

JPB BOARD MEETING

CORRESPONDENCE

September 6, 2018

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**From:** elana lieberman  
**Sent:** Wednesday, August 01, 2018 2:57 PM  
**To:** Tietjen, Brent; Board (@caltrain.com)  
**Subject:** Please delay approving the proposed electrification station at Mills and California, in Burlingame

Dear Board and Mr. Tietjenb,

I am a resident of the Burlingame Game neighborhood, and I urge you to delay your decision to build an electrification station at the corner of Mills and California until you have more input from the community.

Unfortunately, I cannot make either the meeting tonight (which we just heard about a few days ago) or the meeting in the middle of the work day tomorrow, but I want to add my name to the list of those of us in the neighborhood who believe a better plan can be achieved.

I join many in wondering why such a station can not be built in a nonresidential zone, such as the east side of the tracks at that point or perhaps just south of the millbrae station itself, which is entirely commercial.

I also would expect a CEQA review to be in order, particularly in terms of the potential harmful effects of the station so close to homes with young children and older folk -- not to mention those of us in between!

I look forward to hearing good news about the meeting tonight, specifically that you have begun seeking community input and buyin before embarking on such a major change to our residential community.

Best,  
Elana Lieberman  
Oxford Road

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**From:** Sandra Sullivan  
**Sent:** Wednesday, August 01, 2018 5:38 PM  
**To:** Board (@caltrain.com)  
**Subject:** Burlingame electrification station

Dear Caltrain Board,

I have recently learned that Caltrain plans to build an electrification paralleling station at California Drive and Mills Ave ***on the WEST (residential) side of the tracks rather than the EAST (industrial) side of the tracks.*** This is very concerning after seeing the photo of a similar station in the Caltrain documents (Summary of Paralleling Station at Mills), a 40x80 foot high structure, equivalent to at least a 5-7 story building.

Given the height and size of this station, the Burlingame community should be involved in the discussion of the placement of this Caltrain station. In placement of this structure Caltrain should take into account minimizing seeing it from residential neighborhoods, minimize the potential danger to residential neighborhood, minimize the impact this structure has on residential property values, and minimize impact on traffic flow. It should be minimizing the impact on a community that uses and supports Caltrain. For this reason, Caltrain should figure out how to locate this structure on the east side, industrial area. This would allow Caltrain to build the structure they need while being mindful of the impact it has on communities it serves. The Burlingame should be included in this very important decision that has a huge impact on its residents.

Respectfully Yours,  
Sandra Sullivan  
Burlingame resident 20 years

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**From:** Nina Wang  
**Sent:** Wednesday, August 01, 2018 6:27 PM  
**To:** Board (@caltrain.com)  
**Subject:** Opposition to the Location of the Paralleling Station in Burlingame, CA

To The Caltrain Board of Directors:

I am a resident of Burlingame, California and live approximately 2 blocks from the proposed location of the paralleling station at Mills and California Avenues. I would like to voice my concern and opposition to the location of the paralleling station. The station needs to be moved to the east side of the tracks and further away from our residential neighborhood.

Firstly, we were never informed of this change in location of the paralleling station. As residents who live in close proximity to the new location, it is vital that we are made aware of such changes that will impact our daily lives.

Secondly, California Avenue is used by many families who walk to and from their homes to Laguna Park and Village Park. My own children walk our dog on California, passing this point, on a daily basis. Bicyclists use California Avenue to commute to and from work. Having the electrification station located on the west side of the tracks will be a hazard to all who use California Avenue.

Finally, with potential health risks, it is evermore important for the paralleling station to be moved as far away from residents as possible.

Thank you for your consideration.

Nina Wang

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**From:** Lisa Chai  
**Sent:** Wednesday, August 01, 2018 9:40 PM  
**To:** council@burlingame.org; Board (@caltrain.com); Lisa Goldman  
**Cc:** Tietjen, Brent  
**Subject:** Caltrain PS3 New Preferred Location

Thank you Councilmembers, City Manager (and your team) and to Caltrain so very much for hearing our town's desire to move the location of PS3 away from our residential neighborhood in Burlingame. I know it took a tremendous amount of phone calls, emails, insight, and effort in these last few days on all involved in this large project. It is a great collaboration of cooperation between Caltrain and our City of Burlingame of which we should all be very proud. Thank you all for your commitment to our community.

Many thanks,  
Lisa Chai

2018 BOARD OF DIRECTORS

**SamTrans**

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1250 SAN CARLOS AVE  
SAN CARLOS, CA 94070  
(650) 508-6200

August 2, 2018

Honorable Governor Jerry Brown  
c/o State Capitol, Suite 1173  
Sacramento, CA 95814

**RE: AB 2034 (Katra) – Human trafficking: notice**

Dear Governor Brown:

On behalf of the San Mateo County Transit District (SamTrans) and the Peninsula Corridor Joint Powers Board (Caltrain), I write to you today in SUPPORT of AB 2034 (Katra), which would require specified businesses and other establishments that operate an intercity passenger rail, light rail, or bus station to provide employee training on how to both recognize the signs of human trafficking and report those signs to the appropriate law enforcement agency.

Current law requires specified businesses and other establishments--including airports, bus stations, truck stops, and intercity and light rail stations--to post public notices providing information about how to report human trafficking and slavery, and contact specified non-profit organizations who assist and support victims of human trafficking. States with posting requirements similar to California's have seen an increase in reported crimes and victim rescues.

If enacted, AB 2034 will expand existing law by imposing a state-mandated program for training employees of specified businesses and other establishments who may come into contact with victims of human trafficking. It would require the California Department of Justice to consult with community-based anti-human trafficking organizations, representatives of mass transit employees, and representatives of mass transit system organizations to develop training guidelines on or before July 1, 2020, and implement this training by January 1, 2021. Because the training program would be state-mandated, this bill would enable reimbursement for incurred costs, meaning that effective training can be implemented across the board.

Both SamTrans and Caltrain would be subject to this law. We support this bill because training our employees to recognize and report signs of human trafficking allows us to both improve and continue to prioritize the safety of our customers and community.

Honorable Jerry Brown  
AB 2034  
Page 2 of 2

For these reasons, we respectfully urge your **SUPPORT** for AB 2034. Please feel free to contact Casey Fromson, Director of Government and Community Affairs, at (650) 508-6493 or via email at [fromsonc@samtrans.com](mailto:fromsonc@samtrans.com) if you need any additional information.

Sincerely,



Jim Hartnett  
General Manager/Chief Executive Officer/Executive Director

cc: Peninsula Corridor Joint Powers Board of Directors  
Peninsula Corridor Joint Powers State Legislative Delegation  
San Mateo County Transit District Board of Directors  
San Mateo County Transit District State Legislative Delegation



MICHAEL BROWNRIGG, MAYOR  
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ANN KEIGHRAN  
RICARDO ORTIZ

## The City of Burlingame

CITY HALL -- 501 PRIMROSE ROAD  
BURLINGAME, CALIFORNIA 94010-3997

TEL: (650) 658-7200  
FAX: (650) 666-9282  
[www.burlingame.org](http://www.burlingame.org)

08/07/18 09:14 AM

August 1, 2018

Mr. John Funghi  
Chief Officer, Caltrain Modernization Program  
and for the Board of Directors, Peninsula Corridor Joint Powers Board  
1250 San Carlos Avenue  
San Carlos, CA 94070  
*By email and hard copy*

Subject: Peninsula Corridor Electrification Project (PCEP) – Proposed Modification to Siting for Paralleling Station 3 (PS-3) in Burlingame

Dear Mr Funghi:

On behalf of the Burlingame City Council and our City staff, I want to thank you and your team for joining us on-site at the Burlingame Corporation Yard today to review the options for locating PS-3 adjacent to our Corp Yard, rather than at any of the prior four alternative locations identified in the FEIR.

From the City's perspective, each of the options 1, 2 and 3 were sub-optimal given their location on the residential side of Burlingame. We have made it clear over several years that a deployment of a Paralleling Station, with its incumbent transformers, trucks, and industrial aspects, was better placed on the east side of Caltrain's tracks in Burlingame, which is in our commercial and light industrial zone, rather than on the west side of the tracks where a proposed PS-3 would be within 50' of private homes and nearby schools and parks. The challenge for Caltrain, as it was explained to us, is that the east side was set aside for the temporary "Shoofly" tracks needed to construct the Broadway Grade Separation project. Putting both the Paralleling Station and the Shoofly on the East side would require additional private property takes that are outside Caltrain's control. Therefore, the ability of Caltrain to negotiate access to its tracks for construction and operation of PS-3 was potentially very expensive and time consuming to acquire.

Based on our conversation today, I am pleased to report that we have reached a compromise that should allow Caltrain to construct PS-3 adjacent to and on the Burlingame City-owned Corporation Yard, with minimal impact on City operations to the extent technically feasible. Access would be provided through a secure Corp Yard parking lot. We have reviewed the matter internally and agree that this is the best solution for each agency.



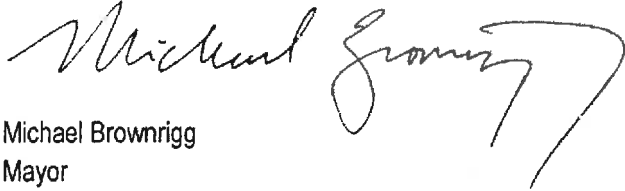
We note that certain specific terms may need to be resolved between our staffs over the days and weeks ahead, but this is the broad basis of our agreement.

1. Burlingame's Corporation Yard at 1361 N. Carolan will be host to PS-3, providing permanent access and maintenance property easement for the site and potentially some minimal land on which to construct PS-3.
2. The footprint of PS-3 will be designed as efficiently as possible, but in any event will be designed to fit within the as-built parameters on site. In particular, it will not require the City to move its back-up generator, and ideally it will allow roadway access to the right hand side so that staging materials can be stored on JPB land behind the adjacent property at 1379 North Carolan Street, minimizing the impact on Corp Yard space for staging. A temporary construction easement shall be provided to the JPB approximately 40' deep and 100' wide to be used as the PS-3 construction laydown area at no cost to the JPB.
3. To allow for future construction of a Shoofly track during the Broadway Grade Separation project, the PS-3 may need to encroach on Burlingame land; if so, the amount of land would be no more than approximately 20' deep and 100' wide (2000 ft<sup>2</sup>), inclusive of fencing. In this case, the parties will enter into either a long term lease or a purchase agreement, to be worked out in good faith between the respective parties at a cost not to exceed the fair market value per square foot.
  - a. There will be a clause in our agreement such that if, in the future, PS-3 disappears or for any reason Caltrain's need for the City land no longer exists, then the land will revert to the City's ownership at no cost to the City.
4. JPB shall install appropriate screening for Paralleling Stations as specified in the FEIR.
5. JPB shall provide the City with the engineering drawings and layout details in sufficient time for City staff to review them and provide comments, and shall coordinate the construction activity such that there is minimal impact to Public Works operations and the use of the City parking lot.
6. Any damage to City property as a result of the construction activity related to PS-3, shall be repaired in kind by the JPB and its contractor.
7. During construction and afterward, PS-3 will impair City parking at our Corp Yard, which is already constrained, and cause other expenses to the City. We have examined nearby parking options, and prices are significant. Therefore, in consideration for the access during and afterwards, and for other expenses, PCEP shall pay the City of Burlingame \$[60,000-150,000], final amount to be negotiated in good faith between the parties, taking in the balance of costs and benefits of the entire agreement.
  - a. The City shall join with PCEP to seek reimbursement of this sum from the San Mateo County Transportation Authority, as would have been the case with the proposed fee paid to SFPUC in one of the other alternatives. This is appropriate since a significant reason for these added costs is to make room for the future shoofly tracks associated with the planned future Broadway Grade Separation, which is a high priority for all parties.
8. The City will work in good faith with Balfour Beatty and your team to ensure 24/7 secure access to the construction site, materials, and other equipment, both during construction and afterwards.

9. It is the intention of both parties to formalize the above arrangements by August 21, 2018.

Again, we appreciate your flexibility and your willingness to work with us to identify a solution that will keep the PCEP construction schedule on time without roiling our residential neighborhoods, while also "future proofing" PS-3 against the Broadway Grade Separation project, another high-priority project for all concerned.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Brownrigg", with a large, stylized flourish at the end.

Michael Brownrigg  
Mayor

c: Burlingame City Council  
Lisa K. Goldman, City Manager  
Syed Murtuza, Public Works Director  
Art Morimoto, Assistant Public Works Director

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**From:** LAWRENCE NAIMAN  
**Sent:** Friday, August 10, 2018 2:36 PM  
**To:** Board (@caltrain.com)  
**Subject:** Suggestion for Improved signage at rail crossings in Palo Alto

Here's an image and note I posted 2 days ago in our Nextdoor Neighbor site. It evoked quite a few responses, both pro and con.

I was encouraged by one of the responders to share it with you.

I realize there are discussions addressing how to 'fix' risky level crossings like this. My suggestion is made in the hope it will save a few lives in the interval of many years before the root problem has been fixed.

LN

 Lawrence Naiman, Charleston Meadows 1

### Better Signage at Level Railroad Crossings

Existing signage is not working.

On close exam in the accompanying photo I've superimposed (in red text, stating "DO NOT STOP OR TURN ON TRACKS") a suggested addition/modification to the existing 'standard' size black on white sign in the structure over the tracks (at Charleston, facing east). This large bright red sign could replace the existing sign. Ideally, this should be illuminated like other signs in the area (such as those announcing road work) so it could be more visible after dark.

The cost of doing this would be well worth the lives saved.



Edited 1d ago · 51 neighborhoods in Crime & Safety

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**From:** Henry Badger  
**Sent:** Wednesday, August 15, 2018 8:56 AM  
**To:** Board (@caltrain.com)  
**Subject:** Fare Payment Link Request

Hi,

I hope your day is going well!

My name is Henry Badger and I unfortunately got a citation for fare evasion on Caltrain on August 2nd (Violation Number: 32000016; Code: 3.03.1). I received the citation and have it in my home, but I am currently out of the country and forgot to bring the ticket with me that contained the link for me to provide payment.

I wanted to reach out to you personally because I will not be back in the United States until August 23rd, exactly 21 days from when I received the citation. Could you potentially send over the link to the site where I can pay the fine online? I wanted to pay the fine online and not have to worry about potentially receiving an additional \$25 late penalty.

Thank you and I'm looking forward to hearing from you soon!

Best Regards,

Henry Badger

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**From:** Roland Lebrun ·  
**Sent:** Wednesday, August 15, 2018 1:12 PM  
**To:** cacsecretary [@caltrain.com]  
**Cc:** Board (@caltrain.com); Caltrain, Bac (@caltrain.com); SFCTA CAC  
**Subject:** Engineering Rail Safety & Suicide Prevention  
**Attachments:** Safety barriers.pdf

Dear CAC Secretary,

Please distribute the attached image to members of the CAC.

Thank You.

Roland Lebrun

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**From:** [cacsecretary@caltrain.com](mailto:cacsecretary@caltrain.com) <[cacsecretary@caltrain.com](mailto:cacsecretary@caltrain.com)>  
**Sent:** Wednesday, August 15, 2018 12:05 PM  
**To:** [ccss@msn.com](mailto:ccss@msn.com)  
**Subject:** Updated Webpages

The following pages have been updated:

[Citizens Advisory Committee Meetings Calendar](#) - *Wednesday, August 15, 2018 8:55 AM*  
The JPB CAC Presentation for August 15, 2018 meeting is now available.

To stop receiving email notifications, please unsubscribe [here](#).

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**From:** Brian  
**Sent:** Friday, August 17, 2018 2:27 PM  
**To:** Board (@caltrain.com)  
**Subject:** TRAIN HORN

PLEASE! Is there any way to get a little relief from the train horn at mile post 18 in San Mateo, I have lived at 1017 S B st for 22yrs and the train blowing the horn used to occur closer to 9th ( north bound) now it gets blown right at my house. Iam totally ok with that when pilots "gradually"pull the horn for a brief moment, but for some time now, there are very over zealous pilots that want to be as loud and obnoxious as possible. I live between the train and a busy street, with all the electrification construction noise and the horn, I am about to lose my mind. 2 gradual lite pulls at 25 yard separation ( or even 1 as some do) would make a world of difference to me and my families sanity. I am a peninsula native and cant afford to move.

Thank you for your consideration,  
Best,

Brian Penn

San Mateo

Sent from my Verizon, Samsung Galaxy smartphone



**COMMUNITY  
LEGAL SERVICES**  
IN EAST PALO ALTO



**HOUSING  
LEADERSHIP  
COUNCIL**



**PUBLIC INTEREST  
LAW PROJECT**



**CaRLA**

August 17, 2018

Jim Hartnett, General Manager and CEO of Caltrain  
Members of the Peninsula Corridor Joint Powers Board of Directors  
Cheryl Brinkman, Peninsula Corridor Joint Powers Board Member  
Gillian Gillett, Peninsula Corridor Joint Powers Board Member  
Monique Zmuda, Peninsula Corridor Joint Powers Board Member  
Charles Stone, Peninsula Corridor Joint Powers Board Member  
Jeff Gee, Peninsula Corridor Joint Powers Board Member  
Dave Pine, Peninsula Corridor Joint Powers Board Member  
Jeannie Bruins, Peninsula Corridor Joint Powers Board Member  
Cindy Chavez, Peninsula Corridor Joint Powers Board Member  
Devora “Dev” Davis, Peninsula Corridor Joint Powers Board Member

**VIA MAIL AND ELECTRONIC MAIL**

**Re: Hayward Park Station Development**

Dear Members of the Peninsula Corridor Joint Powers Board of Directors,

We write to request full compliance with the California Surplus Land Act and with federal and state fair housing laws in Caltrain’s proposed residential development on the site of its Hayward Park Station in San Mateo. Compliance with these laws will require exceeding the minimal affordable housing targets of the City of San Mateo’s Below Market Rate Housing Program.

In particular, we ask that Caltrain withdraw from exclusive negotiations with a private developer—negotiations that Caltrain entered into without soliciting proposals to build at least 25 percent affordable housing units as required by the Surplus Land Act. Any disposition of this land must comply with the requirements of that Act and other applicable laws as set forth below.

California and the Bay Area are experiencing an unprecedented housing crisis that threatens our communities. Teachers, health care workers, and other people who serve our communities cannot afford to live in them. From 2010 to 2015, 72,800 jobs were created in San Mateo County, while just 3,844 new homes were built—one home for every 19 new jobs.<sup>1</sup> This imbalance is causing mass displacement of lower-income residents, who are forced to make

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<sup>1</sup> California Economic Development Department (EDD). U.S. Census, American Community Survey 2010-2015. See <http://homeforallsmc.com/challenge>.

ever-longer commutes, adding to the traffic that chokes our region. Since 2010, congestion-related delays in the Bay Area have gotten 80 percent longer.<sup>2</sup>

Even in today's booming high-tech economy, 49 percent of all workers in San Mateo County earn less than \$50,000 per year. Yet to afford the average two-bedroom apartment, a family would need an income of \$118,800. The County desperately needs more transit-accessible housing that is affordable to its lower-income workers.<sup>3</sup> It is in this context that Caltrain, as a government agency, must honor its legal responsibilities to use its public land for public good.

#### **A. The California Surplus Land Act Governs Caltrain's Disposition of Surplus Land**

California's Surplus Land Act requires every "local agency," including Caltrain, to prioritize affordable housing when disposing of surplus land. (Gov. Code § 54222; *see generally* §§ 54220 et seq.) To accomplish this mandate, the Act sets forth detailed requirements that agencies must follow when selling or leasing land that is "no longer necessary for the agency's use." (*Id.* § 54221(b).)

Specifically, the agency must send a written offer to local affordable housing organizations for the purpose of selling or leasing the land to develop low- and moderate-income housing (Gov. Code § 54222(a)); give first priority to, and enter into good-faith negotiations with, entities that propose to make at least 25 percent of the total number of units developed on the parcel affordable to lower-income households (*Id.* § 54222.5); and give priority to the entity that proposes to provide the greatest number of affordable units at the deepest levels of affordability (*Id.* § 54227(a).) Even if a mutually agreeable proposal is not reached after 90 days of good-faith negotiations, any development on the site containing ten or more housing units must still include at least 15 percent of those units as affordable to lower-income households. (*Id.* § 54223; § 54233.) In either case, the units must remain affordable for at least 55 years. (*Id.* § 54222.5; § 54233.)

The written offer must be sent to the local city and county, to any local government agency involved in housing development, and to other housing developers that have requested notice. (Gov. Code § 54222(a).) The San Mateo County Department of Housing has published a list of organizations that must be contacted pursuant to the Surplus Land Act, and it has distributed that list to local agencies including Caltrain. San Mateo County Department of Housing included that list in a letter to the San Mateo Transit District, dated April 26, 2016. The letter stated forthrightly, "We request that prior to disposing of any surplus land, your agency provide these contacts with a written offer to sell or lease that land . . . as provided for by the California Surplus Land Act[.]" A copy of that letter is included herein. As noted in the letter, the list is available online at <https://housing.smcgov.org/ah-developers>.

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<sup>2</sup> Metropolitan Transportation Commission, Vital Signs Report (September 2017), available at <https://mtc.ca.gov/whats-happening/news/bay-area-vital-signs-freeway-congestion-hits-new-record-0>.

<sup>3</sup> TransForm and Housing Leadership Council of San Mateo County, "Moving San Mateo County Forward: Housing and Transit at a Crossroads," (June 2018), available at <http://hlcsmc.org/wp-content/uploads/2018/06/HLC2018-MovingReport-v7web-1.pdf>.



As amended in 2014, the Surplus Land Act serves the express purpose of promoting affordable housing in the form of transit-oriented development:

The Legislature reaffirms its declaration of the importance of appropriate planning and development near transit stations, to encourage the clustering of housing and commercial development around such stations. . . . The sale or lease of surplus land at less than fair market value to facilitate the creation of affordable housing near transit is consistent with goals and objectives to achieve optimal transportation use. The Legislature also notes that the Federal Transit Administration gives priority for funding of rail transit proposals to areas that are implementing higher-density, mixed-use, and affordable development near major transit stations.” (Gov. Code § 54220(c).)

As the Legislature explained, “[s]tudies of transit ridership in California indicate that a higher percentage of persons who live or work within walking distance of major transit stations utilize the transit system more than those living elsewhere, and that *lower income households are more likely to use transit when living near a major transit station than higher income households.*” (*Id.*, emphasis added.)

In line with this goal, the Act empowers local agencies to “sell or lease surplus land at fair market value or at less than fair market value, and any such sale or lease at or less than fair market value . . . shall not be construed as inconsistent with an agency’s purpose.” (Gov. Code § 54226.) Reimbursement from the state may be available if this results in increased costs to the agency: “If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made” in accordance with state law. (A.B. 2135, § 8, as adopted.)

#### **B. The Proposed Development Materially Conflicts with the Surplus Land Act**

In recent months, local news publications have reported that Caltrain is negotiating with for-profit developer Sares Regis to build more than 180 housing units on a 2.7-acre parking lot site at the Hayward Park Caltrain Station.

One article about the planned development quoted a Caltrain board member as saying that “board members understand the importance of building more affordable housing along transit corridors.”<sup>4</sup> The board member said he expected Caltrain to adopt a transit-oriented development policy requiring “10 to 20 percent” of housing units to be affordable for moderate-income families. In another news report, a transit official referred to the Hayward Park Station site as “low-hanging fruit” for the purpose of transit-oriented housing development, because it contains more than enough land for both housing and future railway use.<sup>5</sup>

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<sup>4</sup> “Caltrain Looks to Housing,” *San Mateo Daily Journal* (April 17, 2018) ([https://www.smdailyjournal.com/news/local/caltrain-looks-to-housing/article\\_b1561a68-41f4-11e8-a29c-539edeb77316.html](https://www.smdailyjournal.com/news/local/caltrain-looks-to-housing/article_b1561a68-41f4-11e8-a29c-539edeb77316.html)).

<sup>5</sup> “Will Caltrain Finally Push for Housing Around Its Stations?” *San Francisco Business Times* (July 10, 2018) (<https://www.bizjournals.com/sanfrancisco/news/2018/07/10/caltrain-housing-around-stations-tod-peninsula.html>).

It is commendable for Caltrain to support the goal of developing affordable housing in proximity to transit stations, and compliance with the Surplus Land Act is wholly consistent with that goal. Caltrain's determination to make land it no longer needs for railway use available for housing means the land is clearly "no longer necessary for [Caltrain's] use" and is therefore surplus under the Surplus Land Act. (Gov. Code § 54221(b).)

Legislative history confirms that the Surplus Land Act applies to projects such as Caltrain's planned housing development at the Hayward Park Transit Station. According to the legislator who authored the 2014 amendments to the Act, the "right of first refusal" to organizations that propose including at least 25 percent affordable units was "especially critical in light of state and local priorities for transit oriented development. . . , [which] will provide valuable opportunities to create new affordable housing options within sustainable communities." (A.B. 2135, Assembly Floor Analysis (2014).)

Accordingly, any real estate that Caltrain elects to sell or lease for non-railway use is subject to the requirements of the Surplus Land Act. Caltrain is not at liberty to define its own affordability standards in consultation with a private developer of its choosing. Rather, it must follow the Surplus Land Act's formal procedures—requesting bids from developers that plan to include at least 25 percent affordable units, negotiating with them in good faith, and giving priority to the developer that proposes to build the greatest number of affordable units at the deepest level of affordability, even if that means leasing the land at a rate below fair market value.

These entities must be notified before Caltrain moves to dispose of any surplus land. The organizations identified by the county have not been contacted with an offer to propose affordable housing development on the Hayward Park site. Instead, Caltrain has entered into exclusive negotiations with Sares Regis without following any of the procedures that the Surplus Land Act requires. By failing to notify and enter into good-faith negotiations with affordable housing developers, Caltrain has breached its duties under the Surplus Land Act.

### **C. The Proposed Development Must Comply with Federal and State Fair Housing Law**

Any housing development that Caltrain authorizes for the Hayward Park Station site must also comply with the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968),<sup>6</sup> California's Fair Employment and Housing Act (Gov. Code §§ 12900 et seq.),<sup>7</sup> and California law prohibiting discrimination against affordable housing (*Id.* § 65008(b).) The failure to comply with the Surplus Lands Act results in a violation of each of these.

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<sup>6</sup> The federal Fair Housing Act prohibits any practice that "actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns. . . ." Department of Housing and Urban Development (HUD), Implementation of the Fair Housing Act's Discriminatory Effects Standard, 24 CFR 100.500(a).

<sup>7</sup> California's Fair Employment and Housing Act (FEHA) makes it "unlawful . . . to discriminate through public or private land use practices, decisions, and authorizations" that have "the effect, regardless of intent, of unlawfully discriminating on the basis of [a] protected class." (Gov. Code § 12955.8(b).)

Renters in San Mateo County are disproportionately racial and ethnic minorities.<sup>8</sup> Among lower-income renters in the county (those earning at or below the area median income), 84 percent are cost burdened, meaning they pay more than 30 percent of household income for rent. And 56% are severely cost burdened, paying more than 50 percent of household income for rent.<sup>9</sup> They and other lower-income, disproportionately minority households are in desperate need of affordable housing in San Mateo County.

Any new housing development that does not include a percentage of affordable units as mandated by the Surplus Lands Act will reduce the amount of housing that would otherwise be available for lower-income households and therefore will likely have a disparate impact on people of color and individuals with disabilities, violating state and federal fair housing law.

In addition, by failing to prioritize affordable housing as required by the Surplus Land Act, Caltrain is in violation of California's law prohibiting public agencies from discriminating in housing decisions based on "[t]he method of financing of any residential development" or "[t]he intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income." (Gov. Code § 65008.)

#### **D. The Proposed Development Must Exceed the City of San Mateo's Below-Market-Rate Housing Program**

In order to obtain planning approval in the City of San Mateo, any residential housing development of eleven or more units must reserve at least ten percent of the units as affordable for low- or moderate-income households. (City of San Mateo, Below Market Rate (Inclusionary) Program, § 3(a-b).)<sup>10</sup> But because the Surplus Land Act clearly applies to Caltrain's planned development at Hayward Park Station, that Act's more stringent requirements must govern the total percentage of units that will be affordable for at least 55 years. Even if negotiations with a priority affordable developer are not successful, the Surplus Land Act requires that fifteen percent of the units be affordable. As a public agency with a stated goal of promoting affordable housing, Caltrain should aspire to provide even more than the legal minimum number of affordable units. In light of the housing and congestion crisis, fifteen percent is inadequate.

The inclusionary policy is designed to regulate market-rate development on private land. This may be one of the last sizeable areas adjacent to a station. It is publicly owned, and therefore there is an obligation to meet more than the minimum standard. Affordable homes are not abundant in San Mateo, and this site is ideal for affordable housing.

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<sup>8</sup> For example, while just 33% of white households are renters, 64% of Hispanic households and 65% of black households in San Mateo County are renters. U.S. Census Bureau, 2016 American Community Survey 5-Year Estimates, available at [www.factfinder.census.gov](http://www.factfinder.census.gov).

<sup>9</sup> HUD CHAS data, 2009–2013, available at [https://www.huduser.gov/portal/datasets/cp/CHAS/data\\_querytool\\_chas.html](https://www.huduser.gov/portal/datasets/cp/CHAS/data_querytool_chas.html).

<sup>10</sup> Available at <https://www.cityofsanmateo.org/DocumentCenter/View/1808/Below-Market-Rate-Units-Inclusionary-Program>.

### E. Request for Compliance

We request that the Board of Directors act immediately to ensure that Caltrain is in full compliance with these laws as it pursues redevelopment of the Hayward Park Station site. Specifically, the Board should: 1) withdraw from exclusive negotiations with Sares Regis and 2) fully comply with the Surplus Land Act, state and federal fair housing law, and local affordable housing requirements when soliciting proposals and adopting plans for development of the site. If the Board adopts a policy in conflict with state, federal, or local law, we may be forced to seek appropriate relief in court.<sup>11</sup>

By complying with these legal requirements, the Board will also demonstrate responsible stewardship of public land and promote a vision for Caltrain that supports inclusion and diversity as part of its approach toward sustainable, transit-oriented development. If you have any questions, or wish to discuss further our position in this matter, you can reach us directly at (650) 391-0375. We look forward to a timely resolution of this matter without resort to litigation.

Sincerely,



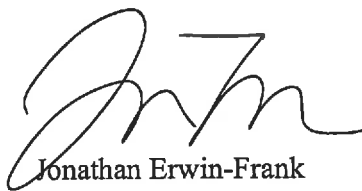
Rene Alejandro Ortega, Esq.  
Senior Housing Attorney  
Community Legal Services in East Palo Alto  
1861 Bay Road  
East Palo Alto, CA 94303  
[rortega@clsepa.org](mailto:rortega@clsepa.org)  
(650) 391-0375

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<sup>11</sup> Public agencies have faced high-profile lawsuits to compel compliance with the Surplus Land Act. In San Jose, residents and nonprofit housing organizations sued the city over its policy of promoting mostly luxury housing development in contravention of the Surplus Land Act. See "Housing Groups Sue San Jose, Saying Policy Shift 'Undercuts' State Affordable Housing Law," *Silicon Valley Business Journal* (July 22, 2016) (<https://www.bizjournals.com/sanjose/news/2016/07/22/housing-groups-sue-san-jose-saying-policy-shift.html>). In Inglewood, a coalition of residents has sued to challenge the city's entry into an exclusive negotiating agreement to construct a sports stadium on public land without following the Surplus Land Act's procedures. See "Inglewood Residents Sue to Block Clippers Arena," *Curbed Los Angeles* (June 20, 2018) (<https://la.curbed.com/2018/6/19/17480328/inglewood-lawsuit-clippers-arena-housing>). And the city of Oakland responded to public pressure by withdrawing a planned sale of public land for market-rate housing development, instead complying with the Surplus Land Act by soliciting proposals from developers of affordable housing. See "City of Oakland Finally Obeys Law; Offers Publicly Owned East 12th St. Land to Affordable Housing Developers," *East Bay Express* (July 16, 2015) (<https://www.eastbayexpress.com/SevenDays/archives/2015/07/16/breaking-news-oakland-finally-obey-law-offers-publicly-owned-east-12th-st-land-to-affordable-housing-developers>).

Peninsula Corridor Joint Powers Board of Directors  
August 17, 2018

Page 7 of 7



Jonathan Erwin-Frank  
Housing Attorney  
Community Legal Services in East Palo Alto  
1861 Bay Road  
East Palo Alto, CA 94303  
[Jerwin-frank@clsepa.org](mailto:Jerwin-frank@clsepa.org)  
(650) 391-0360



Michael Rawson  
Director  
Public Interest Law Project



Evelyn Stivers  
Executive Director  
Housing Leadership Council of San Mateo County



Victoria Fierce  
Executive Director  
California Renters Legal Advocacy and Education Fund

cc: San Mateo County Transit District  
cc: California Department of Housing and Community Development



Main Office - Department of Housing  
264 Harbor Blvd., Building A Belmont, CA 94002-017

Housing Community Development  
Tel: (650) 802-5050

Housing Authority of the County of San Mateo  
Tel: (650) 802-3300

Board of Supervisors:  
Dave Pine  
Carole Groom  
Don Horsley  
Warren Slocum  
Adrienne J. Tisser

Director: Kenneth Cole

April 26, 2016

San Mateo Transit District  
1250 San Carlos Ave.  
San Carlos, CA 94070

Re: Surplus Land Act: written request for notification of public land disposal

Dear San Mateo County Transit District

The San Mateo County Department of Housing is contacting you on behalf of affordable housing developers who have been active in San Mateo County. We have enclosed a contact list of developers, but you can also access this list on our website, at: (<http://housing.smcgov.org/ah-developers>). These affordable housing developers serve low-income families, seniors, and people with disabilities in our County.

We request that prior to disposing of any surplus land, your agency provide these contacts with a written offer to sell or lease that land for the purpose of developing low- and moderate-income housing as provided for by the California Surplus Land Act, Government Code §54222(a). This law requires that, whenever a local agency sells or leases its surplus property, the agency shall prioritize affordable housing and other vital state purposes. It also requires that the agency, when selling or leasing its surplus property, send an offer to "housing sponsors" who have made a written request for an offer. The purpose of this letter is to provide you with the attached list of developers who are housing sponsors and have, through this letter, made such written request to receive such offers.

Please circulate this request to all relevant personnel, departments, and offices that may be involved in holding or disposing of land.

Thank you for your attention.

Sincerely yours,

Janet Stone,  
Housing Policy and Development Manager



Updated	First Name	Last Name	Title	Organization	Address	City	State	Zip Code	Telephone	Email Address
4/6/2016	J. P.	Slococo	Dep. Dir. RE Development - CA	Beacon Development Group	6120 Stoneridge Mall Rd., Ste. 300	Pleasanton	CA	94588	925-924-7112	jslococo@beacondevgroup.com
4/6/2016	Cindy	Proctor	Development Dir.	Beacon Development Group	1221 East Pike St., Suite 300	Seattle	WA	98122	206-204-1997	cindy@beacondevgroup.com
4/6/2016	Linda	Coleman	VP of Resident Services	Beacon Communities	6120 Stoneridge Mall Rd., Ste. 300	Pleasanton	CA	94588	925-624-7170	lcoleman@BeaconCommunities.org
4/6/2016	Cynthia	Parker	President and CEO	BRIDGE Housing Corporation	600 California Street, Suite 900	San Francisco	CA	94108	415-989-1111	cparker@bridgehousing.com
4/6/2016	Brad	Wiblin	Sr. Vice President	BRIDGE Housing Corporation	600 California Street, Suite 900	San Francisco	CA	94108	415-321-3565	bwiblin@bridgehousing.com
4/6/2016	Bill	Pickett	Exec. Director	Brilliant Corners	1300 Market St., Suite 405	San Francisco	CA	94102	415-618-0012 x201	bill@brilliantcorners.org
4/6/2016	Phil	Chan	Project Manager	Brilliant Corners	1300 Market St., Suite 405	San Francisco	CA	94102	415-618-0012 x211	phil@brilliantcorners.org
4/6/2016	Dan	Wu	Exec. Director	Charities Housing	1400 Parkmoor Ave. #190	San Jose	CA	95128	408-550-8300	dwu@charitieshousing.org
4/6/2016	Kathy	Robinson	Dir. of Housing Devel	Charities Housing	1400 Parkmoor Ave. #190	San Jose	CA	95128	408-550-8300	krobinson@charitieshousing.org
4/6/2016	Darci	Partner	Project Manager	The CORE Companies - Affordable Housing	470 South Market St.	San Jose	CA	95113	408-292-7841 x42	dpartner@thecorecompanies.com
4/6/2016	Paul	Ring	Vice President of Development	The CORE Companies - Affordable Housing	470 South Market St.	San Jose	CA	95113	408-292-7841 x14	pring@thecorecompanies.com
4/6/2016	Chris	Nesale	Vice President	The CORE Companies - Affordable Housing	470 South Market St.	San Jose	CA	95113	408-292-7841 x14	chris@thecorecompanies.com
4/6/2016	Mary	Murtagh	Pres & CEO	EAH Housing	2169 E. Francisco Blvd., Ste. B	San Rafael	CA	94901	415-258-1800 x8223	mmurtagh@eahhousing.org
4/6/2016	Alvin	Bonnett	Dir of RE Devel	EAH Housing	2169 E. Francisco Blvd., Ste. B	San Rafael	CA	94901		abonnett@eahhousing.org
4/6/2016	Enol	Dominguez	Dep. Dir. RE Development	EAH Housing	2169 E. Francisco Blvd., Ste. B	San Rafael	CA	94901		edominguez@eahhousing.org
4/6/2016	Andy	Madera	Sr. VP, Real Estate Development	Eden Housing	22845 Grand Street	Hayward	CA	94541	510-582-1460	amadera@edenhousing.org
4/6/2016	Andrea	Osgood	Director of Real Estate Dev.	Eden Housing	22845 Grand Street	Hayward	CA	94541	510-582-1460	aosgood@edenhousing.org
4/6/2016	Linda	Mandolini	President	Eden Housing	22845 Grand Street	Hayward	CA	94541	510-582-1460	lmandolini@edenhousing.org
4/6/2016	Robert	Jones	Exec. Director	EPA CAN DO	2369 University Avenue	East Palo Alto	CA	94303	650-473-9838	Rjones@EPACANDO.org
4/6/2016	Geoffrey	Morgan	Exec. Director	First Community Housing	75 E. Santa Clara Street	San Jose	CA	95113		geoffm@firsthousing.org
4/6/2016	Thomas	Imaeli	Dir of Ops & Development	First Community Housing	75 E. Santa Clara Street	San Jose	CA	95113		tomli@firsthousing.org
4/6/2016	Regina	Celestth Williams	Sr. Project Mgr	First Community Housing	75 E. Santa Clara Street	San Jose	CA	95113		regina@firsthousing.org
4/6/2016	Kristine	Leja	Interim CEO & Dir. Development	Habitat for Humanity Greater San Francisco	500 Washington St., Suite 250	San Francisco	CA	94107	415-625-1015	kristine@habitatgsf.org
4/6/2016	Smitra	Seshandi	VP Real Estate Dev	Habitat for Humanity Greater San Francisco	500 Washington St., Suite 250	San Francisco	CA	94107	415-625-1042	seshandi@habitatgsf.org
4/6/2016	Justin	Albright	Project Manager	Habitat for Humanity Greater San Francisco	500 Washington St., Suite 250	San Francisco	CA	94107	415-625-1045	jaltbrigh@habitatgsf.org
4/6/2016	Emily	VanLoon	Assistant Project Manager	Habitat for Humanity Greater San Francisco	500 Washington St., Suite 250	San Francisco	CA	94107	415-625-1044	evanloon@habitatgsf.org
4/6/2016	Kate	Comfort Harr	Exec. Director	HIP Housing	364 South Railroad Avenue	San Mateo	CA	94401	650-348-6660	kcomfort@hiphousing.org
4/6/2016	Laura	Fenucci	Assoc. Exec. Dir.	HIP Housing	364 South Railroad Avenue	San Mateo	CA	94401	650-348-6660	lfenucci@hiphousing.org
4/6/2016	Sarah	Lambert	Executive Director	Lesley Senior Communities	701 Arnold Way, Suite 100	Half Moon Bay	CA	94019	650-726-4888	slambert@lesleyesc.org
4/6/2016	Melissa	Platte	Exec. Director	Mental Health Assoc. of San Mateo Co	2888 Spring Street	Redwood City	CA	94063	650-368-3345 x136	MelissaP@mhscmo.org
4/6/2016	Barbara	Gualco	Dir of Housing Devel.	Mercy Housing California	1360 Mission Street, Suite 300	San Francisco	CA	94103	415-355-7117	bgualco@mercyhousing.org
4/6/2016	Ed	Holder	Director of Real Estate Acquisition	Mercy Housing California	1500 S. Grand Ave., Suite 100	Los Angeles	CA	90015	213-743-5830	eholder@mercyhousing.org
4/6/2016	Jon	Linenthal	Dir. of RE Development	MidPen Housing Corporation	303 Vintage Park Drive, Suite 250	Foster City	CA	94404	650-356-2919	jlinenthal@midpen-housing.org
4/6/2016	Matt	Franklin	Pres & CEO	MidPen Housing Corporation	303 Vintage Park Drive, Suite 250	Foster City	CA	94404	650-356-2900	mfranklin@midpen-housing.org
4/6/2016	Keri	Lung	Senior Project Manager	MidPen Housing Corporation	303 Vintage Park Drive, Suite 250	Foster City	CA	94404	650-356-2863	klung@midpen-housing.org
4/6/2016	Felix	AuYeung	Dir. Of Business Dev.	MidPen Housing Corporation	303 Vintage Park Drive, Suite 250	Foster City	CA	94404	650-356-2967	faueyung@midpen-housing.org
4/6/2016	Nevada	Merriman	Project Manager	MidPen Housing Corporation	303 Vintage Park Drive, Suite 250	Foster City	CA	94404	650-356-2915	nmerriman@midpen-housing.org
4/6/2016	Liy	Gray	Sr. Business Dev. Manager	MidPen Housing Corporation	303 Vintage Park Drive, Suite 250	Foster City	CA	94404	650-356-2963	lgray@midpen-housing.org

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**From:** Dana Jordan  
**Sent:** Thursday, August 23, 2018 8:28 AM  
**To:** Nabong, Sarah  
**Cc:** bikesonboard@sfbike.org; Board (@caltrain.com); Bartholomew, Tasha; cac@caltrain.com; Caltrain, Bac (@caltrain.com)  
**Subject:** Capacity of Bikes on Caltrain Comment

Hi there! I am currently on the # 222 train (boarded at San Mateo-getting off in Menlo) and in San Mateo I was waiting with three other bikers to board the train. The conductor was very nice about it but had to bump the three others (thankfully I get to the station early to avoid being bumped myself).

When I got in the train I noticed a few racks with only 3bikes and quite a bit of space but the conductor abides by the 40 TOTAL bikes -thus bumped the others . Just wanted to let someone know -and show a pic- to indicate the plethora of space , even with the max amount of bikes. I definitely understand the safety issue but thought, in a situation like this, it warrants a conversation to help out those bikers who are bumped but could possibly have been accommodated.

Thanks for listening-

Dana

(FYI- I did ask everyone in the bike car for permission to take this photo)





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**From:** Rene Alejandro Ortega <rortega@clsepa.org>  
**Sent:** Monday, August 27, 2018 3:53 PM  
**To:** Board (@caltrain.com); MTABoard@sfmta.com; Gee, Jeff [jgee@redwoodcity.org]; council@redwoodcity.org; Pine, Dave [dpine@smcgov.org]; board.secretary@vta.org; Chavez, Cindy [cindy.chavez@bos.sccgov.org]; district6@sanjoseca.gov  
**Cc:** Evelyn Stivers; Leora Tanjuatco; Mike Rawson; Jonathan Erwin-Frank; Victoria Fierce  
**Subject:** Caltrain - Hayward Park Station Development - Request for Further Information  
**Attachments:** Letter re Hayward Park Station SLA Compliance - 8.17.18.pdf

Dear Members of the Peninsula Corridor Joint Powers Board of Directors,

We have asked that the Board withdraw from exclusive negotiations with Sares Regis for the Hayward Park Station site and fully comply with Surplus Land Act (SLA or the "Act"). In light of available information, it is our strong belief that in all of the years during which development of the site has been under consideration, the Board did not comply with the SLA by, among other things, sending a written offer or offers to those entities as required by the Act.

As stated in our August 17, 2018 letter to you (see attached), we are hoping for a timely resolution of this matter without resort to litigation. As such, we are requesting copies of the following documents or communications which may show evidence of compliance with the Act:

1. Any and all written offers or written communications discussing development of the site sent to the San Mateo County Department of Housing, the City of San Mateo, San Mateo County, or any agents or employees of those governmental entities, or any constituent organizations, agencies, or sub-parts of those governmental entities.
2. Any and all written offers or written communications discussing development of the site sent to housing developers, or any agents or employees thereof.
3. Any and all requests for statement of qualifications ("SOQ"), requests for proposals ("RFP"), or requests for quotation ("RFQ"), or other reports, documents, or communications requesting offers for development, and any documentation or communication demonstrating to whom they were sent.
4. Any written requests from housing developers, or any agents or employees thereof, received by the Board, Caltrain, or any agents or employees, constituent organizations, constituent agencies, or sub-parts of the Board or Caltrain, that discuss development of the subject site.

**Please note that regardless of written requests received, you were obligated to send written offers to sell or lease the property for the purpose of developing low- and moderate-income housing to the city, county, and any other public entities with jurisdiction, as defined in the Act. Gov. Code § 54222(a).**

Please let me know if you wish to discuss the above further. I am available by phone at (650) 391-0375, or by e-mail at [rortega@clsepa.org](mailto:rortega@clsepa.org).

Best regards,  
René Alejandro Ortega and  
Jonathon Erwin-Frank  
Community Legal Services in East Palo Alto

Evelyn Stivers  
Housing Leadership Council

Michael Rawson  
Public Interest Law Project

Victoria Fierce  
California Renters Legal Advocacy and Education Fund

--

**Rene Alejandro Ortega\*, ESQ. | SENIOR HOUSING ATTORNEY**  
**Community Legal Services in East Palo Alto**  
[www.clsepa.org](http://www.clsepa.org)  
Phone: (650) 391-0375 | Fax: (866) 688-5204  
1861 Bay Road | East Palo Alto, CA 94303

\*Admitted to practice law in California (2016), New York (2004), and Connecticut (2003)

**CONFIDENTIALITY NOTICE**

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JIM HARTNETT  
EXECUTIVE DIRECTOR

August 29, 2018

Mayor Michael Brownrigg  
Burlingame City Hall  
501 Primrose Rd  
Burlingame, CA 94010

Dear Mayor Brownrigg,

On behalf of Caltrain, I would like to extend my sincerest gratitude and thanks for the City's efforts on the relocation of Paralleling Station 3, a key component of Caltrain Electrification. The swift collaboration of City Council, staff, and residents brought about a favorable solution for both Caltrain and the City.

I look forward to continuing our productive relationship with the City as we endeavor to improve the transportation options for residents of Burlingame and the broader Peninsula.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Hartnett", written over a horizontal line.

Jim Hartnett, Executive Director  
Peninsula Corridor Joint Powers Board

CC: Burlingame City Council  
Lisa Goldman, City Manager  
Syed Murtuza, Director of Public Works  
Peninsula Corridor Joint Powers Board

**PENINSULA CORRIDOR JOINT POWERS BOARD**

1250 San Carlos Ave. – P.O. Box 3006  
San Carlos, CA 94070-1306 (650) 508-6269