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Good morning Directors,

As you continue to deliberate your options on the status of the Caltrain electrification project, I would like you to consider the long-term implications of the catenary system design in segments 3 and 4, specifically the lack of mechanical independence between the northbound and southbound catenaries in sections of tracks with a Maximum Operating Speed (MAS) in excess of 50 MPH.

I would recommend addressing this issue as follows:

1) Ask the Early Train Operator (ETO) Deutsche Bahn to perform an independent audit of the catenary system design as constructed and produce a report identifying issues and recommendations.

2) Review the report and produce costs estimates for redesign, demolition and construction.

3) Last but not least, identify the parties responsible for what happened here and take appropriate action including litigation, as necessary.

Thank You,

Roland Lebrun

CC
SFCTA Commissioners
MTC Commissioners
Caltrain CAC

Correction: the segments in question are segments 2&3, not 3&4.

Apologies for the confusion.
Good afternoon,

The City of Millbrae released the Notice of Preparation and is soliciting comments on the scope of the programmatic Environmental Impact Report (EIR) for the 1) Millbrae 2040 General Plan Update, including the Housing Element, 2) the Downtown and El Camino Real Specific Plan, including the Broadway Avenue and El Camino Real Streetscape Master Plan as an appendix to the Specific Plan, and 3) associated Zoning Code amendments. The plan will replace the City’s current General Plan and serve as a long-term framework for future growth and development. The EIR will assess the environmental impacts of the plan pursuant to the California Environmental Quality Act (CEQA). Additional information about the project can be accessed at the https://www.ci.millbrae.ca.us/ webpage. The project site encompasses the City of Millbrae, within the County of San Mateo, California.

Members of the public and public agencies are invited to provide comments in writing regarding the scope of the EIR starting December 3, 2021 and ending at 5:00 P.M. on Friday, January 7, 2022. Please mail your comments to: Nestor Guevara, Associate Planner, City of Millbrae Planning Division, 621 Magnolia Avenue, Millbrae, California 94030. Comments may also be submitted via email to nguevara@ci.millbrae.ca.us. Comments must be received on or before January 7, 2021 at 5:00 P.M.

The City will hold a public EIR scoping meeting via video conference only to provide an opportunity for agency staff and interested members of the public to submit verbal comments on the scope of the environmental issues to be addressed in the EIR. The scoping meeting will be held on Thursday, December 16, 2021 from 6:00 P.M. to 7:00 P.M. Please join the meeting via Zoom: for web, visit https://zoom.us/, select “Join a Meeting” and enter Meeting ID: 842 7648 4198 (direct link: https://us02web.zoom.us/j/84276484198). Use the Raise Hand feature to request to speak. For dial-in comments, call 1-669-900-9128, enter Meeting ID: 842 7648 4198 to speak.

Thank you,

Nestor Guevara
Associate Planner
621 Magnolia Ave.
Millbrae CA 94030
Tel. (650) 259-2335
nguevara@ci.millbrae.ca.us
NOTICE OF PREPARATION AND SCOPING MEETING

Environmental Impact Report for the Millbrae 2040 General Plan, Downtown and El Camino Real Specific Plan, and Associated Zoning Code Amendments

Date: Friday, December 3, 2021
To: Reviewing Agencies, Organizations, and Interested Parties
Subject: Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Millbrae 2040 General Plan, Downtown and El Camino Real Specific Plan, and Associated Zoning Code Amendments as well as Notice of EIR Scoping Meeting on Thursday, December 16, 2021

The City of Millbrae (City), as the lead agency under the California Environmental Quality Act (CEQA), is preparing an update to the City of Millbrae General Plan including a new Downtown and El Camino Real Specific Plan that will guide growth and development through 2040 and has determined that preparation of a programmatic EIR is necessary to evaluate potential environmental impacts of the 2040 General Plan, Downtown and El Camino Real Specific Plan (“Specific Plan”), and associated Zoning Code amendments pursuant to the California Environmental Quality Act (CEQA). The City is the CEQA Lead Agency and is requesting input on the scope of the EIR from responsible and trustee agencies, interested public agencies and organizations, and the general public (pursuant to CEQA Guidelines Section 15082).

This NOP provides a summary of the plan, the City’s preliminary identification of the potential environmental issues to be analyzed in the programmatic EIR; and information on how to comment on the scope of the EIR. This NOP and background documents associated with the 2040 General Plan are available for review on the City’s 2040 General Plan webpage at: https://millbrae2040.com/.

EIR NOP Public Review Period: December 3, 2021 to January 7, 2022

The City requests your review and consideration of this notice and invites input and comments from interested agencies, persons, and organizations regarding the preparation of the 2040 General Plan and Downtown and El Camino Real Specific Plan EIR. Comments in response to this notice must be in writing and submitted to the Lead Agency Contact below by 5:00 p.m. on Friday, January 7, 2022. If applicable, please indicate a primary contact person for your agency or organization.

NOP Written Comments: Comments must be submitted via mail or email with “NOP Comments” in the subject line and the name and physical address of the commenter in the body of the comment to the Lead Agency Contact at the following address or e-mail by 5:00 p.m. on Friday, January 7, 2022:

Nestor Guevara, Associate Planner
Millbrae Planning Division
621 Magnolia Avenue, Millbrae, CA 94030
nguevara@ci.millbrae.ca.us

EIR Public Scoping Meeting: The City will hold a public EIR scoping meeting via video conference only to provide an opportunity for agency staff and interested members of the public to submit verbal comments on the scope of the environmental issues to be addressed in the EIR. The scoping meeting will be held on Thursday, December 16, 2021 from 6:00 p.m. to 7:00 p.m.
Please join the meeting via Zoom: for web, visit https://zoom.us/, select “Join a Meeting” and enter Meeting ID: 842 7648 4198 (direct link: https://us02web.zoom.us/j/84276484198). Use the Raise Hand feature to request to speak. For dial-in comments, call 1-669-900-9128, enter Meeting ID: 842 7648 4198 to speak. No registration is required in advance.

**Project Location:** The Millbrae 2040 General Plan encompasses the entirety of the City of Millbrae. Figure 1 shows the regional location and Figure 2 shows both the Millbrae 2040 General Plan boundary (the City limits) and the Downtown and El Camino Real Specific Plan Area boundary.

**Proposed Plans:** The plan has three primary components: 1) the General Plan Update, including the Housing Element, 2) the Downtown and El Camino Real Specific Plan, including the Broadway Avenue and El Camino Real Streetscape Master Plan as an appendix to the Specific Plan, and 3) associated Zoning Code amendments. The 2040 General Plan would serve as a long-term framework for future growth, reflect issues identified from community input and changes in State law, and update all elements of the General Plan including the Land Use, Mobility, Housing, Safety, Recreation, Environmental Justice, and Conservation Elements. The Specific Plan would support sustainable, mixed-use development in downtown Millbrae near the Millbrae Intermodal Station serving Bay Area Rapid Transit (BART), SamTrans, and Caltrain with provision of development, streetscape, and design standards and guidelines. The Zoning Code would be amended to ensure consistency with the General Plan (including Housing Element) and Downtown and El Camino Real Specific Plan.

**EIR Environmental Impact Areas:** The EIR will provide a programmatic evaluation of potential environmental impacts of the plan. The EIR also will evaluate the cumulative impacts of the plan when considered in conjunction with other related past, present, and reasonably foreseeable future projects. The City anticipates that the plan could result in potentially significant environmental impacts with regard to the following topic areas, which will be further evaluated in the EIR.

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

**EIR Project Alternatives:** The EIR will also evaluate a reasonable range of plan alternatives that could reduce or avoid potential environmental effects identified in the EIR, including a required “No Plan” Alternative.

When the Draft EIR is completed, it will be available for review at the City’s offices located at 621 Magnolia Avenue, Millbrae, CA 94030 and online at: https://millbrae2040.com/. The City will issue a Notice of Completion and Notice of Availability of a Draft EIR at that time to inform the public and interested agencies, groups, and individuals regarding how to access the Draft EIR and provide comments. Additional information about the project can be accessed at the https://millbrae2040.com/ webpage and the City website at https://www.ci.millbrae.ca.us/.

If you have questions regarding this NOP or the EIR public scoping meeting, please contact the Lead Agency Contact Nestor Guevara at (650) 259-2335 or via email at nguevara@ci.millbrae.ca.us.

_Darcy Smith_  
Millbrae Community Development Director  

_Darcy Smith_  
Millbrae Community Development Director  

_November 24, 2021_  
Date
Figure 1  Regional Location
Board Members and Others:

Please find the attached correspondence sent on behalf of Drill Tech Drilling & Shoring, Inc. in advance of the special meeting scheduled for December 6, 2021.

Thank you.

CHRIS SCIFRES
Associate General Counsel
Admitted to Practice in California and Texas
chris.scifres@drilltechdrilling.com

DRILL TECH DRILLING & SHORING, INC.
2200 Wymore Way
Antioch, California 94509
P: 925.978.2060, ext. 263 | F: 925.978.2063 | drilltechdrilling.com

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December 3, 2021

Via Email (board@caltrain.com)

Peninsula Corridor Joint Powers Board
Attn: Devora “Dev” Davis
1250 San Carlos Avenue
San Carlos, California 94070

Re: Project: Peninsula Corridor Electrification Project (the “Project”)
Owner: Peninsula Corridor Joint Powers Board (“JPB”)
Contractor: Balfour Beatty Infrastructure, Inc. (“BBII”)
Subcontractor: Drill Tech Drilling & Shoring, Inc. (“Drill Tech”)
JPB Contract No: 14-PCJPB-P-053
Drill Tech Job No.: 1677

Dear Ms. Davis:

I write on behalf of Drill Tech concerning the more than $40 million that is due and owing to Drill Tech for work performed at the Project. Drill Tech has learned that JPB will be holding a special meeting on December 6, 2021, during which a “BBII settlement” will be addressed. The purpose of this letter is to object to the settlement of any claims that involve the enormous sums of money owed to Drill Tech without the consent of Drill Tech to such settlement. Put differently, Drill Tech is unwilling to quietly stand by while millions of dollars that it worked tirelessly to earn are simply negotiated away. This letter precedes a stop payment notice that is expected to be served prior to the special meeting mentioned above.

By way of background, Drill Tech is a subcontractor to BBII, which is the direct contractor for the Project. Under the subcontract between Drill Tech and BBII, Drill Tech agreed, inter alia, to install CIDH pile foundations for the OCS system, traction power stations, switching station, and parallel stations (the “Work”). The Work initially was contemplated to be performed over the course of eighteen months. However—due largely to inefficiencies and subsurface utility conflicts—the Work will take approximately two-and-a-half times that long to complete. Although Drill Tech was not at fault for this overrun, the added labor and equipment costs, coupled with the rising cost of materials, have placed a severe financial burden on Drill Tech.

Thus far, JPB and BBII have ignored the impacts presented by Drill Tech in the request for change (“RFC”) process. For example, Drill Tech has submitted approximately 4,000 RFCs over
the years Drill Tech has been performing the Work. Although Drill Tech submitted each of these RFCs timely and in compliance with the applicable contractual requirements, JPB and BBII have responded to only approximately 1,000 of them, leaving more than 3,000 valid RFCs unanswered. The submitted value of Drill Tech’s RFCs is approximately $43 million, but Drill Tech has been paid only around $3 million. To make matters worse, JPB paid BBII at least $1.2 million that was earmarked for Drill Tech in connection with Track Access Delays (“TAD”), but BBII never forwarded the money to Drill Tech.

As another example, Drill Tech has submitted approximately sixty requests asking JPB and BBII to complete the Issues Resolution Ladder provided for in Supplemental General Provision 15, including requests by Drill Tech to have its issues heard by the Dispute Resolution Board. Not once did JPB or BBII respond to any of Drill Tech’s requests for escalation of the change issues. Dating back to 2018, JPB and BBII have repeatedly failed to fulfill written promises to submit Drill Tech’s issues to the Change Management Board.

Drill Tech’s TAD resolutions have been ignored completely, notwithstanding the requirement in Specification Section 1040 to resolve these issues on a weekly basis. Drill Tech has also been denied access to the baseline construction schedule despite Specification Section 1040’s direction to include all major subcontractors in developing the schedule. The foregoing examples are included in this letter for illustrative purposes and, for the sake of brevity, are not intended to represent a comprehensive list of the various wrongs committed against Drill Tech by JPB and BBII.

JPB and BBII have repeatedly ignored Drill Tech’s requests for transparency and inclusion in the negotiation of a global settlement. Drill Tech now believes that JPB and BBII have reached—or are close to reaching—an agreement on the terms of a global settlement that would close out all issues prior to November 1, 2021. Any such negotiations were completed behind closed doors without any input from Drill Tech. That is unacceptable.

In closing, Drill Tech reminds JPB and BBII that in California, every contract imposes upon each party a duty of good faith and fair dealing in the performance and enforcement of a contract. Major v. Western Home Ins. Co. (2009) 169 Cal.App.4th 1197, 1209. That means that neither party is entitled injure the right of the other party to receive the benefits of the agreement. Drill Tech has continued to perform work for years with the belief that JPB and BBII would adhere to the covenant of good faith and fair dealing and compensate Drill Tech for the work it faithfully performed. But that has not been the case. Thus, Drill Tech once again asks JPB not to settle any claims involving money owed to Drill Tech unless and until Drill Tech is given a seat at the table.
If you have any questions regarding the matters set forth herein, please contact the undersigned. Thank you for your attention to this correspondence.

Other points of import are not addressed in this letter, and Drill Tech reserves all rights to raise such points as this matter proceeds. With respect to this matter, Drill Tech strictly reserves all rights and defenses available under the subcontract and general provisions, applicable law, and/or equity. Neither this letter nor any response by Drill Tech to the matters described herein constitute an estoppel, waiver, or modification of any such rights and defenses.

Sincerely yours,

Chris Scifres, Esq.
Associate General Counsel
Drill Tech Drilling & Shoring, Inc.
California State Bar No. 330893
Texas State Bar No. 24088374

CAS

cc: Pranaya Shrestha (Via Email: prshrestha@HNTB.com)
    Sherry Bullock (Via Email: bullocks@samtrans.com)
    Andy Robbins (Via Email: RobbinsA@samtrans.com)
    Jeff Gee (Via Email: jgee@redwoodcity.org)
    Dave Pine (Via Email: dpine@smcgov.org)
    Monique Zmuda (Via Email: zmudam@caltrain.com)
    Cindy Chavez (Via Email: Cindy.Chavez@bos.sccgov.org)
    Steve Heminger (Via Email: SteveHeminger1@gmail.com)
    Glenn Hendricks (Via Email: hendricksCouncil@sunnyvale.ca.gov)
    Michelle Bouchard (Via Email: bouchardm@samtrans.com)
    Shannon Creso, Drill Tech (Via Email)
    Scott Preble, Drill Tech (Via Email)
    Brett Mainer, Drill Tech (Via Email)
    Mike Cox, Drill Tech (Via Email)
December 3, 2021

Joint Powers Board
2121 S. El Camino Real Suite 300
San Mateo, CA 94403

Re: Peninsula Corridor Electrification Project Design-Build
Contract No. 14-PCJPB-P-053

Subject: December 3, 2021, Letter from Subcontractor Drill Tech Drilling & Shoring, Inc. to Peninsula Corridor Joint Powers Board

Dear Mr. Shrestha,

Thank you for providing Balfour Beatty Infrastructure Inc (“BBII”) a copy of the letter received by the Peninsula Corridor Joint Powers Board from BBII Subcontractor, Drill Tech Drilling & Shoring, Inc. (“DTDS”) contending that DTDS is owed more than $40 million for work it has performed on the Peninsula Corridor Electrification Project. BBII disagrees with DTDS’s contentions, and a number are outright false (for example, that DTDS has not had the opportunity to meet with JPB and BBII to discuss their issues). Further, BBII has attempted to meet and review with DTDS the support for the amount of its claim which BBII believes to be grossly inflated. However having failed to adequately support its claim, rather than simply filing a stop notice as is its statutory right, DTDS chose instead to broadly publish a letter littered with inaccuracies that fails to even acknowledge that its claims are disputed, in a transparent attempt to interfere with or disrupt the settlement all other involved parties find fair and acceptable.

BBII will provide JPB a full indemnity and defense from any stop payment notices received from DTDS as provided by our Contract (GP20.1 d). Further, JPB has the benefit of both retention (GP11.2) and BBII’s Project Performance and Payment Bond (SGP4.2) to further protect JPB from any liability that may arise by reason of this matter. Finally, if a stop payment notice is received by JPB from DTDS, BBII intends to provide JPB with a bond from a corporate surety acceptable to JPB in lieu of JPB withholding any payment from BBII as provided by Civil Code Section 9364.

On public works projects payment disputes involving subcontractors and suppliers will arise, and California has a comprehensive statutory process in place that attempts to protect the interests of the public agency, contractor, and subcontractor. That process includes the right of a subcontractor to file a stop payment notice. That process does not include a subcontractor making threats through a letter sent to individual members of a public agency’s board in an attempt to interfere with an agreement.
reached between the agency and the contractor. BBII has a standard construction subcontract with DTDS which includes a dispute resolution provision which BBII intends to follow together with California’s statutory procedure for resolving this issue.

Regards,

Lorie Holte
Project Manager
Balfour Beatty Infrastructure, Inc.

Cc: LH, NC, TJ, JC, SB