



STAFF REPORT

City Council
Meeting Date: 4/28/2026
Staff Report Number: 26-069-CC

Regular Business: Authorize the city manager to execute an amended memorandum of understanding with Caltrain to advance the design and environmental clearance documents for the Middle Avenue Caltrain Crossing project

Recommendation

Staff recommends the City Council authorize the city manager to execute an amended memorandum of understanding (MOU) in the amount of \$1,000,000 with the Caltrain to advance the engineering design and environmental clearance documentation for the Middle Avenue Caltrain Crossing Project for a total agreement amount of \$3,000,000 (Attachment A).

Policy Issues

The Project is consistent with policies stated in the General Plan Circulation Element, the El Camino Real and Downtown Specific Plan and is included in the City's capital improvement program (CIP). These policies seek to maintain a safe, efficient, attractive, user-friendly circulation system that promotes a healthy, safe and active community and quality of life throughout Menlo Park.

Background

The Project involves the design and construction of a new pedestrian and bicycle undercrossing of the Caltrain railroad in the vicinity of Middle Avenue and Burgess Park. The Project provides a safer, less stressful connection for residents, workers, and visitors connecting across the railroad tracks instead of the primary route along Ravenswood Avenue.

On May 7, 2024, City Council authorized the city manager to execute a MOU with Caltrain for \$2,000,000 to develop engineering design and environmental clearance documents for the Project (Attachment B).

On Jan. 13, staff provided an informational item to City Council on the status of the Project (Attachment C).

On Jan. 27, City Council directed staff to prepare an amendment to the existing MOU with Caltrain to finalize design for the City Council's approval. City Council also directed staff to continue to seek additional funding to address the construction funding gap (Attachment D).

Concepts of the Project are included as part of Attachment E.

Analysis

Per the execution of the 2024 MOU, staff and Caltrain retained the services of TY Lin for the design.

Following a Construction Manager / General Contractor (CMGC) approach, Myers and Sons was selected as the contracting team for the design consultation. The design was advanced to 35% and the construction costs were updated. The main cost drivers of the Project are the windows of construction set by Caltrain, the method of construction and utility relocations. The construction costs are estimated to range between \$30 and \$38 million. Including the soft costs (design, environmental clearance, project / construction management, and right-of-way (ROW) acquisition), the total Project costs range between \$56 and \$65 million (Table 1).

Table 1: Total Project cost estimate	
Item	Estimated cost (million) ¹
Construction costs total ²	\$30-\$38
Soft costs total	\$15
Design, environmental documentation, CM/GC and cost estimating ³	\$5.9
Caltrain project and construction management ⁴	\$8.6
City staff time	\$0.40
Subtotal	\$45-\$53
Contingency (15%)	\$7-8
ROW acquisition ⁵	\$4
Total Project cost – low	\$56
Total Project cost – high	\$65

Notes:

1. Total project costs are rounded up.
2. Construction costs based on estimates provided during the value engineering workshops and include the cost for modifications to the fiber optic lines. These estimates are preliminary and will be refined as the design progresses. The fiber optic costs are to be negotiated with Caltrain.
3. The design, environmental, CM/GC and independent cost estimator costs are based on approved scope of work.
4. Estimated Caltrain soft costs are based on project and construction management hours through closeout. Caltrain revenue losses associated with the disruption to train services are not included.
5. ROW was acquired in 2024.

Project funding and shortfall

The Project has received over \$22 million in City and grant funding to support the design and construction of the undercrossing (Table 2), including federal funding from a member designated project nominated by Representative Eshoo in December 2022 (Federal omnibus budget bill) and a third cycle One Bay Area Grant (OBAG-3), also a federal funding source. Based on the current estimates, the overall project funding shortfall is estimated to range between \$34 and \$43 million.

Table 2: Total Project funding			
Funding	Source	Amount	Phase
Measure A/W Pedestrian/Bicycle Program	San Mateo County Transportation Authority	\$1,130,000	Design
Transportation impact fees	City of Menlo Park	\$5,658,334	Design and construction
Middle Plaza development agreement contribution	Private, Stanford University	\$6,000,000	Construction
Stanford recreational mitigation grant	Santa Clara County	\$1,000,000	Construction
One Bay Area Grant – Third Cycle	Metropolitan Transportation Commission	\$5,000,000	Construction
Federal omnibus budget bill	USDOT	\$4,000,000	Construction
Total		\$22,788,334	

The proposed MOU amendment confirms the following partnership with Caltrain:

- Securing grant funding – Caltrain will support the City in grant efforts. In 2024, Staff applied for Safe Streets and Roads for All funding through the US Department of Transportation, but the effort was unsuccessful. In partnership with Caltrain, staff is reviewing the grant program requirements to submit another application this year.
The City is also pursuing funding for the Project through the San Mateo County Transportation Authority. City Council can also consider a City initiated local tax ballot measure or general obligation bonds to fund capital improvement projects, which could provide a funding source for this Project.
- Reducing Project costs – Third-party fiber relocations and Project construction windows represent significant costs. Caltrain agrees to reduce the construction costs by supporting no cost third-party fiber relations and evaluating cost-effective construction windows.

Proceeding with a final design and completing the environmental documentation enables the Project to be shovel-ready, making it more competitive for grant funding opportunities to address the shortfall. Approximately \$6 million in additional funding is needed to complete the final design and environmental documentation. However, there are currently insufficient Transportation Impact Fee funds to complete the full design. Through the capital improvement plan budgeting process, staff will recommend options to make funding available for this effort for fiscal year 2026-27.

To advance the Project design and environmental documentation without incurring additional costs due to the pause and further delays, staff recommends that City Council consider approving the scope of work included in the MOU amendment for the final design and funding the effort partially to advance the work. The remaining budget would be made available through the capital budgeting process. Staff would continue to work with Caltrain on finalizing the project management costs for the final design and bring a second amendment to City Council to authorize the remaining funding to complete the final design once the budget has been approved.

Impact on City Resources

The impact on City resources is detailed in the Project funding shortfall section above.

Environmental Review

This action is not a project within the meaning of California Environmental Quality Act (CEQA) as it will not directly result in a change to the physical environment.

The overall construction of the Middle Avenue pedestrian and bicycle undercrossing project is within the scope of the El Camino Real and Downtown specific plan environmental impact report (EIR), State Clearinghouse No. 2009122048 (Specific Plan EIR), certified by City Council June 5, 2012, consistent with CEQA Guidelines §15168. The City prepared an addendum to the Specific Plan EIR because changes and additions to the document were necessary, but none of the conditions described in §15162 of the CEQA Guidelines calling for the preparation of a subsequent EIR occurred. On Jan. 28, 2020, the City Council certified an addendum to the Specific Plan EIR, which analyzed potential impacts from the implementation of the Middle Avenue pedestrian and bicycle rail crossing project as provided for under §15164 of the CEQA Guidelines. The Project has federal funding and requires National Environmental Policy Act (NEPA) clearance. The required NEPA environmental documentation is covered by the MOU amendment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. 2026 MOU Amendment
- B. 2024 MOU
- C. Hyperlink – Jan. 13 Staff Report #26-003-CC:
www.menlopark.gov/files/sharedassets/public/v/1/agendas-and-minutes/city-council/2026-meetings/20260113/h2-20260113-cc-middle-caltrain-bike-and-ped-update.pdf
- D. Hyperlink – Jan. 27 Staff Report #26-010-CC
www.menlopark.gov/files/sharedassets/public/v/1/agendas-and-minutes/city-council/2026-meetings/20260127/g1-20260127-cc-middle-avenue-pedestrian-and-bicycle-rail-crossing-project.pdf
- E. Hyperlink – Project latest concepts: www.menlopark.gov/Government/Departments/Public-Works/Capital-improvement-projects/Middle-Avenue-Caltrain-crossing

Report prepared by:
Azalea Mitch, Public Works Director

**FIRST AMENDMENT TO
THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MENLO PARK AND THE PENINSULA CORRIDOR JOINT
POWERS BOARD
FOR DESIGN SERVICES OF THE MIDDLE AVENUE CALTRAIN CROSSING
PROJECT**

This FIRST AMENDMENT (First Amendment) to the MEMORANDUM OF UNDERSTANDING FOR THE MIDDLE AVENUE CALTRAIN CROSSING PROJECT (MOU) is made as of _____, by and between the City of Menlo Park (“CITY”) and the Peninsula Corridor Joint Powers Board (“JPB”), referred to herein individually as “Party” and jointly as “Parties.”

WHEREAS, on May 20, 2024, the Parties entered into an MOU, which designated the JPB as the lead agency for the design services and implementation of the Project; and

WHEREAS, the Parties have worked collaboratively to advance the design and environmental documentation of the Project; and

WHEREAS, the JPB has included the Project in its Corridor Crossings Strategy Safety Enhancement and Elimination Programs Initiation Report Programs; and

WHEREAS, the JPB agrees to support the CITY on grant application efforts to secure construction funding for the Project; and

WHEREAS, the CITY has initiated the transfer of federal construction funds administered through the Federal Highway Administration to the JPB to be administered through the Federal Transportation Administration; and

WHEREAS, the JPB agrees to work with the CITY to reduce construction costs by supporting no cost third-party fiber relocations and reasonable Project construction windows; and

WHEREAS, the Parties agree to negotiate in good faith on the Project’s management, design and construction costs; and

WHEREAS, the JPB shall continue to manage and oversee the consultant(s) and the contractor(s) and maintain responsibility for the design quality, schedule, and compliance; and

WHEREAS, the Parties desire to amend the MOU to finalize the design of the Project and an additional fifteen (15) months to complete the Scope of Work; and

WHEREAS, upon completion of the Scope of Work of the Project, the subsequent phases include final design and construction, which will be addressed through another amendment or a separate agreement.

NOW, THEREFORE, IT IS HEREBY AGREED by the Parties that the MOU is revised and amended as follows:

1. **SCOPE OF WORK.** Section A, Scope of Work, is hereby amended per the revised Exhibit A which includes additional scope of work.
2. **FUNDING AND PAYMENT:** Sections B.1, B.2 and B.5 are hereby deleted and replaced with the following language:

“Section B.1 Funding Commitment. CITY will provide \$1 million of CITY funds to JPB to advance the Scope of Work. The Parties understand and agree that JPB is the lead implementing agency and will complete the Scope of Work on CITY’s behalf as requested by CITY, and CITY is solely responsible for, and has the full financial obligation of, the cost of the Scope of Work of the Project, and other expenses related thereto pursuant to the terms of this MOU.

Section B.2 Insufficient Funding. CITY has established a budget of \$5 million (Budget) for the Scope of Work for the Project. Should additional funding be required, JPB and CITY will work together to identify potential funding sources, but CITY is solely responsible for all costs and expenses of the Scope of Work incurred by JPB. JPB shall not do any work in excess of this Budget without authorization and approval of CITY. JPB shall not use the contingency within this Budget without authorization and approval of the CITY. JPB is not obligated to complete the tasks within the Scope of Work unless reimbursed by CITY.”

Section B.5 Invoices; Payments. No more than once a month and no less than once every three (3) months, the JPB must prepare and submit invoices and billing statements with supporting documentation detailing the work done to complete the Scope of Work. Supporting documentation may include, but is not limited to, the scope of work and date that was completed, staff completing the work, copies of associated vendor invoices, back-up documentation, and checks.

Invoices and supporting documentation to CITY must be submitted by e-mail to:

publicworks@menlopark.gov
or otherwise delivered to:
Azalea Mitch, Public Works Director
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

CITY will endeavor to remit payment within thirty (30) days.

3. **REIMBURSEMENT FOR PRE-AMENDMENT WORK:** Section B.6 is added to state the following:

Section B.6 Reimbursement for Pre-Amendment Services. Notwithstanding the effective date of this First Amendment, the CITY agrees to reimburse JPB for all services performed, work completed, and costs reasonably incurred by JPB within the scope of the MOU and this First Amendment prior to the adoption and full execution of this Amendment by the Parties, provided that such was authorized in writing by the CITY. Reimbursement and payment shall be made in accordance with the compensation rates, cost principles, and invoicing procedures set forth in the MOU and this First Amendment. Nothing in this paragraph shall be construed to obligate the CITY to reimburse any costs that exceed the compensation limits established in the MOU or First Amendment, unless otherwise approved in writing by the CITY.

4. **TIME OF PERFORMANCE.** Sections C.1 and C.2 are hereby deleted and replaced in its entirety with the following language:

“Section C.1 Term of MOU. This First Amendment to MOU is effective upon the Execution Date and will terminate upon the earliest of: (a) December 31, 2026 or (b) termination by CITY or JPB pursuant to Subsections C.3 or C.4.

Section C.2. Time of Performance. Advancement of the Project Scope of Work must be completed no later than December 31, 2026.”

5. **EFFECT.** Except as and solely to the extent amended by this First Amendment, the MOU will continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by the persons authorized to act in their respective names on the day and year first written above.

CITY OF MENLO PARK

By: _____
Name: Justin I.C. Murphy
Its: City Manager

APPROVED AS TO FORM

Legal Counsel for the City of Menlo Park

PENINSULA CORRIDOR JOINT POWERS BOARD

By: _____
Name: Michelle Bouchard
Its: Executive Director

APPROVED AS TO FORM

Legal Counsel for the JBP

EXHIBIT A: SCOPE OF WORK INFORMATION

Middle Avenue Caltrain Crossing Project Design Services

Sponsoring Agency: City of Menlo Park

Contact: Azalea Mitch, Public Works Director
650-330-6692, aamitch@menlopark.gov
701 Laurel Street
Menlo Park, CA 94025

Lead/Implementing Agency: Peninsula Corridor Joint Powers Board

Contact:

Project Description and Scope of Work:

SCOPE OF WORK INFORMATION

Final Design Phase

Middle Avenue Caltrain Crossing Project

To CITY (Sponsoring Agency):

City of Menlo Park
Azalea Mitch, Public Works Director
701 Laurel Street
Menlo Park, CA 94025

Contact:

Azalea Mitch, Public Works Director
650-330-6741
aamitch@menlopark.gov

To JPB (Lead Implementing Agency):

Peninsula Corridor Joint Powers Board
Gabe McKee, Senior Project Manager
1250 San Carlos Avenue
San Carlos, CA 94070

Contact:

Gabe McKee, Senior Project Manager
650-208-3349
mckeeg@caltrain.com

OVERALL PROJECT DESCRIPTION

This Project will construct a pedestrian and bicycle undercrossing of the Caltrain railroad near Middle Avenue, connecting Alma Street near Burgess Park to El Camino Real at the open space plaza. The crossing will improve connectivity and safety for neighborhoods on both sides of the Caltrain tracks and provide improved access to city amenities, schools, shopping areas, public transit, and downtown Menlo Park.

The Project shall be designed and implemented in a manner that minimizes impacts to Caltrain operations and maintains uninterrupted rail service to the extent feasible, while supporting the cost-effectiveness of the Project. The Caltrain corridor is an electrified corridor and requires coordination with ongoing rail operations, safety requirements, and planned corridor improvements.

In general, the Project will:

- Construct a pedestrian and bicycle undercrossing of the Caltrain railroad near Middle Avenue connecting Alma Street to El Camino Real;
- Relocate or protect utilities and coordinate with third-party utility owners;
- Construct retaining walls and structural improvements required to support the undercrossing;
- Implement landscaping, irrigation, and streetscape improvements to enhance pedestrian and bicycle accessibility; and
- Support public outreach, stakeholder coordination, and regulatory approvals necessary to advance the Project.

SCOPE OF WORK

The Scope of Work involves advancing the Project design from the previously completed thirty-five percent (35%) design milestone to completion of the sixty-five percent (65%), ninety-five percent (95%), and Issued for Construction (IFC) plans and specifications, utilizing the Construction Manager/General Contractor (CMGC) and Designer under contract with JPB.

The Scope of Work includes development of final engineering design, preparation of plans, specifications, and estimates, continued environmental and permitting support, utility coordination and relocation planning, and coordination with Caltrain railroad operations and safety requirements.

JPB shall also conduct an operational analysis between the thirty-five percent (35%) and sixty-five percent (65%) design milestones to evaluate potential railroad work windows, service impacts, and construction access to be included in the final contract and specifications.

JPB shall manage and oversee the Designer and CMGC to support constructability review, development of construction staging and sequencing concepts, refinement of Project cost

estimates, and preparation of issued for construction documents. The CMGC shall continue to provide preconstruction services in support of design development, including constructability input, cost estimating, schedule development, and risk identification.

Subsurface Utility Engineering (SUE) and potholing investigations may be performed as necessary to further verify underground utility locations, confirm utility depth and alignment, reduce construction conflicts, and support final design development. The extent and location of potholing investigations shall be determined by JPB in coordination with the Designer, CMGC, and utility owners based on engineering need, safety considerations, and available funding. Potholing activities performed under this Scope of Work are limited to supporting design and shall not constitute construction work.

The Scope of Work also includes coordination with third-party utility providers to facilitate utility relocation planning and support implementation of relocations to minimize cost impact to the Project where feasible. Utility coordination activities may include development of relocation strategies, sequencing coordination, and integration of utility work into Project staging plans. JPB and CITY will coordinate and cooperate to minimize the project expense of the one-time relocation of fiber optic cables

JPB shall also work with the CITY in pursuit of construction funding opportunities, including preparation of supporting technical documentation, cost estimates, and schedule information for grant applications and coordination related to funding transfers and administration.

Public outreach and stakeholder coordination will remain critical components of the Project. Outreach efforts will support design development, regulatory review, and preparation for construction.

Public Outreach Roles

CITY roles related to public outreach:

- Direct the overall public outreach effort and serve as the public face of the Project to provide project updates;
- Conduct outreach to affected property owners once adequate engineering design and environmental assessment have been performed;
- Secure venues for public meetings;

- Promote public meetings through notifications, mailings (including printing of promotional materials), website updates, social media, and other forms of communication;
- Inform the public regarding anticipated construction schedules, traffic impacts, and community coordination prior to construction; and
- Establish and maintain a Project website and communication platforms.

JPB roles related to public outreach:

- Provide project materials to the CITY for public updates;
- Provide project updates and support materials for public meetings conducted by the CITY, including presentations, exhibits, and technical documentation;
- Support the CITY in providing technical updates of the Project at public meetings and to City representatives;
- Develop and provide content for the Project website related to Project schedules, design updates, and anticipated construction activities; and
- Attend public meetings and provide technical support as requested by the CITY.

Scope of Work Schedule

Task	Begin	End
Final Design Advancement (65%, 95%, 100%)	May 2026	August 2027

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MENLO PARK AND THE
PENINSULA CORRIDOR JOINT POWERS BOARD**

**FOR DESIGN SERVICES
OF THE MIDDLE AVENUE CALTRAIN CROSSING PROJECT**

This Memorandum of Understanding (MOU) entered into as of this 20th day of May 2024 (the Execution Date), by and between the CITY OF MENLO PARK, a municipal corporation, whose address is 701 Laurel St. Menlo Park, California, 94025 (hereinafter "CITY"), and the PENINSULA CORRIDOR JOINT POWERS BOARD, a joint exercise of powers agency formed pursuant to Government Code Section 6500, *et seq.*, whose address is 1250 San Carlos Avenue, San Carlos, California, 94070-2468 (hereinafter "JPB"), (CITY and JPB hereinafter collectively "Parties" or individually "Party").

RECITALS

A. WHEREAS, JPB is the owner and operator of Caltrain, a commuter service which provides transportation for communities on the Peninsula between San Francisco and Gilroy; and

B. WHEREAS, Middle Avenue is a roadway within the CITY that terminates just west of the Caltrain tracks, meaning there is no access across the Caltrain tracks at this location; and

C. WHEREAS, the CITY identified the Middle Avenue Caltrain crossing project (Project) as a high priority project in their 2019 work plan, approved on March 12, 2019 and reaffirmed the Project as a priority in the 2021 work plan, approved on April 20, 2021; and

D. WHEREAS, the CITY identified an overall priority to develop safe streets in the City, of which the Project is a key element, at a City Council goal setting session conducted on March 18, 2023; and

E. WHEREAS, the City Council approved a final concept design on August 27, 2019 and certified the environmental review for the design on January 28, 2020; and

F. WHEREAS, the City Council approved an updated final concept design to address design changes in response to Caltrain review and the electrification of the Caltrain railroad on August 29, 2023; and

G. WHEREAS, CITY has programmed and allocated a total of \$5.6 million in Fiscal Year 2023-24 for the Project; and

HG. WHEREAS, CITY and JPB have agreed to complete the Scope of Work for the Project, as described in Exhibit A, attached to this MOU and incorporated herein by this reference, and that JPB will serve as the lead agency to complete the Scope of Work; and

I. WHEREAS, CITY is formally notifying JPB of CITY's preference to implement the Project; and

J. WHEREAS, upon completion of the Scope of Work of the Project, the subsequent phases include final design and construction, which will be addressed through a separate agreement.

AGREEMENT

NOW, THEREFORE, the Parties to this MOU agree as follows:

A. Project Description and Scope of Work.

1. Project Description. Project means Middle Avenue Caltrain Crossing, where Middle Avenue is located in the City of Menlo Park, California.
2. Scope of Work. The Scope of Work is the Design Phase and environmental clearance, as described in Exhibit A (Scope of Work information), attached to this MOU and incorporated herein by this reference.
3. Limited to Scope of Work. This MOU is intended to cover only the Scope of Work.

B. Funding and Payment.

1. Funding Commitment. CITY will provide \$2 million of CITY funds to JPB to complete the Scope of Work. The Parties understand and agree that JPB is the lead implementing agency and will complete the Scope of Work on CITY's behalf as requested by CITY, and CITY is solely responsible for, and has the full financial obligation of, the cost of the Scope of Work of the Project, and other expenses related thereto pursuant to the terms of this MOU.

2. Insufficient Funding. CITY has established a budget of \$2 million (Budget) for the Scope of Work for the Project. Should additional funding be required, JPB and CITY will work together to identify potential funding sources, but CITY is solely responsible for all costs and expenses of the Scope of Work incurred by JPB. JPB shall not do any work in excess of this Budget without authorization and approval of CITY.

JPB is not obligated to complete the tasks within the Scope of Work unless reimbursed by CITY.

3. Use of Funds. JPB will use CITY funds provided under this MOU only for purposes of completing the Scope of Work. Allowable uses of CITY funds include staff and consultant costs and other direct expenses (e.g., permits).

a. Costs incurred by JPB in connection with the Scope of Work for Indirect Administration and Capital Administration pursuant to the San Mateo County Transit District's Independent Cost Allocation Plan (ICAP), as approved by the Federal Transportation Administration, will be considered an allowable use of CITY funds.

4. Accounting Procedures. JPB will account for the funds provided by CITY to accomplish the Scope of Work. JPB will maintain all necessary books and records in accordance with generally accepted accounting principles.

5. Invoices; Payments. No more than once a month and no less than once every three (3) months, the JPB must prepare and submit invoices and billing statements with supporting documentation detailing the work done to complete the Scope of Work. Supporting documentation may include, but is not limited to, copies of associated vendor invoices, back-up documentation, checks, and payment advice.

Invoices and supporting documentation to CITY must be submitted by e-mail to:

PWSupportStaff@menlopark.gov

or otherwise delivered to:

Azalea Mitch, Public Works Director
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

CITY will endeavor to remit payment within thirty (30) days.

C. **Term.**

1. Term of MOU. This MOU is effective upon the Execution Date and will terminate upon the earliest of: (a) December 31, 2026 or (b) termination by CITY or JPB pursuant to Subsections C.3, or C.4.

2. Time of Performance. The Project Scope of Work must be completed on or before December 31, 2026.

3. Written Termination. A Party may at any time terminate this MOU by giving thirty (30) days written notice to the other Party. JPB shall submit a final invoice to CITY

for all costs incurred until the date of termination within thirty (30) days of termination date. CITY shall endeavor to remit payment within thirty (30) days of receipt and approval of the final invoice.

4. **Termination by the Parties.** If it is mutually agreed by the Parties that it would be in their mutual best interest to terminate or suspend work under this MOU, none of the Parties may seek, and none of the Parties will be entitled, to receive further reimbursement for any costs or expenses incurred in connection with the Scope of Work following the termination of this MOU, except for closeout costs required by the Parties to document and archive, as well as to close out any open work directives.

D. **JPB Responsibilities.**

1. Serve as the lead implementing agency responsible for delivering the Scope of Work, including, but not limited to:

a. Procuring and administering the consultant/contractor services to complete the Scope of Work; and

b. Managing performance of the Scope of Work, including providing technical oversight, and carrying out the Scope of Work on schedule and within budget.

2. Designate a project manager (JPB Project Manager) to function as a liaison throughout the duration of the MOU.

3. Provide CITY copies of draft professional services agreements, including consultant scope of work for the Project and allow CITY to provide input on final terms of the Agreement between JPB and JPB's selected consultant(s).

4. Lead coordination with any permitting agencies and obtain necessary permits and approvals required for performance of the Scope of Work.

5. Create a technical working group (Technical Working Group) consisting of representatives from major stakeholders, including, but not limited to, CITY and JPB, and establish and lead coordination meetings with the Technical Working Group.

6. Maintain ongoing coordination with CITY and keep CITY apprised of developments, such as award of contracts or potential changes that may affect the scope, schedule, or Budget of the Project or Scope of Work, including outreach efforts pertaining to Caltrain patrons, Caltrain operations, the Caltrain Modernization Program (CalMod Program), and California High-Speed Rail (CHSR) program. Establish meetings as needed to provide project updates to CITY and allow for CITY input so that CITY has necessary information to inform community, stakeholders, and elected officials.

7. Attend and assist in public outreach meetings, as required by CITY.
8. Attend and assist at Menlo Park Complete Streets Commission and City Council meetings to receive Council input and concurrence on design elements and any design changes to CITY's preferred alternative.
9. Provide CITY copies of Project deliverables, including, but not limited to, reports, designs, drawings, plans, specifications, schedules, cost estimates, and other materials. JPB will provide CITY a minimum of thirty (30) days to review and provide comments.
10. Prepare and provide to CITY status reports, including anticipated and expended costs and Scope of Work delivery milestones and schedule forecasts as required for CITY to complete and submit Progress reports and a Final Report.
11. Prepare and submit invoices and supporting documentation to CITY.
12. Submit to CITY, upon completion of the Scope of Work, hard and electronic copies of the Final Design Phase of the Project product and deliverables.

E. **CITY Responsibilities.**

1. Serve as the sponsoring agency responsible for providing funding for delivery and management of Scope of Work.
2. Designate a project manager (CITY Project Manager) who shall be CITY's representative and chief liaison for coordination with JPB throughout the duration of the MOU.
3. Review and provide input within thirty (30) days on any professional services agreements, change orders, and any other agreements that JPB has entered into for the performance of Scope of Work during the term of this Agreement; however, JPB retains ultimate authority over contracting and related decisions.
4. Issue JPB a no-fee encroachment permit for portions of the Project within CITY right-of-way as required for completion of the Scope of Work.
5. Participate in Technical Working Group coordination meetings with JPB and other stakeholders.
6. Provide input and oversight based on local policies and desires regarding the outcome of the deliverables of the Scope of Work.
7. Lead outreach efforts pertaining to the Project to local stakeholders, community members, Complete Streets Commission, and City Council, including coordination of

public meetings, solicitation of public comment, and obtaining concurrence on design and/or design changes, if any.

8. Review and provide comments within thirty (30) days of receipt on the work products and deliverables produced by JPB and/or JPB's contractors/consultants for performance of the Scope of Work, including reports, designs, drawings, plans, specifications, schedules, and other materials; however, JPB retains authority to accept or reject contractor/consultant work.

9. Review progress reports prepared and provided by JPB.

10. Review invoices and supporting documents submitted by JPB and endeavor to remit payment within thirty (30) days of receipt and approval.

11. Coordinate closely with JPB to address the Parties' interests in railroad operations as it relates to the Project, especially regarding the electrification and blended system rail efforts.

12. Accept, in writing, the final deliverables or work products produced by the JPB and/or JPB's contractors/consultants for the Scope of Work.

F. **Insurance.**

1. **Acceptability of Insurers.** Each Party shall maintain insurance or provide a certificate of self-insurance prior to commencement of work. The letter of self-insurance shall state that JPB, CITY, and each of its officers, officials, employees, and volunteers are to be covered as additional insureds.

2. **Consultant Insurance.** JPB will require its consultant and/or contractor to add CITY and CITY's officers, officials, employees, and volunteers as additional insureds from and against all damages and claims, loss, liability, cost, or expense arising out of or in any way connected with the Project to the insurance coverages required in JPB's contract with JPB's consultant and/or contractor.

3. **Other Insurance Provisions:**

a. For any claims related to the Scope of Work, JPB's insurance coverage shall apply when the JPB is obligated to indemnify the City pursuant to Section G of this Agreement. For any claims related to the Scope of Work, the City's insurance shall apply when the City is obligated to indemnify the JPB pursuant to Section G of this Agreement.

b. JPB shall provide thirty (30) days' notice to CITY in the event of cancellation or modification to the stipulated insurance coverage.

c. In the event JPB or JPB's contractor employs subcontractors as part of the work for the Project covered by this MOU, it shall be the responsibility of JPB to ensure that all subcontractors comply with the same insurance requirements as stated in this MOU.

G. **Indemnification.**

1. Each Party shall indemnify, keep, and save harmless the other Party against any and all suits, claims, or actions arising out of any act or omission by the indemnifying Party, its agents, employees, contractors, or subcontractors in connection with the Scope of Work, including the following:

a. Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from that Party's performance of the Scope of Work or implementation of this MOU; or

b. Any allegation that materials or services developed, provided, or used by that Party for the Scope of Work infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third Party.

2. In all agreements entered into by JPB for the completion of the Scope of Work for the Project, JPB shall require JPB's consultant and subconsultants for the Project to name CITY and CITY's officers, employees, and agents as additional insureds and indemnitees to the extent permitted by law.

3. In case of any and all suits, claims, or actions arising out of any act or omission by the indemnifying Party, its agents, employees, contractors, or subcontractors, each indemnifying Party further agrees to defend any and all such actions, suits, or claims and pay all charges of attorneys and all other costs and expenses of defenses of the other Party as they are incurred. If any judgment is rendered, or settlement reached, against a Party in any such action, the indemnifying Party will, at its expense, satisfy and discharge the same.

4. This indemnification shall survive termination or expiration of the MOU.

H. **Miscellaneous.**

1. **Ownership of Work.** All reports, designs, drawings, plans, specifications, schedules, studies, memoranda, and other documents assembled for or prepared by or for; in the process of being assembled or prepared by or for; or furnished to JPB or CITY under this MOU, are the joint property of JPB and CITY. Each Party is entitled to copies and access to these materials during the progress of the Scope of Work and upon completion of the Scope of Work or termination of this MOU. All Parties may retain a copy of all material produced under this MOU for use in their general activities.

2. No Waiver. No waiver of any default or breach of any covenant of this MOU by any Party to this MOU can be implied from any omission by any other Party to take action on account of such default if such default persists or is repeated. Express waivers are limited in scope and duration to their express provisions. Consent to an action or actions do not imply consent to any future action(s).

3. Assignment. No Party can assign, transfer, or otherwise substitute its interests or obligations under this MOU without the written consent of all the other Parties.

4. Governing Law. This MOU is governed by the laws of the State of California as applied to contracts that are made and performed entirely in California.

5. Modifications. This MOU may only be modified in writing executed by all Parties.

6. Disputes. If a question arises regarding interpretation of this MOU or its performance, or the alleged failure of a Party to perform, the Party raising the question or making the allegation must give written notice thereof to the other Party. The Parties will promptly meet in an effort to resolve the issues raised. If the Parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation, may be pursued by mutual agreement. It is the intent of the Parties to the extent possible that litigation be avoided as a method of dispute resolution.

7. Attorneys' Fees. In the event legal proceedings are instituted to enforce any provision of this MOU, the prevailing Party in said proceedings is entitled to its costs, including reasonable attorneys' fees, in addition to such other remedies to which it may be entitled. Reasonable attorneys' fees include fees determined using reasonable market rates for attorneys, even if the attorneys involved are a Party's salaried staff attorneys.

8. Relationship of the Parties. It is understood that this is an MOU by and between independent contractors and does not create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship other than that of independent contractors.

9. Accessibility of Services to Persons with Disabilities. The implementation of the Scope of Work must comply with, and not subject the Parties to liability under, the Americans with Disabilities Act, the California Disabled Persons Act, or any other State or Federal laws protecting the rights of persons with disabilities.

10. Warranty of Authority to Execute MOU. Each Party to this MOU represents and warrants that each person whose signature appears hereon is authorized and has the full authority to execute this MOU on behalf of the entity that is a Party to this MOU.

11. Severability. If any portion of this MOU, or the application thereof, is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all remaining portions of this MOU, or the application thereof, will remain in full force and effect.

12. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed to be an original, but all of which in the aggregate shall constitute one and the same instrument, and the Parties agree that signatures on this Agreement shall be sufficient to bind the Parties.

13. Entire MOU. This MOU constitutes the entire agreement between the Parties pertaining to its subject matter and supersedes any prior or contemporaneous written or oral agreement between the Parties on the same subject.

14. Nondiscrimination. The Parties and any contractors performing services on behalf of the Parties will not discriminate or permit discrimination against any person or group of persons on the basis of race, color, religion, national origin or ancestry, age, sex, sexual orientation, marital status, pregnancy, childbirth or related conditions, medical condition, mental or physical disability, or veteran's status, or in any manner prohibited by Federal, State, or local laws.

15. Compliance with Laws. In performance of this MOU, the Parties must comply with all applicable Federal, State, and local laws, regulations, and ordinances.

16. Notices. All notices affecting any of the clauses of this MOU must be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery or overnight courier to the appropriate address indicated below or at such other place(s) that any Party may designate in written notice to the others. Notices are received upon delivery if personally served, one (1) day after mailing if delivered via overnight courier, or two (2) days after mailing if mailed as provided above. The address(es) of each Party for the giving of notices hereunder are, until changed as hereinafter provided, the following:

To JPB: Michelle Bouchard, Executive Director
Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue—P.O. Box 3006
San Carlos, CA 94070-1306

To CITY: Azalea Mitch, Public Works Director
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Any notice will be deemed given on the date of delivery, on the date of refusal to accept delivery, or when delivery is first attempted but cannot be made due to a change of address for which no notice was given. A Party may change its notice address(es) at any time

by giving written notice of such change to the other Party in the manner provided herein. Notice given by counsel shall be deemed given by the Party represented by such counsel.

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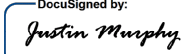
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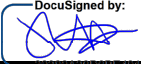
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IN WITNESS WHEREOF, this Memorandum of Understanding dated
20th of May, 2024 for identification, is executed by the Parties.

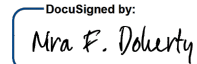
"CITY":

CITY OF MENLO PARK,
a California municipal corporation

By: 
Justin I. C. Murphy, City Manager

By: 
Judi A. Herren, City Clerk

APPROVED AS TO FORM:

By: 
Nira F. Doherty, City Attorney

"JPB":

PENINSULA CORRIDOR JOINT POWERS
BOARD,
a joint exercise of powers agency

E-SIGNED by Michelle Bouchard
on 2024-07-02 22:30:26 GMT
Name: Michelle Bouchard
Executive Director

APPROVED AS TO FORM:

By: 
Name: James C. Harrison
PCJPB Legal Counsel

EXHIBIT A

SCOPE OF WORK INFORMATION

Advanced Preliminary Design Phase of the Middle Avenue Caltrain Crossing Project

To CITY (Sponsoring Agency): City of Menlo Park
Azalea Mitch, Public Works Director
701 Laurel Street
Menlo Park, CA 94025

Contact: Azalea Mitch, Public Works Director
650-330-6741
aamitch@menlopark.gov

To JPB
(Lead Implementing Agency): Peninsula Corridor Joint Powers Board
Arul Edwin, Sen. Project Manager, Capital Program Delivery
1250 San Carlos Avenue, 4th Floor
San Carlos, CA 94070

Contact: Arul Edwin, Senior Project Manager
650-339-8845
edwina@caltrain.com

OVERALL PROJECT DESCRIPTION

This Project will construct a pedestrian and bicycle undercrossing of the Caltrain railroad near Middle Avenue, connecting Alma Street near Burgess Park to El Camino Real at the open space plaza. The crossing will improve connectivity and safety for neighborhoods on both sides of the Caltrain tracks to city amenities, schools, shopping areas, public transit and downtown Menlo Park.

The project shall be designed and built without interruption to the Caltrain service. The Caltrain corridor is expected to be an electrified corridor. Therefore, any interruption to service would create significant impact to the railroad operation.

In general, the project will:

- Build a pedestrian and bicycle undercrossing of the Caltrain railroad near Middle Avenue, connecting Alma Street near Burgess Park to El Camino Real at the open space plaza;
- Relocate Utilities;

- Build Retaining walls;
- Implement Landscaping, including mitigation of tree removals, and irrigation, to enhance pedestrian experience; and
- Support public outreach by providing exhibits including at least four renderings, attend community meetings and City Council/committee/commission meetings.

SCOPE OF WORK

The Scope of Work involves advanced preliminary design phase activities including pre-construction task by the Construction Manager General Contractor (CMGC), environmental clearance needed prior to performing construction of the overall Project, value engineering, utility relocation planning, and cost estimating.

Public outreach will be a critical component to the Project. Below are specific roles that the City and JPB shall assume for the public outreach effort:

City roles related to public outreach:

- Direct the overall public outreach effort and be the public face of the Project to provide project updates;
- Conduct any needed outreach to affected property owners once adequate engineering design and environmental assessment have been performed;
- Secure venues for public meetings;
- Promote public meetings through notifications, mailings (including printing of promotional materials), website updates, social media and other forms of notification;
- Prior to the construction phase, inform the public about schedule and potential traffic detours through notifications, website updates, and other forms of notification; and
- Establish and maintain a project website.

JPB roles related to public outreach:

- Provide project materials to the City for public updates;
- Provide project updates and support materials for public meetings conducted by the City (including City Council meetings and workshops), including PowerPoint presentations;
- Support the City in providing technical updates of the Project at public meetings and to City representatives for this Project; and

- Develop content for the Project website to provide the public with schedules and updates prior to and during construction activities.

Scope of Work Schedule	<u>Begin</u>	<u>End</u>
• Design and Environmental Clearance	mid- 2024	late-2025