

ROBERT J. LANZONE
JEAN B. SAVAREE
GREGORY J. RUBENS

KAI RUESS
CAMAS J. STEINMETZ
KIMBERLEY L. CHU

Direct line: (650) 453-3902
Email: grubens@adcl.com

LAW OFFICES

AARONSON, DICKERSON, COHN & LANZONE

A PROFESSIONAL CORPORATION
1001 LAUREL STREET, SUITE A
SAN CARLOS, CALIFORNIA 94070
PHONE: 650-593-3117
FAX: 650-453-3911
www.adcl.com

MICHAEL AARONSON
(1910-1998)
KENNETH M. DICKERSON
(1926-2008)
MELVIN E. COHN
(1917-2014)

January 28, 2015

Via email and first class mail

Peninsula Corridor Joint Powers Board
Attn.: Marian Lee, Executive Officer
1250 San Carlos Avenue
San Carlos, CA 94070-1306

Re: Request to Enter Into Sixty (60) Day Tolling Agreement To Extend Time For Filing Of CEQA Challenge To Approval Of Final Environmental Impact Report

Dear Ms. Lee:

This office represents the City of Menlo Park concerning the proposed Peninsula Corridor Electrification Project ("PCEP") and California High Speed Rail ("HSR") projects. The City Council has authorized this letter in an attempt to explore the possibility of resolving deficiencies it believes remain in the Final Environmental Impact Report ("FEIR") and proposed mitigations for the PCEP, prior to initiating litigation to challenge the certification by the Peninsula Corridor Joint Powers Board ("Caltrain").

The City Council reiterates its previously stated commitment to cooperate with Caltrain in improving the efficiency and operation of Caltrain. However, with the certification of the FEIR by Caltrain, Menlo Park is now faced with the prospect of accepting a document it believes is inadequate, or initiating litigation to challenge its sufficiency.

Last April the City of Menlo Park provided comments on the sufficiency of the draft Environmental Impact Report ("DEIR"), unambiguously stating its opposition to any blended system that results in an elevated structure, any future expansion that results in four tracks unless undergrounded and any system which adds passing tracks in Menlo Park.

Specifically, the comments provided included but are not limited to: Cumulative impacts from HSR, traffic, pedestrian safety and access, level of service (LOS) impacts at local intersections, increases in traffic congestion from increased number of trains, inaccurate factual analysis on ridership, excessive removal of trees, impacts on historic structures, absence of adequate mitigations (including grade separations), visual impacts, aesthetics and sightlines, noise, vibration and several other concerns.

Accordingly, the City of Menlo Park respectfully requests that Caltrain agree to a sixty (60) day tolling agreement to extend the time for filing a CEQA challenge to provide time to negotiate in good faith a reasonable and enforceable agreement or memorandum of understanding (MOU) that addresses the following significant concerns:

1. Clarifies the number of significant and heritage trees to be removed, which specific trees are to be removed and requires the replacement trees will be a minimum size of 36 inch box with a replacement ratio of 3:1, all consistent with the ordinances of the City.
2. Ensures that both construction and ongoing traffic impacts are properly mitigated.
3. Provides for the funding of appropriately designed and built grade separations.
4. Provides for increased Caltrain service in Menlo Park, particularly during non-peak hours.
5. Ensures that all mitigations provided in the FEIR are implemented.

The City Council believes that with these five issues addressed in an enforceable manner or with a negotiated MOU, and with a public commitment by the City and Caltrain to the agreed resolution, that the need for litigation over the sufficiency of the FEIR will no longer be necessary.

Given the time constraints and limitations period, we request your response to this proposal for a sixty day tolling agreement by the close of business Monday, February 2, 2015.

Please feel free to contact me directly.

Very truly yours,



Gregory J. Rubens

cc: Menlo Park City Council
Atherton City Council
Palo Alto City Council
Alex McIntyre, City Manager, City of Menlo Park
Joan Cassman, Caltrain legal counsel