From: Roland Lebrun [redacted]
Sent: Sunday, October 25, 2026 11:08 PM
To: MTC-ABAG Info <info@bayareametro.gov>
Cc: Caltrain Board <board@caltrain.com>; VTA Board Secretary <board.secretary@vta.org>; citycouncil@morganhill.ca.gov; Kim.Mancera@cityofgilroy.org; Christina Watson <christina@tamcmonterey.org>; Caltrain CAC Secretary <cacsecretary@caltrain.com>
Subject: October 28 MTC Commission Item 12 Business Case for MTC Jurisdictional Takeover and Capital Delivery of the Caltrain Lick-to-Gilroy Capacity Expansion Corridor

External Email

TO: Sue Noack, Chair

Metropolitan Transportation Commission (MTC)

Bay Area Metro Center, 375 Beale Street, San Francisco, CA 94105

RE: Business Case for MTC Jurisdictional Takeover and Capital Delivery of the Caltrain Lick-to-Gilroy Capacity Expansion Corridor

Dear Chair Noack,

On behalf of the transit users, employers, and gridlocked commuters of the South Bay corridor, I hereby formally submit the enclosed Business Case respectfully requesting that the Metropolitan Transportation Commission (MTC) consider **immediately asserting direct jurisdictional authority over the 25-mile railway corridor between Tamien (Lick) and Gilroy.**

The State Route 101 corridor through South San Jose, Morgan Hill, and Gilroy is facing a severe, multi-decade transportation crisis—a structural "Carmageddon." Resolving this gridlock requires upgrading this line to support a minimum of **20 daily passenger round trips** operated on a completely blended, zero-impact alignment parallel to Union Pacific Railroad (UPRR) freight infrastructure.

Thirty-five years of local delivery attempts prove that **the Santa Clara Valley Transportation Authority (VTA) is structurally incapable of executing this expansion**. As detailed in the attached forensic timeline, this systemic failure began in **1991**, when **VTA allowed a binding $12 million contract option to fully acquire half of the physical right-of-way to lapse**. In the decades that followed, local capital accounts were repeatedly cannibalized—including a validated practice flagged by independent auditors where a flat **18.46% of all local transit operating costs** was siphoned out of capital project accounts **without mathematical or ballot-based justification** to cover general county operating

deficits. Local initiatives completely collapsed in 2011 when VTA indefinitely suspended physical grading contracts.

Today, **VTA's remaining 2000 Measure A funds are entirely locked up to cover multi-billion-dollar cost overruns on the BART Phase II extension**. The local agency has completely retreated from heavy civil track delivery down to Gilroy, pivoting instead to purchasing Battery Electric Multiple Units (BEMUs) that satisfy ballot language on paper but lay down **zero inches of new track infrastructure**.

The corridor is now trapped in an indefinite holding pattern under the California High-Speed Rail Authority's blended system plan. Because the state treats Gilroy as a future high-speed node rather than an immediate, high-capacity regional commuter trunk line, South Bay commuters remain stuck in traffic.

MTC possesses the independent financial insulation, the state-mandated regional authority, and the institutional leverage required to break the impasse with Union Pacific. I respectfully urge you to consider establishing a dedicated MTC Corridor Delivery Team, claiming the historical design files as well as all communications with Union Pacific and **executing a regional capacity buyout that finally untangles this vital Bay Area corridor.**

Respectfully presented for your consideration,

Roland Lebrun

Attachments

- Comprehensive Forensic Timeline (1991–2011)
- Forensic Capital Data and Financial Variances
- Step-by-Step Action Plan for MTC Takeover
- MTC Formal Board Resolution Template
- Comparative Analysis of Successful Regional Rail Takeovers
- Legal Summary

Comprehensive Forensic Timeline (1991–2011)

This timeline establishes the exact history of the corridor, documenting the shift from local ownership opportunities to total capital starvation and contract suspension:

- **1991 – The Lapsed Right-of-Way Option:** Under Section 4.4 of the Real Property Ownership Agreement (RPOA), the Peninsula Corridor Joint Powers Board (JPB) secured passenger trackage rights from Lick to Gilroy for $8 million, splitting the cost evenly between state Prop 116 bonds and VTA. Built into this framework was an exclusive **"Local Option Property" clause** allowing VTA to acquire full, joint-common title to **one-half of the physical 25-mile Lick-to-Gilroy rail line** for a gross price of $20 million. Factoring in an $8 million credit for the initial trackage rights fee, **VTA held a legally binding option to secure half the alignment for a net cash outlay of exactly $12 million**. VTA failed to execute this option due to an inability to negotiate a joint-use freight operating framework with Southern Pacific (UPRR's predecessor), cementing its status as a permanent tenant rather than a corridor owner.
- **November 2000 – Measure A Voter Mandate:** Santa Clara County voters approved Measure A, a 30-year, half-cent sales tax. The ballot explicitly mandated **"Improving Caltrain by double-tracking to Gilroy and electrifying from Palo Alto to Gilroy"**, providing VTA with a dedicated local funding stream to resolve the UPRR bottleneck.
- **December 2004 – The $47 Million Master Agreement:** Led by VTA Board Chairman Don Gage, VTA finalized a Master Agreement with UPRR. VTA paid **$47 million** to secure the contractual pathway for **up to 10 total passenger round trips** by 2010. However, UPRR conditioned the activation of the five *additional* train slots on VTA physically constructing dedicated passing tracks and grade-separated crossings at its own expense.
- **June 2006 – The First Revenue Deficit:** The Independent Auditor's Report for FY 2006 revealed that reduced taxable sales receipts had created a **substantial deficit** in the 30-year Measure A Revenue and Expenditure Plan. Simultaneously, the audit uncovered that out of $112.1 million in total Measure A project contributions, **$86.6 million (over 77%) was diverted straight to the Silicon Valley Rapid Transit (BART) extension**, while the Caltrain South County double-tracking project received $0 in direct capital assignments.
- **June 2007 – Peak Design Baseline:** Engineering design expenditures for "Caltrain South County" reached a single-year high of **$1.821 million**, pushing cumulative spending to $2.920 million. Phase 1 (8.3 miles from Coyote to San Martin) hit the **65% Design phase**, and Phase 2 (8.2 miles from San Martin to Gilroy) officially commenced Preliminary Engineering.

- **June 2008 – The 89% Capital Starvation and Operating Siphon:** Macias Gini & O'Connell LLP (MGO) filed an independent compliance report documenting the arrival of the Great Recession. Measure A sales tax collections collapsed, generating an immediate **$10.77 million single-year deficit**. In response, VTA starved the Gilroy line: out of an authorized final budget of **$17.925 million** for Caltrain South County, VTA spent just **$2.046 million**—leaving an unspent capital variance of **$15.879 million (89%) sitting on the table**. Concurrently, auditors issued a red flag warning that VTA was siphoning **$29.63 million** out of Measure A accounts using an unvalidated flat rate of **18.46% of all VTA Transit operating costs**, with staff completely unable to explain how this flat charge related to expanded ballot services.
- **December 2008 – Official Budget De-Obligation of Phase 2:** As local sales tax revenues plummeted by **$42.27 million** in a single cycle, VTA dealt a severe blow to the corridor. The FY 2009 project summary officially recorded that while Preliminary Engineering for Phase 2 (San Martin to Gilroy) was complete, **"the project budget identified for Phase 2 has been de-obligated pending analysis of future ridership forecasts,"** indefinitely freezing the southern half of the expansion. VTA spent just $2.023 million of its $67.94 million remaining Caltrain upgrade appropriations, **withholding 97% of authorized construction funds** to maintain agency-wide liquidity.
- **December 2009 – The Fiber Optic Bottleneck:** Under pressure from South County leaders, VTA awarded a physical grading contract for the northern Phase 1 segment (8.3 miles). However, physical construction was immediately blocked from commencing due to a multi-mile **fiber optic cable relocation delay** and UPRR's refusal to grant final structural track approvals. VTA spent $5.75 million, focused strictly on utility clearing.
- **December 2010 – Supervisor Gage Terms Out:** Supervisor Don Gage termed out of office. Concurrently, VTA formally established a new capital code—"Caltrain Electrification / High Speed Rail"—expending an initial $250,000. The project description officially shifted delivery liability away from local funding, stating that local upgrades would now occur strictly **"in conjunction with the California High Speed Rail Project,"** signaling VTA's exit from independent civil construction.
- **June 2011 – Indefinite Project Suspension:** The FY 2011 compliance report recorded the total shutdown of the independent local project. VTA officially placed the Phase 1 grading contract on **temporary suspension**, stating that the scope was frozen due to *"recent uncertainties in the Caltrain program and the upcoming*

release of the High Speed Train (HST) environmental document." VTA walked away from the corridor after spending a cumulative historical total of **$16.69 million** over eleven years—while the BART extension program had swallowed **$658.47 million (39 times more capital)**.

Forensic Capital Data and Financial Variances

The financial metrics below, pulled directly from independent compliance audits, provide the quantitative proof of local capital starvation that should be appended to the MTC submission:

Table 1: Single-Year Capital Expenditure Shortfalls (Caltrain South County)

This table demonstrates that even when the local board appropriated funds to build out the Gilroy alignment, the funds were systematically withheld to offset broader agency shortfalls:

- **FY 2008 South County Budget:** $17,925,000 | **Actual Spent:** $2,046,000 | **Unspent Local Capital Variance: +$15,879,000 (88.7% Starvation)**
- **FY 2009 Caltrain Track Upgrades Budget:** $67,942,000 | **Actual Spent:** $2,023,000 | **Unspent Local Capital Variance: +$65,919,000 (97.0% Starvation)**
- **Two-Year Combined Local Capital Withholding: $81,798,000**

Table 2: The Mega-Project Funding Imbalance (Cumulative Inception-to-Date)

This comparison underscores that county-level management consistently prioritized localized mega-projects over regional commuter trunk lines, leaving the Lick-to-Gilroy alignment underfunded:

- **FY 2007 Cumulative Totals:** BART Extension: $404,064,000 | Caltrain South County: $2,920,000 | **Funding Ratio: 138.3 to 1**
- **FY 2009 Cumulative Totals:** BART Extension: $548,229,000 | Caltrain South County: $6,989,000 | **Funding Ratio: 78.4 to 1**
- **FY 2011 Cumulative Totals:** BART Extension: $658,470,000 | Caltrain South County: $16,690,000 | **Funding Ratio: 39.4 to 1**

Table 3: Non-Authorized Capital Diversions (The VTA Operating Siphon)

This metrics outline the exact volume of Measure A capital cash siphoned out of project delivery accounts via the unvalidated 18.46% flat budgeted rate to prop up VTA's general transit fund:

- **FY 2008 Operating Assistance Diversion: $29,630,000**
- **FY 2009 Operating Assistance Diversion: $25,334,000**
- **FY 2010 Operating Assistance Diversion: $25,711,000**
- **FY 2011 Operating Assistance Diversion: $28,213,000**
- **Four-Year Cumulative Revenue Loss to Capital Accounts: $108,888,000**

Step-by-Step Action Plan for MTC Takeover

To transition this business case into immediate execution under MTC leadership, the Commission should follow this three-phase delivery framework:

Phase 1: Jurisdictional Assertion & Asset Seizure

- Formally declare the Lick-to-Gilroy corridor an "Asset of Regional Significance" under MTC's Bay Area transit coordination mandate.
- Issue an administrative directive to VTA demanding the immediate transfer of all 1991 RPOA contract files, 2004 UPRR Master Agreement files, and the completed 65% and 95% engineering design packages.
- Request a formal accounting from the Measure A Citizens Watchdog Committee regarding unspent commuter rail balances through FY 2026.

Phase 2: Class I Railroad Executive Leadership Negotiations

- Bypass local UPRR operating managers and open direct negotiations between the MTC Executive Director, MTC Legal Counsel, and UPRR Corporate Headquarters in Omaha.
- Present a unified "Zero-Impact Capacity Buyout" package funded by Regional Measure 3 and SB 1 matching revenues as well as 2016 Measure B Caltrain Corridor Capacity Improvements earmarked for Morgan Hill and Gilroy.

- Structure the agreement under a "Tenants in Common" contract, securing full dispatching autonomy for passenger operations on an isolated, dedicated parallel track alignment.

Phase 3: Design, Procurement, and Construction Delivery

- Establish a dedicated MTC Corridor Construction Unit to update the 16.5-mile Phase 1 and Phase 2 civil designs to modern blended standards.
- Issue a single, comprehensive Design-Build heavy civil contract to bypass localized procurement bottlenecks that stalled the project in 2009.
- Prioritize the grade separation and quad-track buildout of the historical bottlenecks at the Llagas Creek Bridge and North Morgan Hill junctions, delivering the infrastructure required to reliably support 20 daily passenger round trips.

MTC Formal Board Resolution Template

RESOLUTION NO. 2026-XXXX

SUBJECT: Assertion of Regional Jurisdictional Authority over the Peninsula Corridor Caltrain South County Infrastructure Corridor (Tamien/Lick to Gilroy) for the Delivery of Enhanced Commuter Rail Capacity.

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area, pursuant to California Government Code Section 66500 et seq., tasked with optimizing transit connectivity, regional corridor capacity, and capital project delivery; and

WHEREAS, the 25-mile rail corridor between the Tamien/Lick station and the Gilroy Caltrain station (the "South County Corridor") is a vital regional transit artery carrying thousands of daily commuters parallel to the heavily congested State Route 101 corridor; and

WHEREAS, local delivery initiatives by the Santa Clara Valley Transportation Authority (VTA) have stalled for over fifteen years following the official suspension of physical grading

contracts in June 2011, leaving the corridor trapped at a restrictive ceiling of five commute-restricted daily round trips; and

WHEREAS, forensic audits of local compliance records reveal a systemic diversion of dedicated capital funds—specifically a practice wherein an unvalidated flat rate of **18.46% of all county transit operating costs** was siphoned out of Measure A project accounts to cover general operations, resulting in a **$108.8 million capital drain** between 2008 and 2011 alone; and

WHEREAS, **VTA's remaining local 2000 Measure A revenues are entirely encumbered by multi-billion-dollar cost overruns on the BART Phase II extension**, preventing the local agency from funding or delivering the heavy civil track expansions required to clear the corridor's severe congestion; and

WHEREAS, achieving regional climate, economic, and transit goals requires the immediate delivery of infrastructure capable of supporting a minimum of **20 daily passenger round trips** operated on an isolated, blended alignment without adverse impacts to Union Pacific Railroad (UPRR) freight movements; and

WHEREAS, California Government Code Section 66515 empowers MTC to assume a direct role in resolving multi-jurisdictional transit deadlocks and optimizing regional allocations to ensure project delivery;

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN TRANSPORTATION COMMISSION AS FOLLOWS:

1. **Declaration of Regional Significance:** The Commission formally declares the Lick-to-Gilroy Caltrain South County Corridor as an *Infrastructure Asset of Critical Regional Significance* requiring centralized regional intervention.
2. **Assumption of Lead Negotiating Standing:** MTC hereby asserts supreme regional authority over all future capacity, trackage rights, and real property negotiations with Union Pacific Railroad regarding the South County Corridor, bypassing local operational bottlenecks.
3. **Seizure of Historical Engineering Assets:** The Commission directs the Executive Director to issue an administrative demand to VTA for the immediate transfer of all completed 65% and 95% civil engineering design files, utility conflict maps, and UPRR Master Agreement records related to the historical South County project.
4. **Establishment of a Dedicated Delivery Unit:** The Commission authorizes the creation of the *MTC South County Rail Delivery Unit (SCRDU)*, tasked with updating the corridor's civil designs to modern blended standards, securing Federal Railroad

Administration (FRA) matching grants, and managing a unified Design-Build procurement framework to construct a dedicated, triple/quad-track passenger alignment parallel to UPRR freight territory.

Comparative Analysis of Successful Regional Rail Takeovers

When presenting this business case to MTC Legal Counsel, it is vital to demonstrate that regional takeovers of local rail corridors are legally viable, highly effective, and standard practice across California when county-level delivery structures fail. Two primary precedents serve as the legal and operational blueprints for this intervention:

Case Study 1: The LOSSAN Corridor Restructuring (Southern California)

- **The Impasse:** The 351-mile Los Angeles–San Diego–San Luis Obispo (LOSSAN) rail corridor was originally managed by a loose coalition of individual county transportation commissions and local agencies (including Metro, OCTA, and SANDAG). Local funding fights, varying county tax priorities, and an inability to present a unified front to BNSF and UPRR freight executives resulted in severe corridor bottlenecks, missed capital project matches, and constrained passenger timetables.
- **The Regional Intervention:** In 2012, the California Legislature passed **Senate Bill 1225**, which authorized the local agencies to transfer administrative control of the corridor to a single, unified regional entity: the **LOSSAN Rail Corridor Agency**.
- **The Operational Outcome:** By centralizing management under a single regional board, the agency successfully standardized capital procurement, bypassed county-level budget siphoning, and unlocked hundreds of millions in state Cap-and-Trade and federal funding. This regional leverage enabled the execution of a comprehensive capacity buyout with freight operators, steadily expanding passenger service across county boundaries.

Case Study 2: The Capitol Corridor Joint Powers Authority (Northern California)

- **The Impasse:** Initially managed directly by Caltrans, the commuter rail alignment between San Jose, Oakland, and Sacramento suffered from bureaucratic delay, rigid state purchasing rules, and zero institutional leverage when negotiating dispatching priority with the Southern Pacific/Union Pacific Railroad. Local counties along the line lacked the independent standing to demand track capacity additions.

- **The Regional Intervention:** In 1996, the state enacted **Assembly Bill 1720**, creating the **Capitol Corridor Joint Powers Authority (CCJPA)**. The state legally handed administrative control over to a regional board comprised of representatives from transit districts along the alignment, with the San Francisco Bay Area Rapid Transit District (BART) designated as the managing agency.
- **The Operational Outcome:** The regional management model transformed the line. CCJPA bypassed local county funding shortfalls by blending regional funding streams. Because it operated as a unified, high-volume tenant, it successfully negotiated a multi-phase infrastructure partnership with Union Pacific. This regional framework delivered extensive double-tracking, integrated signaling, and grade separations that scaled the corridor from a handful of daily runs to a high-capacity regional trunk line—completely independent of individual county transit deficits.

Legal Summary

Jurisdictional Factor	County-Level Structure (VTA)	Regional-Level Structure (MTC)
Class I Railroad Leverage	Weak; treated as a local commuter tenant with zero statewide network impact.	**Strong**; commands multi-county funding and legislative backing, capable of executing macro-capacity network buyouts.
Capital Shielding	Vulnerable; local sales tax revenues are subject to county-level cannibalization and mega-project overruns (BART Phase II).	**Insulated**; leverages regional pots (RM3), state SB 1 bonds, 2016 Measure B Caltrain Corridor Capacity Improvements, and direct federal infrastructure allocations shielded from local operational shortfalls.
Procurement Scope	Fragmented; restricted to piecemeal county contracts prone to utility and grading suspension (e.g., the 2011 contract default).	**Unified**; utilizes streamlined, corridor-wide Design-Build frameworks spanning full regional segments.