff can be reached 24 hours a day 7 days a week in the event of an emergency.

Railroad shall provide a weekly report to the City Manager and Public Services Director of the complaints received and the resolution status of the complaints. The Lead Representatives will work with the Public Services Director to take all reasonable actions to respond to project related complaints and to ensure that corrective actions are implemented.

10. **Real Property Conveyances.** At the completion of construction, the City will formally vacate and quitclaim all of the City's right title and interest within the former street areas and rededicate new street areas to reflect the as-built condition of those streets (as generally shown in the drawing attached as Attachment B and C).

11. **City Improvements/Access to Right-of-Way.** The Railroad shall perform a pre-construction survey of the project site prior to commencing work. The Railroad shall provide a copy of all film, pictures, field notes or other information obtained during the pre-construction survey to the City. The results of the pre-construction survey shall represent the existing condition of the City maintained areas. The Railroad shall repair any damage that the Railroad causes to City maintained areas to the existing condition.

For the purpose of maintaining City-owned Improvements located within the Right-of-Way, no later than 30 days following its final acceptance of the Project, Railroad shall grant to City street easement in its standard form. The easements shall require that the City shall follow JPB Roadway Worker Protection and other safety protocols when working within 15' of the centerline of the tracks. JPB will provide annual Railroad Worker Protection training to the City public works and engineering personnel at no cost to the City.

12. **Utility Relocations.** The project is being designed to avoid utility relocations. However, in the event that a utility is required to be relocated, the Railroad shall be solely responsible, at its own cost and expense, for identifying the location of all pipelines (including, without limit, high pressure petrol pipelines, gas and water pipelines), fiber optic lines and all other utilities of whatever nature ("Facilities") on Railroad's Right-of-Way in the vicinity of the Project, and for relocating or arranging for the relocation of all such Facilities that would interfere with construction of the Improvements. Railroad shall be responsible for contacting and shall work with the owners of these Facilities to identify their exact location and arrange for relocation as needed. Nothing herein shall preclude the Railroad from seeking reimbursement for Facilities relocation costs and liabilities from third parties other than the city, such as the

Facilities owners themselves. City and JPB will work cooperatively to minimize the cost of utility relocations.

13. **Permitting, Approvals and Contract Requirements.**

a. **Environmental Review.** JPB is the lead agency under CEQA and will obtain any required environmental clearance for the project. JPB's Contractor will be subject to all applicable Storm Water Pollution Prevention Plan (SWPPP) requirements, including current standard best management practices, including control of run-off, dust, mud, etc.

b. **Inspections and Reporting.** Railroad or its contractor shall provide all flagging and engineering inspection required in connection with construction of the Improvements, but City shall have the right to inspect any Improvements to be owned or operated by the City. JPB will allow City access to the construction site to inspect work that City will maintain. JPB Resident Engineer and/or inspector shall coordinate with City on inspection schedule. JPB will keep City informed of progress of construction and will coordinate public outreach with City in accordance with the program described in Section 9. City will designate point of contact for construction coordination. JPB will provide City with a copy of agenda and Change Log from the weekly construction meetings. JPB shall inform City of any material changes per section 7. The City shall cooperate with JPB in responding to issues related to potential changes within a time frame consistent with the Project schedule and with the time constraints listed in the Project.

c. **City Permits and Approvals.** To facilitate the construction of the Improvements, City shall grant to Railroad a temporary encroachment permit in the form attached to this Agreement as Attachment E. The City confirms that to the best of its knowledge, it has the ability to issue and enforce encroachment permits over all public properties not owned

by railroad as required to effect reconstruction of the streets as contemplated in the project design. City will provide JPB with its forms of Encroachment Permit for the project prior to award. City agrees to issue Encroachment Permit to Contractor after contract award in the form provided prior to bid. The form of Encroachment Permit will contain reasonable conditions as agreed by both parties. City will issue a Haul Route Permit for routes along City streets between work areas and State highways.

d. **Noise Restrictions.** The Railroad shall require its contractor to comply with noise restrictions listed in the San Bruno Grade Separation General and Special Conditions, including:

i. Obtain approval of Railroad, in consultation with the City, prior to scheduling any operations such as pile driving or drilling that have the capacity to exceed allowable noise levels. Railroad shall prohibit its contractor from commencing pile driving prior to 9:00 AM and all pile driving work shall be completed by 5:00 PM.

ii. Allowable work hours at the project site shall be between 7:00 AM and 6:00 PM. Construction activities, including delivery of materials and equipment to the site, will be limited to the allowable work hours, except activities that have potential to impact train operation or safety shall be performed during Work Windows as approved by the Railroad in consultation with City. Construction activities that do not have the potential to exceed the noise levels defined in GP7.10 and San Bruno Municipal Code chapter 6.16, may be performed after 6:00 PM and before 7:00 AM or on weekends with approval of the Railroad, in consultation with the City. It is the responsibility of the Railroad to conduct an appropriate public notification for any work after 6:00 PM and before 7:00 AM or on weekends.

iii. GP7.10 requires that machinery equipped with an internal combustion engine be fitted with a muffler, and states that the Railroad's Contractor shall comply with all applicable local, state and federal rules and regulations regarding sound control, noise level, and light control, including *Title 6 Chapter 6.16 of the City of San Bruno Noise Regulation*.

14. **Maintenance**. Upon completion of construction, the parties shall be responsible to maintain the following Improvements (except, in the case of the City, as otherwise set forth by City code, ordinance, regulation or statute):

a. **Railroad shall maintain or be responsible to maintain the following Improvements, except as otherwise set forth by, regulation or statute, at its sole expense:**

- i. All track, track bed, track drainage and train signal system
- ii. New elevated San Bruno station: including shelters, elevator, phone, ticket vending machines, on-platform cameras, on-platform communication system, all

electrical, water, and any other utilities located on-platform or on stairs/ramps connected to the platform.

iii. The two (2) pedestrian underpasses, along with corresponding improvements including lighting and CCTV, at the new transit center.

iv. All parking improvements at transit center including lighting, electrical, planting, CCTV, utilities, stripping and signage.

v. All parking improvements at location of temporary station including lighting, electrical, planting, CCTV, utilities, stripping and signage.

vi. Temporary station including all furniture, utilities, planting etc.

vii. Water feature at east side of proposed grade separation (in transit center)

viii. All structural, architectural and utility elements from outside edge of railing to outside edge of railing on the elevated grade separation, including all bridge deck and subsurface ballast water protection, light weight fill and piling.

b. Railroad shall assign the warranties and City shall maintain or be responsible to maintain the following Improvements except as otherwise set forth by, regulation or statute at its sole expense:

i. All streets, sidewalks, curb ramps on sidewalks, curbs and gutters adjacent to roads and sidewalks.

ii. All traffic lights including pedestrian cross buttons

iii. All street marking and road signage including directional arrows, pavement markings, delineators, bridge clearance signs, and any cross walk or stop bar pavement markings.

iv. All utilities owned by the City of San Bruno including sanitary sewer, storm sewer, San Bruno cable television, water, and any other above or below ground utilities that connect to City owned facilities.

v. All planting (including the irrigation systems that serve them) located outside the new transit center, including any planting or trees along First Avenue, at the entrances to the pedestrian underpasses, median island planting, or at the relocated Posy Park, including any planting that is attached to MSE or concrete walls such as ivy or any other creeping vegetation planted against grade separation structural elements.

vi. All flatwork, concrete paving, enhanced architectural treatment, benches, garbage cans, concrete bench, and water feature at new Posy Park.

vii. Relocated Posy Park.

viii. Pedestrian underpass at Sylvan Avenues

15. **Indemnity**. The following indemnity provisions shall be applicable and binding upon the parties only for incidents occurring prior to the filing of a Notice of Completion. Once the Notice of Completion for this project is filed or the project is otherwise deemed to be completed (as defined in the Public Contract Code), the indemnity provisions set forth herein below shall terminate with regard to any claims accruing after the date of the Notice of Completion.

a. **JPB's Indemnity**. JPB shall fully release, indemnify, hold harmless and defend the City and its respective officers, directors, employees, contractors and agents (collectively, "City Indemnitees") from and against all liability, claims, suits, sanctions, costs or expenses for injuries to or death of any person (including, but not limited to, passengers, employees and contractors of City and Railroad) and damage to or loss of property arising out of

or resulting from any negligent act or omission by the JPB, its agents, employees, contractors or subcontractors in performance of its obligations under this Agreement. JPB's obligation to defend shall include the payment of all reasonable attorney's fees and all other costs and expenses of suit, and if any judgment is rendered against City Indemnitee's or any one of them, JPB shall, at its expense, satisfy and discharge the same, so long as said claim has been timely tendered to the JPB without prejudice to JPB's rights and/or abilities to undertake a defense of said claim.

b. **Severability.** It is the intention of the parties that should any term of this indemnity provision be found to be void or unenforceable, the remainder of the provision shall remain in full force and effect.

16. **Insurance.** JPB will require its contractor to provide liability insurance in the amounts of \$2 million and will require its contractor to name City as an additional insured. Such endorsements must provide that the insurance required to be furnished by JPB's contractors will be primary as regards the City, and that the City's insurance will be in excess of and not contribute to the insurance required to be furnished by JPB's contractor; that the City will receive 30 day written notice of any reduction or cancellation or alteration of coverage of such insurance required to be furnished by JPB's contractor; and include a severability of interest clause acceptable to the City. Said endorsement must be at least as broad as Insurance Services Office form number CG2010 (Ed. 03/97).

17. **Performance Bond.** JPB will require its contractor to provide performance and payment bonds in the full amount of the contract and will require a one-year warranty period. City agrees to not require additional bonds of JPB's contractor. The bond shall be maintained in full force and effect during the entire period that work is performed by the Contractor until such

work is accepted by City or JPB. With respect to City facilities, Railroad shall not accept the work related to such facilities for purposes of this Section until it has received notice from City that such work is acceptable.

18. **Dispute Resolution.** Prior to commencement of any formal litigation arising out of this litigation, the parties shall submit the matters in controversy to a neutral mediator jointly selected by the parties. The costs of said mediator shall be borne evenly by the parties involved in said dispute. To the extent the disputes remain outstanding following completion of mediation, any claim, controversy, action or proceeding arising out of or relating to this Agreement or to any document, instrument or exhibit executed pursuant to this Agreement shall be tried by a judge pro tem appointed pursuant to Article VI, Section 21 of the California Constitution and Rule 244 of the California Rules of Court. Said judge is to be selected by counsel for the parties from a list of retired judges furnished by the presiding judge of the County of San Mateo. If counsel are unable to select a judge pro tem said judge will be selected by the presiding judge from the list provided.

Each party shall pay its pro rata share of the fee for the judge pro tem. Each party shall bear its own fees and expenses in such proceedings and the prevailing party shall not be entitled to reimbursement from the losing party for any such fees or expenses.

The judge pro tem shall have the authority to try and decide any or all of the issues in the claim, controversy, action or proceeding, whether of fact or of law, and to report a statement of decision thereon. In any proceedings before the judge pro tem, the issues are to be determined under the statutory and decisional law of the State of California. All local and California Rules of Court shall be applicable to any proceeding before the judge pro tem. All proceedings shall be conducted on consecutive dates without postponement or adjournments.

19. **Notices.** All notices, payments, requests, demands and other communications to be made or given under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally or on the second day after mailing if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage prepaid and properly addressed as follows:

CITY: City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Attn: City Manager

JPB: Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070
Attn: Executive Director

20. **Governing Law.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of California as applied to contracts that are made and performed entirely in California.

21. **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto.

22. **No Third Party Beneficiaries.** Nothing herein shall be considered as creating any rights and/or obligations by any of the parties to this Agreement to any third parties. Specifically, none of the duties to inspect or maintain shall in any way be construed as creating or expanding any additional obligations to any third party beyond those required and established under the applicable statutes, regulations, ordinances or law.

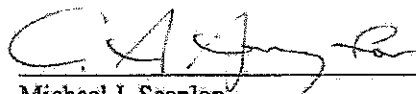
23. **Amendments.** This Agreement may be amended only in a writing that is executed by all the parties hereto.


24. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes any prior or contemporaneous oral or written understandings on the same subject. The parties intend this Agreement to be an integrated agreement.

25. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute a single Agreement.


IN WITNESS WHEREOF, the parties have entered into this Agreement on the date first written above with the intent to be intentionally bound.

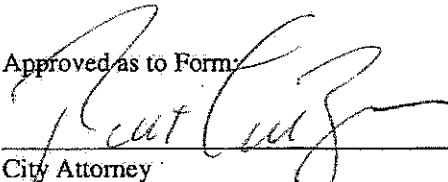
PENINSULA CORRIDOR JOINT POWERS BOARD.

By: 
Michael J. Scanlon
Executive Director

Approved as to Form:

Attorney

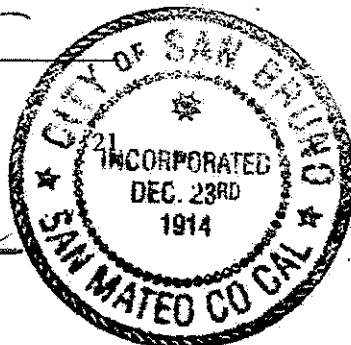
CITY OF SAN BRUNO

By: 
Connie Jackson
City Manager

Approved as to Form:

City Attorney

Attest:

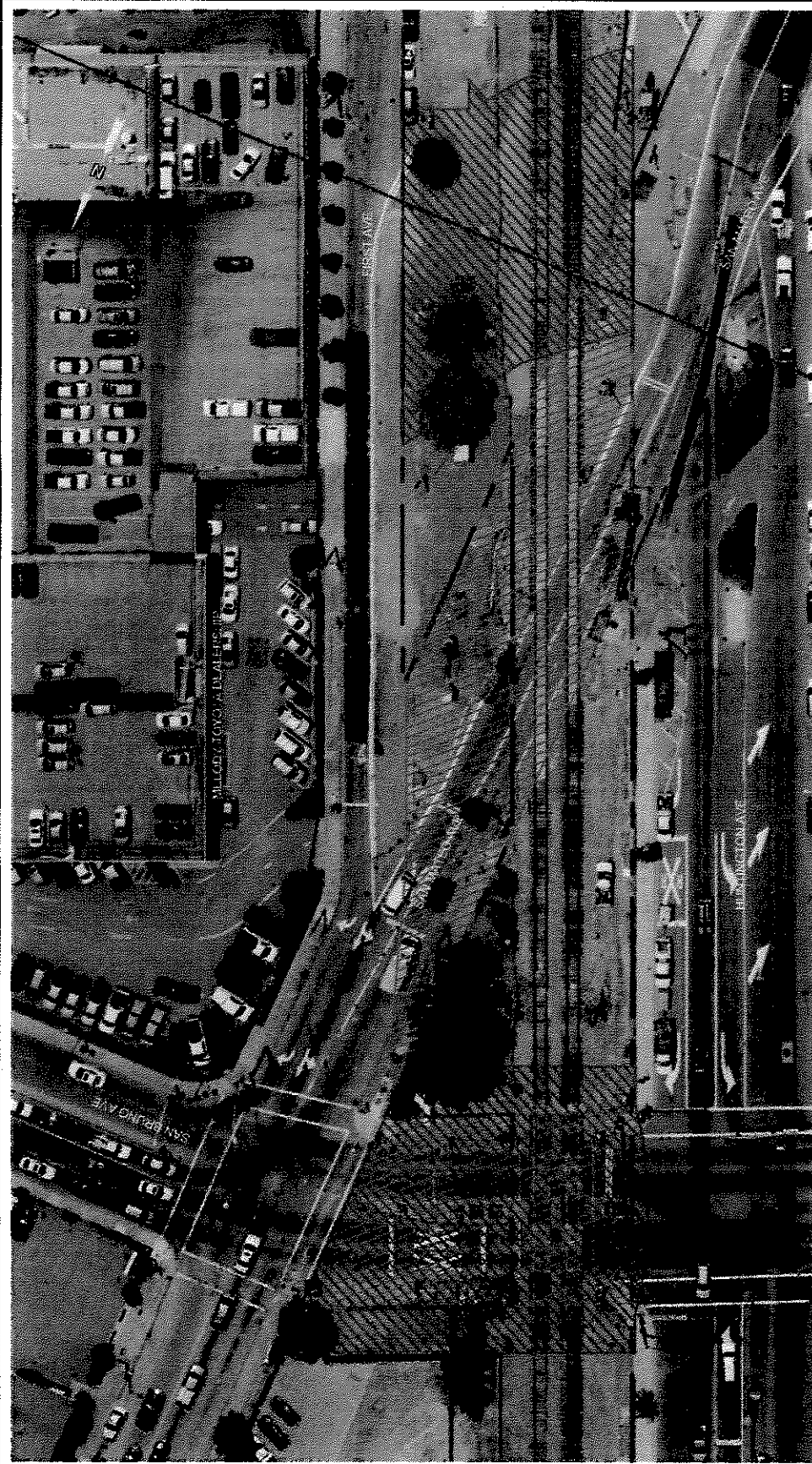
City Clerk



ATTACHMENT A

**ISSUED FOR BIT SUBMITTAL FOR THE
SAN BRUNO GRADE SEPARATION PHASE 2**

MARCH 12, 2010



STREET	ABANDONMENT (SF ±)	GRANT EASEMENT TO CSB (SF ±)
SAN BRUNO	9,983	14,762
SAN MATEO	15,764	17,755

LEGEND

ABANDONMENT

GRANT EASEMENT TO CSB

PC/PB ROW

CITY ROW



ABBREVIATION

PC/PB PENINSULA CORRIDOR JOINT POWERS BOARD

CSB CITY OF SAN BRUNO

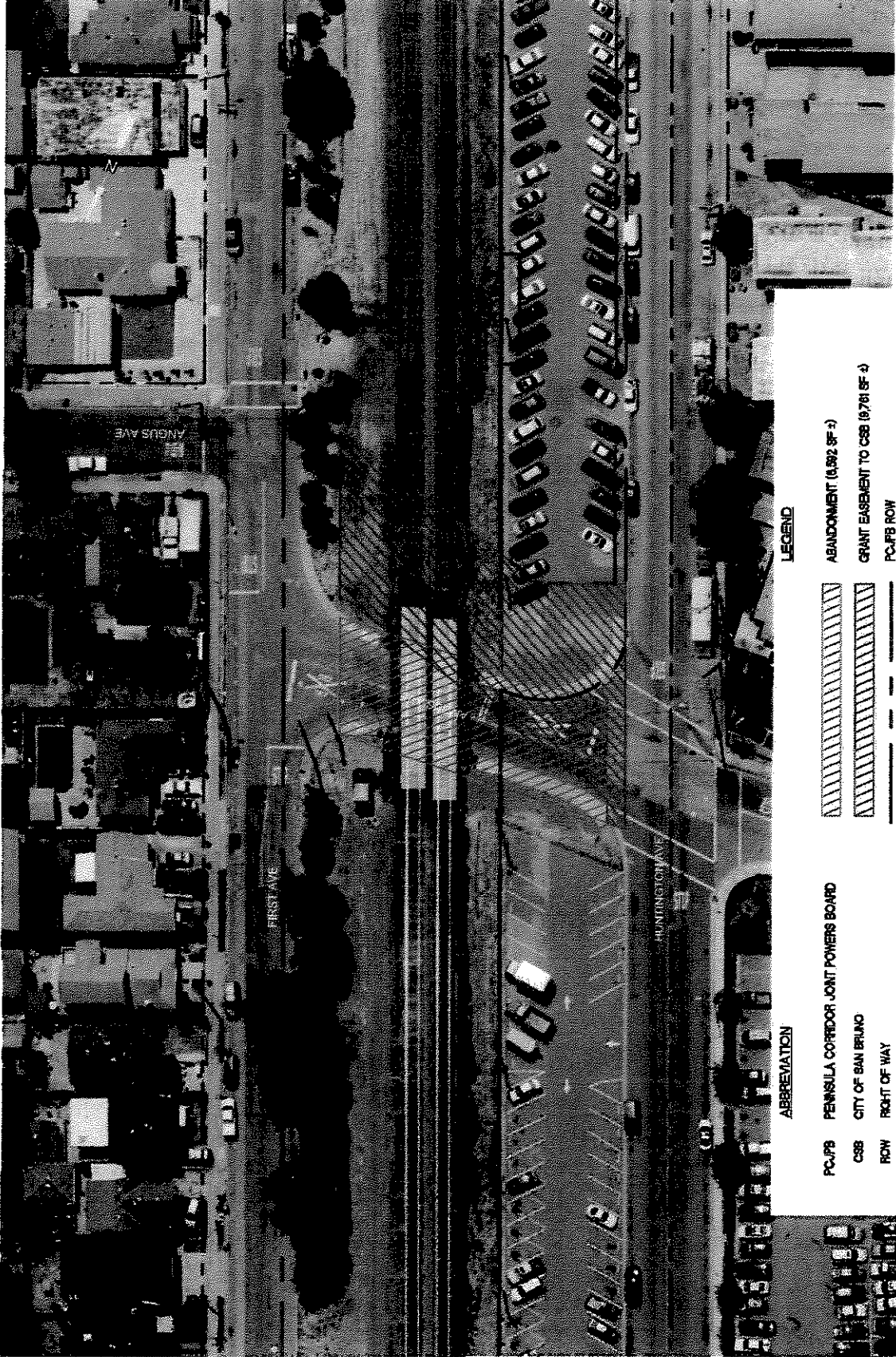
ROW RIGHT OF WAY

SF ± APPROXIMATE SQUARE FOOTAGE

PENINSULA CORRIDOR JOINT POWERS BOARD CSB-EXH-A		CAD FILE NAME CSB-EXH-A	CADD DATE 082510
SAN BRUNO GRADE SEPARATION PROJECT		SCALE 1" = 30'	CONTRACT NO. 11
RIGHT OF WAY EXHIBIT B		SHEET NO. 11	REV. PHASE NO. 0
SAN BRUNO AND SAN MATEO AVENUES		EXH B	



REV	DATE	DESCRIPTION





LEGEND

-  ABANDONMENT (1,592 SF ±)
-  GRANT EASEMENT TO CSB (9,761 SF ±)
-  PC-FB ROW
-  CITY ROW

ABBREVIATION

- PC-FB PENNSULA CORRIDOR JOINT POWERS BOARD
- CSB CITY OF SAN BRUNO
- ROW RIGHT OF WAY
- SF ± APPROXIMATE SQUARE FOOTAGE

COUNTY: SAN MATEO	DATE	REV	DESCRIPTION	 RSE, INC. 1075 CLIF COUNTY ROAD SAN BRUNO, CA 94066 WWW.RSECALIF.COM	 1250 San Carlos Avenue San Carlos, CA 94070	PENNSULA CORRIDOR JOINT POWERS BOARD SAN BRUNO GRADE SEPARATION PROJECT RIGHT OF WAY EXHIBIT C ANGUS AVENUE	DDD FILE NAME CSB-DRI-A	DDD DATE 082510
						SCALE 1" = 30'	CONTRACT NO. 11	MILEPOST 11

RECORDING REQUESTED BY AND)
WHEN RECORDED RETURN TO:)
)
CITY CLERK)
CITY OF SAN BRUNO)
567 EL CAMINO REAL)
SAN BRUNO, CA 94066)
)
)
)
)

*SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY
Exempt from recording fee per Gov. Code Section 27383*

ENCROACHMENT PERMIT

_____, 2010
(Date)

TO: Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070
Attention Real Estate Department Manager

In compliance with that certain Memorandum of Understanding between the Peninsula Corridor Joint Powers Board and the City of San Bruno Regarding the Development of a Grade Separation and Station Relocation in San Bruno, dated March 9, 2010 (the "Agreement") and subject to all of the terms, conditions and restrictions set forth herein and attached hereto and Chapter 8.16 of the San Bruno Municipal Code, the City of San Bruno ("City") hereby grants permission to allow the Peninsula Corridor Joint Powers Board ("JPB") to construct a portion of its San Bruno Grade Separation Phase 2 (the "Project") and to own and operate a temporary rail line during construction of the Project, within the property shown on Exhibit A. JPB shall assume all maintenance responsibility and liability for the property, the temporary rail line, and its operations shown within Exhibit A and any improvements constructed thereon.

Location: In San Bruno on a portion of First Avenue east of the existing rail line, as shown on Exhibit A

General Provisions:

1. Definition: Term. The term "encroachment" is used in this encroachment permit (the "Permit") to mean any structure or object of any kind or character that is placed in, under or over, any portion of the right-of-way of the City of San Bruno. This Permit shall be for a term of five (5) years. It shall renew automatically on a year-to-year basis thereafter, unless notice of termination is provided in writing by San Bruno at least three (3) months prior to the renewal date.

2. Acceptance of provisions. It is understood and agreed by JPB that placing the above-described improvements in the public right-of-way pursuant to this permit shall constitute an acceptance of the provisions and conditions of this permit and Chapter 8.16 of the San Bruno Municipal Code, as it may be amended. JPB agrees that JPB has read and understands these provisions and Chapter 8.16 of the San Bruno Municipal Code and agrees that JPB will observe and conform to such requirements. JPB accepts this Permit and its conditions on behalf of JPB and its heirs, successors, and assigns.

3. No precedent established. This Permit is granted with the understanding that this action is not to be considered as establishing any precedent on the question of the expediency of permitting any certain kind of encroachment within or upon right-of-way of the City of San Bruno nor does it constitute the granting or conveyance of any franchise or property interest of any kind to JPB.

4. Notice prior to starting work. Before starting work on which an inspection is required, JPB shall notify the Director of Public Services or other designated employee of the City. Such notice shall be given at least ten (10) days in advance of the date work is to begin.

5. Permit on premises. This Permit shall be kept at the site of the work and must be shown to any representative of the City, or any law enforcement officer on demand.

6. Complaint, protection of traffic and noise mitigation. The JPB shall require its contractor to comply with noise restrictions listed in the San Bruno Grade Separation General and Special Conditions, including:

i. Obtain approval of JPB, in consultation with the City, prior to scheduling any operations such as pile driving or drilling that have the capacity to exceed allowable noise levels.

ii. Allowable work hours at the project site shall be between 7:00 AM and 6:00 PM. Construction activities, including delivery of materials and equipment to the site, will be limited to the allowable work hours, except activities that have potential to impact train operation or safety shall be performed during Work Widows as approved by the JPB. Construction activities that do not have the potential to exceed the noise levels defined in GP7.10 may be performed after 6:00 PM and before 7:00 AM or on weekends with approval of the JPB, in consultation with the City. It is the responsibility of the JPB to conduct appropriate public notification for any work after 6:00 PM and before 7:00 AM or on weekends.

ii. GP7.10 requires that machinery equipped with an internal combustion engine be fitted with a muffler, and states that the JPB's Contractor shall comply with all applicable local, state and federal rules and regulations regarding sound control, noise level, and light control, including *Title 6 Chapter 6.16 of the City of San Bruno Noise Regulation*.

iii. JPB shall prohibit its contractor from commencing pile driving prior to 9:00 AM and all pile driving work shall be completed by 5:00 PM Monday through Friday.

7. Storage of material. No material shall be stored on the City right-of-way.

8. Clean up. Upon completion of the work, all brush, timber, scrap and material shall be entirely removed and the right-of-way left in as presentable a condition as before work started.

9. Standards of Construction. All work shall conform to recognized standards of construction and the City's standard drawings, as applicable.

10. Inspection by City. The Public Services Director has the right, but not the obligation, to inspect any and all work associated with the Project to ensure compliance with this Permit. In granting this Permit, City makes no representation that the improvements are constructed in accordance with state or local standards.

11. Future movement of the work. It is understood by JPB that whenever construction, reconstruction, repair, or maintenance work on the right-of-way may require, the installation provided for herein shall, upon request of the City, be immediately removed by and at the sole expense of JPB. Should JPB fail to remove the installation as directed by the City, the

City may by its own forces or by contract, remove the installation and assess the expense of removal against Permittee's property.

12. Liability for damages. JPB hereby holds the City, its officers and employees harmless for and shall defend the City, its officers and employees from any and all claims and liability, including any costs of defense and attorney fees, for personal injury or property damage of any kind which may arise from the granting of this Permit or that may arise in any way out of the placement or use of the encroachments allowed under this Permit or that may occur within the area enclosed by the fence.

13. Insurance. JPB will require its contractor to provide insurance in the amount of \$2 million and will require its contractor to name City as an additional insured. Such endorsements must provide that the insurance required to be furnished by JPB and its contractors will be primary as regards the City, and that the City's insurance will be in excess of and not contribute to the insurance required to be furnished by JPB and/or its contractors; that the City will receive 30 day written notice of any reduction or cancellation or alteration of coverage of such insurance required to be furnished by JPB and/or its contractors; and include a severability of interest clause acceptable to the City. Said endorsement must be at least as broad as Insurance Services Office form number CG2010 (Ed.03/97).

14. Care of drainage. If the work herein contemplated shall interfere with established drainage of water in any way, ample provision shall be made by JPB to provide for it as may be directed by City.

15. Location plan. Within thirty (30) days of completion of the work under this permit, Permitted shall furnish a plan to the City showing actual location of the installation in such detail as the City may require.

16. Maintenance. JPB agrees, by the acceptance of this Permit, to exercise reasonable care to maintain properly an encroachment placed by it in the City right-of-way, and to exercise reasonable care in inspecting and immediately repairing and making good any injury to any portion of the right-of-way which occurs as a result of the maintenance of the encroachment in the right-of-way, or as a result of work done under this Permit, including any and all injury to the right-of-way which would not have occurred had such work not been done or such encroachment not placed therein. Maintenance shall include any damage that may be caused by roots of City trees.

17. Commencement of work. The term of this Permit shall commence upon execution by both parties.

18. Recording. JPB shall record this document with the County Recorder of the County of San Mateo within five (5) business days of its execution and provide a copy to the City Clerk of San Bruno pending receipt of recorded document.

19. Binding. This Permit shall be binding on the heirs, successors, and assigns of the parties hereto.

20. Payment of Taxes. The following notice is provided pursuant to California Revenue & Taxation Code § 107.6: The Premises are owned by the City and the City is exempt from real property taxes. The JPB is also exempt from real property taxes.

21. Waiver and Amendment. No failure on the part of the City to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that the City may have under this Permit or any law, nor does waiver of a breach or default under this permit constitute a continuing waiver of a subsequent breach of the same or any other provision of this permit.

22. Governing Law. The terms of this Permit, regardless of where the Permit was executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of San Mateo.

23. Amendment. No modification, waiver, mutual termination, or amendment of this Permit is effective unless made in writing and signed by the City and JPB. This Permit and the terms and conditions of the Agreement, constitute the entire agreement between the parties.

24. Public Outreach. During the construction of the Project, JPB will assign two staff members as principal contacts in order to respond effectively to community concerns: a Lead Outreach Representative will respond to project-related inquiries and complaints from San Bruno residents, business owners, city officials and staff; a Lead Construction Representative will be responsible for ensuring necessary corrective actions are implemented. JPB shall provide written notice to the City and shall post the name, telephone number, and e-mail address of the Lead Representatives at conspicuous locations at the work site. JPB shall ensure that the JPB's Contractor prepares a San Bruno Grade Separation Health and Safety Plan (SBGSHS Plan) prior to the JPB's Contractor commencing construction of the Project, and that the JPB's Contractor adheres to the SBGSHS Plan at all times. The City shall have an opportunity to review and

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JPB shall provide a weekly report to the City Manager and Public Services Director of the complaints received and the resolution status of the complaints. The Lead Representatives will work with the Public Services Director to take all reasonable actions to respond to project related complaints and to ensure that corrective actions are implemented.

**PENINSULA CORRIDOR JOINT
POWERS BOARD**

CITY OF SAN BRUNO

By _____

By _____
Director of Public Services

Approved as to form:

Approved as to form:

City Attorney

Attest:

City Clerk

NOTARIZATION OF OWNER EXECUTION OF DOCUMENT:

STATE OF CALIFORNIA)

Sis

COUNTY OF _____)

On _____ before me, a Notary Public, personally appeared _____, known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(is), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

NOTARY PUBLIC

Exhibit A

Insert legal description of property subject to the permit.