



Item No. 19 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

**FROM: MICHAEL KASHIWAGI
COMMUNITY SERVICES DIRECTOR**

DATE: JULY 20, 2016

**SUBJECT: DIRECTION TO CITY ATTORNEY TO PREPARE AND
AUTHORIZATION FOR CITY MANAGER TO EXECUTE A
REIMBURSEMENT AGREEMENT FOR STAFF COSTS
ASSOCIATED WITH THE REVIEW OF TECHNICAL STUDIES,
LEGAL DOCUMENTS, AND DESIGN PLANS FOR THE HIGH
SPEED RAIL PROJECT**

RECOMMENDATION

If Council deems appropriate, direct the City Attorney to prepare and authorize the City Manager to execute a Reimbursement Agreement with the California High Speed Rail Authority for staff costs associated with the review of technical studies, legal documents, and design plans for the High Speed Rail Project.

BACKGROUND

The California High Speed Rail Authority (CHSRA) is responsible for the planning, design, construction, and operation of California's high speed rail system. The CHSRA recently conducted scoping meetings for the Notice of Intent/Notice of Preparation which initiated Federal and State Environmental Review for the San Francisco to San Jose segment of the High Speed Rail Project.

The San Francisco to San Jose segment is 51 miles in length and will be a blended service utilizing and sharing the Caltrain corridor. High Speed Rail vehicles will operate on Caltrain tracks and will be designed for speeds up to 110 miles per hour. Environmental Review will include studying station locations at 4th and King (San Francisco), Millbrae-SFO, and Diridon (San Jose) along with passing tracks necessary for high speed rail operations.

ANALYSIS

The reimbursement agreement would allow the Town to be reimbursed for staff costs associated with the review of technical studies, legal documents, and design plans necessary to construct the

San Francisco to San Jose segment of the high speed rail system. CHSRA is negotiating similar agreements with all peninsula cities along this 51-mile corridor.

Under the proposed agreement, the Town would be reimbursed for actual, direct, and necessary expenses for technical and legal reviews associated with the planning and design of the project. Although the specific scope of work has not been determined, it is anticipated that expected activities would include:

- Technical/engineering review of reports, studies, and plans
- Utility coordination/resolving utility conflicts
- Technical and legal review of cooperative agreements, utility agreements, right-of-way transfer agreements, maintenance and operations agreements, etc.
- Preparation for City Council staff reports and supporting materials
- Property rights research
- Technical and legal review of abandonment, vacation, or transfer of right-of-way

Work performed by Town staff which will not be reimbursed under this agreement includes:

- Review and preparation of comments on project environmental documents
- Attending meetings not authorized by the CHSRA
- Acquisition of real property

The purpose of this agreement is to reimburse the Town for staff costs associated with the review of High Speed Rail project documents. Execution of this agreement is not an acknowledgement of Town support for the project and does not impact the Town's ability to oppose the project from a policy or legal standpoint. It is anticipated that the duration of this contract will be from the Notice to Proceed through June 30, 2018.

POLICY FOCUS

An agreement would enable the Town to be reimbursed for staff time necessary to review and provide comments associated with the planning and design of the San Francisco to San Jose segment of the High Speed Rail Project. However, the Town has a policy related to High Speed Rail (attached). The Town has adopted Resolutions opposing the project, including the EIR, Business Plan and use of the rail corridor for high speed rail. The Town has taken the position to use all legal means to delay, hinder or halt the use of Proposition 1A funds. Execution of an agreement may be viewed as counter to the Town's adopted Rail Policy.

The initial draft agreement provided by CHSRA is not acceptable to the Town. If approved this evening, the City Attorney would amend the draft agreement in line with Council direction and the Town's rail related policy position(s) to be clear that execution of the agreement by the Town would not be a representation of the Town's support for the project. Further, amendments would be clear that execution of the agreement would not impact the outcomes of existing lawsuits, or prevent the Town from taking future legal action(s) against high speed rail planning or environmental documents, design, construction, or operational impacts. CHSRA may not accept

the amended agreement as drafted by the Town. If CHSRA does not accept the Town's amendments to the agreement, staff would not recommend that the Town enter into a reimbursement agreement and would advise the Council that an agreement could not be reached.

If the Council wishes to review and amend the Town's adopted Rail Related Policy position, staff can place the item on a future agenda for Council discussion. Direction would be required to do so.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

FISCAL IMPACT

The Reimbursement Agreement allows the Town to recover staff costs and resources associated with the review of technical studies, legal documents, and designs plans for the High Speed Rail Project. Actual hourly rates and not-to-exceed budget will be determined as part of the negotiation of final work scope and cost estimate.

ATTACHMENT

Town of Atherton Rail Policy

RAIL RELATED POLICY POSITIONS ADOPTED BY THE TOWN OF ATHERTON

A. HIGH-SPEED RAIL (HSR)

Legislative

- In 2008, the Town voters decided against Prop. 1A which authorized the HSR project
- Town Resolutions, passed unanimously by the Council, oppose the HSR project, including the Program Environmental Impact Report (EIR), Business Plan and use of the rail corridor by HSR
- The Town has joined with other Peninsula cities as a member of the Peninsula Cities Consortium (PCC) to promote a unified response to HSR and other rail matters
- Conditions that must be met, if the HSR project continues, before the Legislature approves the use of Prop 1A bond funds to implement the project:
 - a. Independent Ridership Survey reporting directing to the Legislature
 - b. Independent Verification of Sources claiming HSR projects have resulted in profitable operations
 - c. Business Plan deemed “investment grade and acceptable,” by the following:
 - State Auditor, Legislative Analyst Office and Peer Review Group
 - d. Completion of the environmental studies and reporting process for Certifying the Program and Project EIRs, without resorting to “streamlining” or shortcutting the process, in any manner
- Support legislation to delay, hinder or halt the implementation of Prop 1A which town residents and Council voted to oppose (examples-AB 1455 (Harkey) and SB 985 (LaMalfa))

Litigation

- Town of Atherton has taken the position to use all legal means to delay, hinder or halt the implementation of Prop 1A which town residents and Council voted to oppose
- Atherton joined other agencies in litigation against HSR’s Program EIR recognizing certain legal environmental requirements were not being met and faulty information used in the environmental analysis led to incorrect conclusions (example – Ridership study forecasts)

Lobbying

- The Council has engaged a professional lobbyist, in conjunction with other cities, to represent the city’s position on HSR matters
- The Council encourages the efforts of rail committee members to advocate on behalf of Atherton within approved Rail Policies

B. RAIL CORRIDOR AND CALTRAIN

Rail Service

- Atherton was one of the earliest train stops on the rail corridor between San Francisco and San Jose. Families, and later commuters, used the Atherton station for rail service to and from ‘The City’ for over 100 years. Lloyd Park was developed for residents desiring easy access to public transportation provided by the train
- Atherton residents were very instrumental in the formation of the Joint Powers Board (JPB) and the purchase of the Southern Pacific right-of-way (ROW) by San Francisco, San Mateo and Santa Clara counties
- Up to (year?) Atherton received weekday and weekend rail service from Caltrain until it declared its first “fiscal emergency”
- Citing fiscal emergency reasons for reducing costs, including station stops, the number of weekday rail stops in Atherton were reduced to zero while weekend service is still being provided
- Atherton is the only city on the Caltrain line that receives no weekday train service
- The Town deserves the restoration of train service on the basis of “geographical fairness” and being treated equitably in being provided with weekday rail service
- Caltrain must complete the capitol project to remove the “hold-out station” designation for Atherton, including the engineering and construction to allow a passing train to pass a stationary train at the station

Electrification

- The current Caltrain electrification Draft EIR is out of date and must be updated and re-circulated
- The Town is opposed to the Memorandum of Understanding (MOU) between Caltrain, HSR, Metropolitan Transportation Commission (MTC) and other transit agencies which provides funding for electrification of Caltrain in exchange for allowing HSR to eventually use the rail corridor
- In the event that the HSR project is not implemented, Caltrain will have to seek other means to upgrade its system
- Caltrain should investigate alternatives to electrification, such as DMU’s, which could be implemented at much less capital costs while providing equal environmental and operational benefits, or better

Caltrain and JPB

- Correct capital and operational funding formula to reflect current user information and for a more equitable sharing between San Francisco, San Mateo and Santa Clara Counties
- Initiate study to consolidate Caltrain with Capitol Corridor system to create a more efficient system through the reduction of duplicate overhead and achieving greater economy of scale in operations and capital usage; also provide permanent funding mechanism for Caltrain through direct state funding
- Creation of an Advisory Council composed of city representatives to create a more effective planning and working environment for Caltrain’s future

Town Priorities Regarding Caltrain Line

- Restoration of weekday service
- Delay, hinder or halt the eventual use of the rail corridor by HSR, including undoing the MOU’s between Caltrain and HSR
- Ensure any long term corridor rail plan limits two tracks through Atherton

- Modernization of rail system must minimize and fully mitigate any environmental impact on the Town
- Implementation of a Quiet Zone within and on the Town's border areas
- The addition of Quad Gates at the Watkins Avenue crossing facilitates qualifying for meeting Quiet Zone regulations
- Monitor Dumbarton Corridor developments
- Monitor Union Pacific service and relationship with Caltrain