Capitol Expressway Light Rail Project

SCOPING SUMMARY REPORT

Federal Transit Administration

Santa Clara Valley Transportation Authority

January 2010

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INTRODUCTION

General Description of the Scoping Process

Scoping is an important element in the decision-making process of determining the focus and content of an Environmental Impact Statement (EIS). An EIS is a formal review, required by the National Environmental Policy Act of 1969 (NEPA), of projects that may affect the environment. It is in the scoping process that potentially significant environmental impacts—those that give rise to the need to prepare an EIS —should be identified and programmed for further study. Scoping allows public agencies and interested parties to learn more about the project and to provide input on the project's purpose and need, alternatives, environmental and community impacts to be evaluated, and methodologies to be used. The input received during the scoping process will help define the environmental studies to be considered and keep the Supplemental EIS focused on impacts that are truly significant.

Purpose of the Scoping Summary Report

The purpose of this report is to summarize the Capitol Expressway Light Rail scoping process. The following sections discuss: the project location, background and description; notification and outreach efforts; scoping meeting and open house; and comments received during the scoping period.

Contact Information

For additional information or to be placed on the project mailing list, contact Tom Fitzwater, VTA Environmental Programs and Resources Management, at VTA, 3331 North First Street, Building B-2, San Jose, CA 95134-2709, (408) 321-5789, Tom.Fitzwater@vta.org, or Eric Eidlin, Community Planner, at Federal Transit Administration, San Francisco Regional Office, 201 Mission Street, Room 1650, San Francisco, CA 94105-1926, (415) 744-2502, Eric.Eidlin@dot.gov.

OVERVIEW OF CAPITOL EXPRESSWAY LIGHT RAIL PROJECT

Project Location

The project is located along Capitol Expressway between Capitol Avenue and Quimby Road in San Jose, California (see Figure 1). Capitol Expressway is currently an eight-lane roadway, including two High Occupancy Vehicle (HOV) or carpool lanes. The predominant land use in the area is residential, but there are also businesses, churches, recreational uses, an airport, and a regional shopping center adjacent to the corridor. Based on historical data, the study area has a larger minority population, a lower income per capita, and a higher number of people living below the poverty line, than San Jose as a whole.

Background

The planning process for improving transit services in the Capitol Expressway Corridor has been ongoing since early 1999. Beginning with a Major Investment Study (MIS), the project has continued to evolve from the 17 alternatives initially evaluated to the light rail alternative that the VTA Board of Directors selected as the preferred investment strategy in 2000.

The federal and state environmental process for the Capitol Expressway Light Rail (CELR) Project was initiated in September 2001 with the publishing of a Notice of Intent to prepare an EIS in the federal register and the filing of the Notice of Preparation of an Environmental Impact Report (EIR) with the State Clearinghouse. The Environmental Document analyzed the following alternatives: (1) No-Project Alternative, (2) Baseline Alternative[1], and (3) Light Rail Alternative. A Draft EIS/EIR was circulated in April 2004, but only a Final EIR was completed as a result of limited opportunities for securing federal funds. In May 2005, the VTA Board of Directors approved the Light Rail Alternative.

In August 2007, the VTA Board of Directors approved a Final Supplemental EIR that augmented the previously certified Final EIR to the extent necessary to address changes in the Light Rail Alternative as a result of Preliminary Engineering (PE). These changes were incorporated into the project to respond to agency comments, improve operations, minimize right-of-way acquisition, reduce environmental concerns, and lower costs.

In order to be eligible for federal funds, VTA is now preparing a Draft Supplemental EIS.

[1] Enhancements to existing bus service above existing and planned levels.

Project Description

The proposed project will extend light rail along Capitol Expressway between the existing Alum Rock Light Rail Station and Eastridge Transit Center, a distance of approximately 2.3 miles (see Figure 2). Light rail will operate primarily in the median of Capitol Expressway within exclusive and semi-exclusive rights-of-way. Property acquisition for the project will be minimized through the removal of two HOV lanes on Capitol Expressway. The alignment will include an elevated section north of Capitol Avenue and south of Story Road, and an elevated crossing of Tully Road. The project will include new light rail stations at Story Road (aerial), Ocala Avenue (at-grade) and Eastridge Transit Center (at-grade and aerial options). At Eastridge Mall, the existing transit center and park-and-ride lot will be modified and expanded to accommodate the project. The project will also include traction power substations at Ocala Avenue and Eastridge Transit Center. Approximately seven 115-kilovolt electrical transmission towers and two tubular steel poles (TSPs) will require relocation from the median of Capitol Expressway to the east side of Capitol Expressway in order to accommodate the project. While the project will cross over Silver Creek, no work is anticipated below the top of the bank.

Project Approvals

Other than FTA's Record of Decision for the Final Supplemental EIS, VTA does not anticipate any other Federal permits and approvals for the Capitol Expressway Light Rail Project. State and local permits are anticipated for construction access and for water quality.

NOTIFICATION AND OUTREACH EFFORTS

Public notification and outreach efforts during the scoping period are discussed here. Materials and examples are included in Appendix A.

Notice of Intent

In compliance with NEPA, commencement of the preparation of the Draft Supplemental EIS and 30-day scoping period was formally initiated on September 16, 2009, when the Notice of Intent (NOI) was published in the Federal Register. The NOI is a notice that an EIS will be prepared and considered. The notice briefly describes the proposed action, possible alternatives, the agency's proposed scoping process and contact information.

Coordination Plan

The Capitol Expressway Light Rail Coordination Plan, in accordance with the Federal "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU), Section 6002, outlines coordination points and opportunities for agency review and comment throughout the progression of the EIS process. This plan is a living document – to be updated throughout the environmental review process – and is available electronically at the project website: http://www.vta.org/projects/capitol_rail_project/index.html.

As part of the coordination process, several agencies were invited to participate in the environmental review of the project (Appendix A). The following agencies accepted this invitation and will assist the lead agencies, FTA and VTA, with the review of the Draft Supplemental EIS: City of San José, Santa Clara Valley Water District and Santa Clara County Roads and Airports Department.

Scoping Information Packet

A Scoping Information Packet was prepared on September 29, 2009, and is available on the project website as noted above. The scoping packet discusses the following topics:

- Project Overview: provides a draft description of the project location, purpose and need, and a map of the project.
- Alternatives: identifies past and current alternatives under consideration.
- Methodologies: outlines how the analyses will be conducted for the environmental areas under the jurisdiction of participating agencies.
- Preliminary Schedule: outlines key dates in the environmental review process and preparation of the Draft Supplemental EIS.

- Public and Agency Involvement: provides details for the project Scoping Meeting and Coordination Plan.

Notification of Scoping Meeting, Open House and Comment Period

A postcard announcing the scoping meeting, open house and comment period was mailed to approximately 3,800 residents, business owners, and property owners within a half mile radius from the proposed project area. The mailing occurred on September 16, 2009, and September 17, 2009. The postcard was also emailed to stakeholder groups including City Council Offices, community and business organizations (i.e. District 8 Community Roundtable and the Latina Coalition) and members of the public who are members of VTA's GovDelivery subscription service.

The postcard included the following information:

- Date, location, and time of the scoping meeting and open house;
- Suggested VTA bus lines to take to the meeting;
- Address, email, phone number and deadline for submitting written comments on the project scope;
- Phone number of VTA's Community Outreach department for additional information; and
- A translation of "Learn the newest information about the Capitol Expressway Light Rail Project" into Spanish and Vietnamese.

In addition, targeted outreach was conducted at the Eastridge Transit Center and Eastridge Mall, the Hank Lopez Community Center, the Mexican Heritage Plaza, Monte Vista Gardens Family Housing and other residential communities, businesses and schools near the Alum Rock Light Rail Station. News releases were also distributed in English and Spanish followed by media call-outs.

SCOPING MEETING AND OPEN HOUSE

A scoping meeting and open house was held on Wednesday, September 30, 2009, at 6:00 p.m. in the Community Room at Eastridge Shopping Center, 2200 Eastridge Loop, San José, CA 95122. This location was chosen because Eastridge Shopping Center is a well known landmark within the project area. Directional signs leading to the Community Room were placed on the lower and upper levels near the Old Navy and JC Penney entrance.

Presentation slides, open house exhibits and other meeting materials are included in Appendix B.

Agenda, Format and Overview

The meeting began with an informal question and answer period. In the format of an open house, members of the community were able to view displays and converse with VTA Staff. Refreshments were provided.

The formal presentation began at 6:30 p.m. The PowerPoint presentation summarized the scoping process, project background, purpose and need, alternatives and procedure for submitting written comments.

One format to submit comments was on a pre-paid postcard addressed to VTA. Comment cards were available in multiple languages. During the presentation, VTA distributed comment cards amongst the audience.

After the presentation, VTA Staff answered questions one-by-one. This question and answer period lasted the majority of the meeting. In closing, the open house format resumed and individual discussions continued as needed.

Attendance

Total Meeting Attendees: 20

Media Present: None

Elected Officials Present: Aaron Quigley, Council Aide for Council Member Rose Herrera (District 8)

VTA Staff Present: Ken Ronsse, Tom Fitzwater, Christina Jaworski, Jody Littlehales, Brandi Childress, Keelikolani Lee, and Lupe Solís

Other Agency Attendees: Henry Servin and Larry Peng, Department of Transportation, City of San José

SUMMARY OF COMMENTS AND ISSUES RAISED

Questions and comments received from the public at the September 30, 2009 scoping meeting are summarized below and included in Appendix C:

- Traffic and air quality impacts from removing the HOV lanes.
- Noise and vibration from construction and operation of the light rail project.
- Effect of project on property values and concerns about property acquisition, especially compensation, schedule and process.
- Safe pedestrian access to light rail stations.
- Disappointment that project construction has been delayed.

In addition to the scoping meeting, written comments could be submitted via mail, email, fax or the project website, with attention to Tom Fitzwater, VTA Environmental Programs and Resources Management Manager, by 5 p.m. on October 19, 2009. VTA received four letters from the public and agencies on the scope and content of the Draft Supplemental EIS. These comments are summarized below and included in Appendix C.

A resident, of the District 8/Evergreen area, recommended that VTA consider various strategies to fast-track the project including various outreach meetings to the design, construction, education and financing industries. He also suggested that VTA provide non-stop service between Eastridge Mall and Great Mall, free passes to students and their caregivers for travel to and from school, and drinking water at stations. The resident did not support high rise residential, but indicated that high rise office was okay. The resident also stated that the project should include various green building features such as solar panels.

A resident, who lives between Foxdale Drive and Ocala Avenue, expressed concerns about the impact of the project on his property, especially the process and schedule for acquiring a portion of his backyard. In addition, he requested that the Draft Supplemental EIS evaluate noise and vibration, security, parking, neighborhood traffic, and construction impacts. This resident also commented about the effect of the proposed elimination of the HOV lanes on traffic congestion on Capitol Expressway and the potential for more drivers to use local streets. Safety of pedestrians crossing the street at Ocala Avenue, due to the many accidents and red light violations at this location, was another concern.

The County of Santa Clara submitted two letters. The letter in response to the Notice of Intent commented on the negative traffic impacts of removing two HOV lanes on Capitol Expressway, the need to revisit the BRT option, the project's consistency with the purpose and need statement, and objections to the removal of the Baseline Alternative as

an Alternative to be analyzed in the Draft Supplemental EIS. The County's letter in response to the Scoping Packet reiterated their request to evaluate the Baseline Alternative in the Draft Supplemental EIS. In addition, the letter stated concerns about potential plans for operating both BRT and LRT in the Capitol Expressway Corridor and the need to implement and operate BRT before making funding commitments to both options.

The Environmental Protection Agency wrote a letter that voiced concerns about the project's transportation impacts, subsequent air quality and environmental justice impacts, and the impacts of various facility options. Specific concerns were as follows:

- The long-term impacts to existing and future express bus service and the need to estimate travel time increases for bus patrons and HOV lane users,
- Air quality impacts and mitigation, including measures to reduce construction emissions,
- Impacts on the mobility of low-income or minority populations especially due to the removal of the HOV lanes,
- Direct, indirect, and cumulative impacts from various facility options,
- Elimination of the range of alternatives analyzed especially alternatives that include the continued use of the HOV lanes and additional express bus service,
- The ability of existing and planned facilities to provide adequate power supply to the project and to the region,
- The cumulative impact of the proposed project and reasonably foreseeable projects on energy demand and supply,
- How industrial materials recycling can be incorporated in the project design,
- Mitigation measures for adverse noise and vibration impacts, especially where sensitive receptors or low-income or minority communities are impacted.

VTA, in coordination with FTA, will consider all comments received from the participating agencies and the public, and determine how they will be addressed in the Draft Supplemental EIS. The final project purpose and need statement, proposed alternatives, and analytical methodologies will be developed, and participating agencies will be provided this information within 60 days following the end of the scoping period. The notification will include the considerations in making that decision. For the public, the purpose and need statement, proposed alternatives, and analytical methodologies will be posted on the project website within 60 days following the scoping period and included in the Draft Supplemental EIS.

Next Steps

The conclusion of the scoping process on October 19, 2009, represents a major milestone in the development of the Draft Supplemental EIS. Upcoming milestones include:

- Preparation of the Draft Supplemental EIS (Fall 2009 – Summer 2010)

  The Draft Supplemental EIS will include the following analysis: definition of Project Purpose and Need, description of alternatives, evaluation of existing conditions, and analysis of impacts and mitigation. A Notice of Availability (NOA) will be published in the Federal Register once the Draft EIS is available for public and agency review.

- Public Hearing (Summer 2010)

  The Draft Supplemental EIS will be available to the public at least 15 days prior to the public hearing.

- Final Supplemental EIS (Winter 2011)

  At the conclusion of the Draft Supplemental EIS circulation and comment period, VTA and FTA will respond to comments and refine the document to produce a Final Supplemental EIS.

- Record of Decision (Spring 2011)

  The Record of Decision is a document that publicly and officially discloses the lead agencies' decision regarding which alternative assessed in the Final Supplemental EIS is to be implemented.

How to Receive Updates on the Environmental Process

Although scoping is a distinct stage in the environmental review process, public involvement activities will extend throughout the preparation of the Draft and Final Supplemental EIS. These activities, outlined below, allow for exchange of information and discussion of issues and concerns among the public, agencies, and Supplemental EIS preparers.

Public involvement activities throughout the environmental review process include:

- A project web site (http://www.vta.org/projects/capitol_rail_project/index.html) has been developed where the public can learn about the project. The site is updated regularly and includes project reports and meeting materials.

- Communication tools such as news releases, emails, and advertising, will continue to be utilized to notify the public about new project developments and upcoming meetings. VTA is able to update individuals who sign up for its GovDelivery subscription service via e-mail or text message when information regarding the project is updated.

- Project materials and meeting announcements will be made available in multiple languages (Spanish and Vietnamese) upon request. An interpreter will be provided at meetings as needed.

LIST OF FIGURES AND APPENDICES

The project figures and appendices are attached in the following order:

- Figure 1: Regional Location
- Figure 2: Capitol Expressway Light Rail Project
- Appendix A: Outreach
    - Notice of Intent
    - Postcard Invitation/Scoping Announcement
    - News Release for Scoping Meeting
- Appendix B: Meeting and Open House Materials
    - Presentation Slides
    - Open House Exhibits
    - Project Factsheet
- Appendix C: Comments
    - Summary of Comments from the Public Meeting
    - Written Comments and Comment Letters

Figure 1 Regional Location

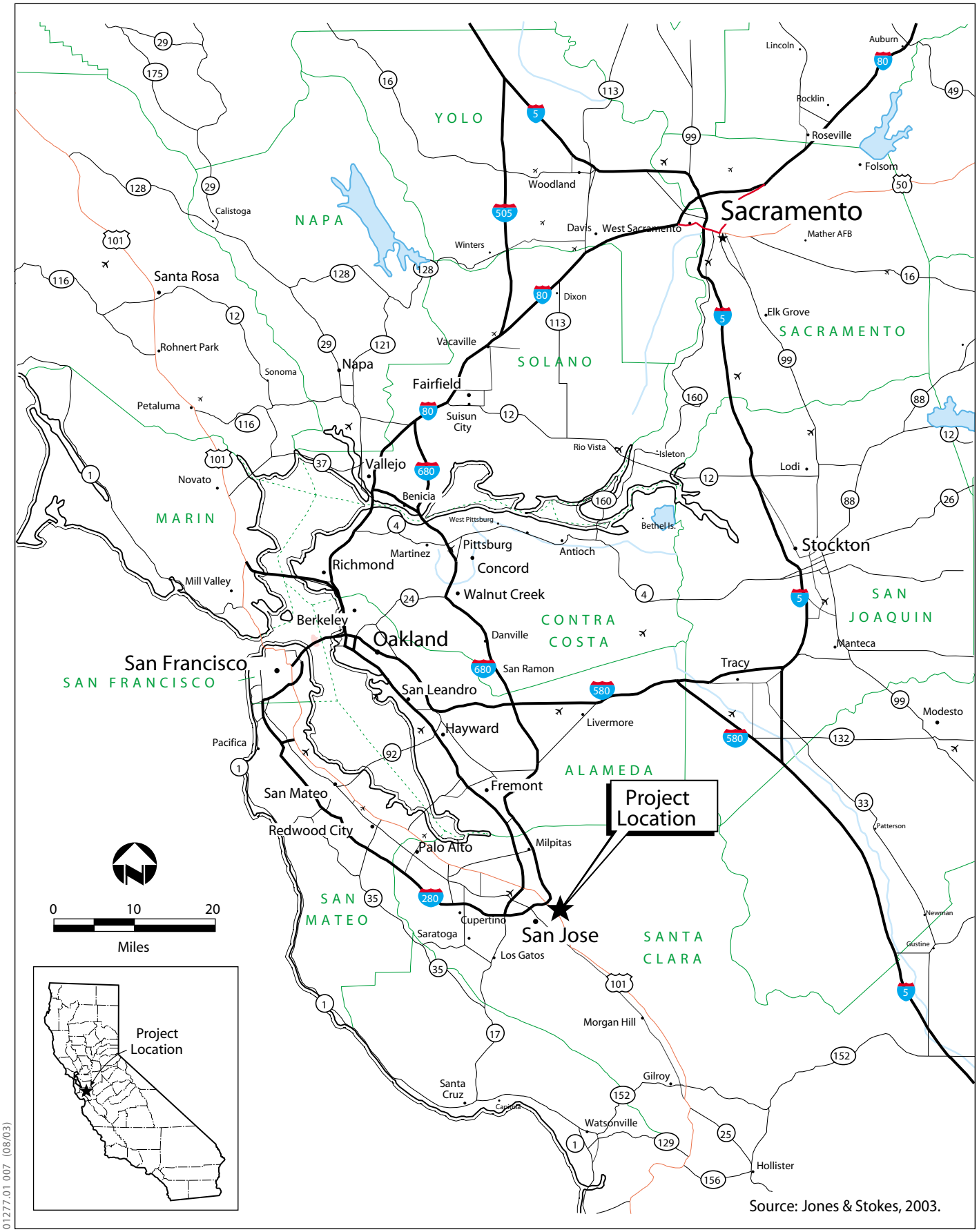
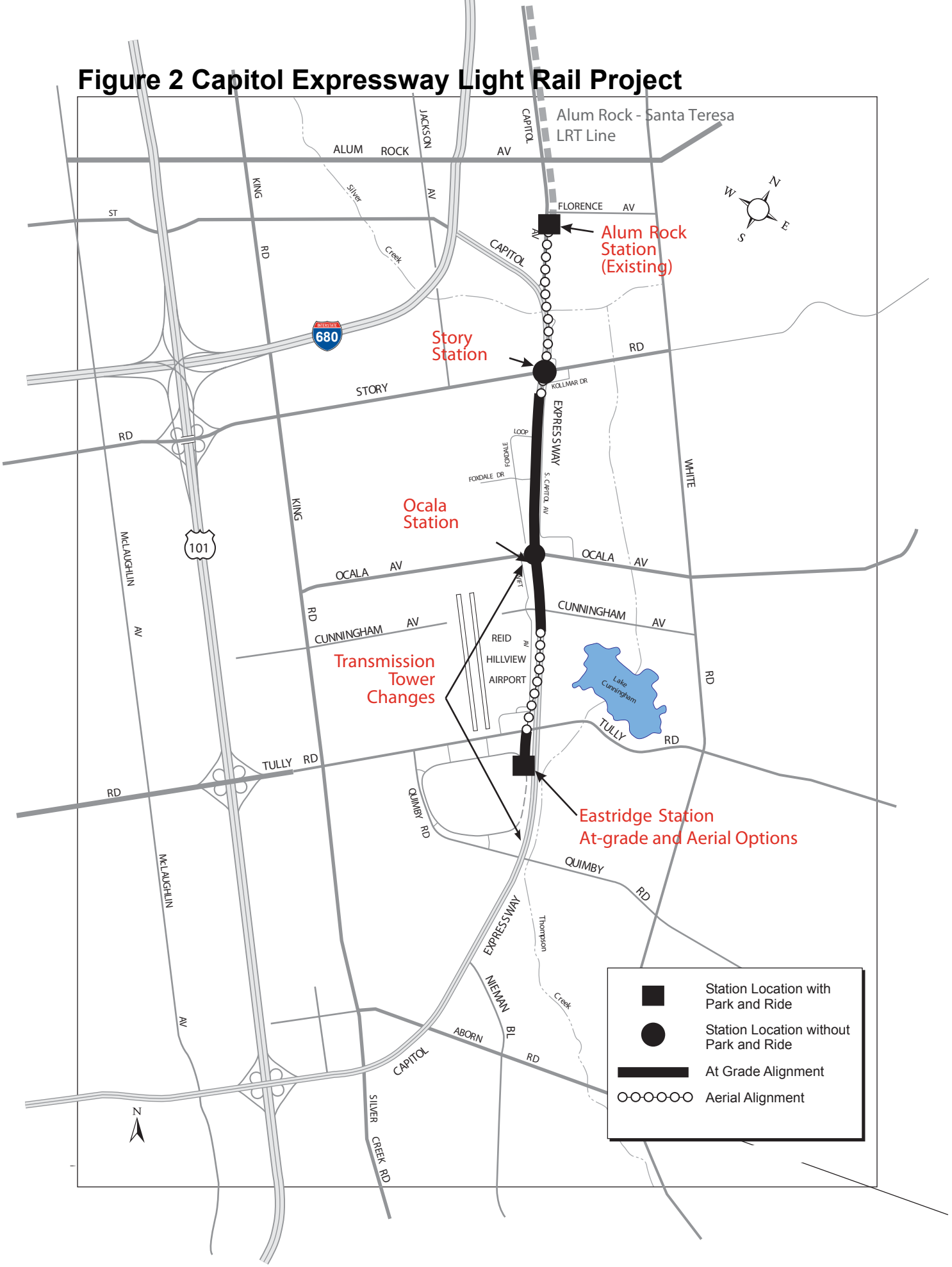


Figure 2 Capitol Expressway Light Rail Project



Appendix
A

CFR 1152.27(c)(2)[3] must be filed by September 28, 2009.[4] Petitions to reopen must be filed by October 6, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to RJCK's representative: Ronald A. Lane, Fletcher & Sippel LLC, 29 N. Wacker Dr., Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 10, 2009.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–22263 Filed 9–15–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Intent To Prepare a Supplemental Draft Environmental Impact Statement for the Capitol Expressway Light Rail Project in the City of San Jose and County of Santa Clara, CA.

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Intent to prepare a Supplemental Draft Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration and the Santa Clara Valley Transportation Authority (VTA) are planning to prepare a Supplemental Draft Environmental Impact Statement (EIS) for the proposed 2.3 mile extension of light rail along Capitol Expressway from the existing Alum Rock Station to Eastridge Transit Center in the City of San Jose. Pursuant to 23 C.F.R 771.129(a) and 771.130, the Supplemental Draft EIS will replace the Draft EIS that was made available for public review in April 2004. The Final EIS required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et. seq.*) (NEPA) was never completed for this project as a result of limited opportunities for securing federal funds at that time. Due to dramatic declines in local and state funding sources as a result of the global economic recession, VTA is now preparing a Supplemental Draft EIS in order to be eligible for federal funds for this project. A Supplemental Draft EIS is needed to address major changes to the project since April 2004.

The Supplemental Draft EIS will be prepared in accordance with regulations set by the NEPA as well as the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The purpose of this Notice of Intent is to alert interested parties about the plan to prepare the Supplemental Draft EIS, to invite public participation in the scoping process and to announce that a public scoping meeting will be conducted.

DATES: Written comments on the scope of the Supplemental Draft EIS should be sent to Tom Fitzwater, VTA Environmental Programs and Resources Management Manager, by *October 19, 2009.* A Public scoping meeting will be held on *September 30, 2009* from 6 p.m. to 7:30 p.m. at the location indicated under **ADDRESSES** below.

ADDRESSES: Written comments on the scope of the Supplemental Draft EIS should be submitted via mail, e-mail, fax, or the project Web site, with attention to: Tom Fitzwater, Manager,VTA Environmental Programs and Resources Management, 3331 North First Street, Building B–2, San Jose, CA 95134–1927, *E-mail: Tom.Fitzwater@vta.org, Fax:* (408) 321–5787, *Project Web site: http://www.vta.org.*

Comments may also be offered at the public scoping meeting. The address for the public scoping meeting is in the Community Room on the second floor of Eastridge Shopping Center located at 2200 Eastridge Loop Road in San Jose California (Old Navy/JC Penney's entrance). The meeting facility will be accessible to persons with disabilities. If special translation or signing services or other special accommodations are needed, please contact VTA Customer Service five days prior to the meeting at (408) 321–2300, or e-mail *community.outreach@vta.org.*

FOR FURTHER INFORMATION CONTACT: For additional information about the proposed project, environmental review process, or to be placed on the project mailing list, contact Tom Fitzwater, VTA Environmental Programs and Resources Management, at VTA, 3331 North First Street, Building B–2, San Jose, CA 95134–2709, (408) 321–5789 or Eric Eidlin, Community Planner, at Federal Transit Administration, San Francisco Regional Office, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, (415) 744–2502.

SUPPLEMENTARY INFORMATION:

I. Scoping

Scoping is the process of determining the scope, focus and content of an EIS. FTA and VTA invite all interested individuals and organizations, public agencies, and Native American Tribes to comment on the scope of the Supplemental Draft EIS, including the project's purpose and need, the alternatives to be studied, the impacts to be evaluated, and the evaluation methods to be used. Comments should focus on: alternatives that may be less costly or have less environmental or community impacts while achieving similar transportation objectives, and the identification of any significant social, economic, or environmental issues relating to the alternatives.

NEPA ''scoping'' has specific and fairly limited objectives, one of which is to identify the significant issues associated with alternatives that will be examined in detail in the document, while simultaneously limiting consideration and development of issues that are not truly significant. It is in the NEPA scoping process that potentially significant environmental impacts—those that give rise to the need to prepare an environmental impact statement—should be identified; impacts that are deemed not to be significant need not be developed extensively in the context of the impact statement, thereby keeping the statement focused on impacts of consequence. Transit projects may also generate environmental benefits; these should be highlighted as well—the impact statement process should draw attention to positive impacts, not just negative impacts.

Once the scope of the environmental study, including significant environmental issues to be addressed, is settled, an annotated outline of the document will be prepared and shared with interested agencies and the public. The outline serves at least three worthy purposes, including (1) documenting the results of the scoping process; (2) contributing to the transparency of the process; and (3) providing a clear roadmap for concise development of the environmental document.

II. Description of Project Study Areas and Need

Purpose of the Supplemental Draft EIS: The original Notice of Intent to prepare a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) was issued on September 18,

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

[4] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

2001. Following the circulation of the Draft EIS/EIR in April 2004, it was determined that the opportunity for securing federal funds at that time was limited. As a result, a Final EIS was never completed.

A Final EIR was prepared to comply with the state process (California Environmental Quality Act) and was certified by the VTA Board of Directors in May 2005. A Final Supplemental EIR was later prepared to address changes to the project and was certified by the VTA Board of Directors in August 2007.

Due to dramatic declines in local and state funding sources as a result of the global economic recession, a Supplemental Draft EIS will be prepared in order to be eligible for federal funds. The purpose of the Supplemental Draft EIS is to fully disclose the environmental consequences of building and operating the Project in advance of any federal decisions to commit substantial financial or other resources towards its implementation. The Supplemental Draft EIS explores the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts as required by current federal (NEPA) environmental laws and current Council on Environmental Quality and FTA guidelines.

Project Description: The proposed project will extend light rail along Capitol Expressway between the existing Alum Rock Light Rail Station and Eastridge Transit Center, a distance of approximately 2.3 miles. Light rail will operate primarily in the median of Capitol Expressway within exclusive and semi-exclusive rights-of-way. Property acquisition for the project will be minimized through the removal of two High Occupancy Vehicle (HOV) lanes on Capitol Expressway. The alignment will include an elevated section north of Capitol Avenue and south of Story Road, and an elevated crossing of Tully Road. The project will include new light rail stations at Story Road (aerial), Ocala Avenue (optional, at-grade) and Eastridge Transit Center (at-grade and aerial options). At Eastridge Mall, the existing transit center and park-and-ride lot will be modified and expanded to accommodate the project. The project will also include traction power substations at Ocala Avenue and Eastridge Transit Center. Approximately seven 115-kilovolt electrical transmission towers and two tubular steel poles (TSPs) will require relocation from the median of Capitol Expressway to the east side of Capitol Expressway in order to accommodate the project. While the project will cross over Silver Creek, no work is anticipated below the top of the bank.

Project Purpose and Need: The Capitol Expressway Light Rail Project is needed to:

- Improve public transit service in the Capitol Expressway Corridor by providing increased capacity and faster, convenient access to downtown San Jose and major employment and activity centers;
- make transit an attractive alternative to the automobile for travel along the expressway; enhance regional connectivity through expanded, interconnected transit services along some of the primary travel corridors in Santa Clara County, including U.S. 101 (Guadalupe Corridor) and I–680 (Tasman East, Capitol Avenue, and Capitol Expressway Corridors);
- improve regional air quality by reducing the growth in automobile emissions;
- improve mobility options to employment, education, medical and retail centers for all corridor residents and in particular, low-income, transit dependent, youth, elderly, disabled, and ethnic minority populations; and
- support local economic and land development goals.

III. Proposed Project Alternatives

The No-Build Alternative represents conditions that would be reasonably expected to occur in the foreseeable future if the proposed build alternative were not implemented. This includes existing transit conditions and programmed transportation projects that will be constructed by 2035. A Baseline Alternative representing the optimal level of bus service that could be provided in the corridor without an investment in major new infrastructure is not proposed. VTA is not only currently operating Line 522 Rapid Bus service in the Capitol Expressway Corridor, but is also proposing to improve this service with Bus Rapid Transit (BRT). BRT will provide more frequent headways, upgraded facilities, real-time information, transit priority, and specialized vehicles. VTA will also analyze any reasonable alternatives that are uncovered during public scoping.

IV. Probable Effects

The Supplemental Draft EIS will explore the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts. Environmental issues to be examined may include: Changes in the physical environment (natural resources, air quality, climate change, noise, water quality, geology, aesthetics); changes in the social environment (land use, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic resources. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. *Based on the findings of the Final and Supplemental EIR, it is anticipated that the project will result in adverse noise, vibration, and traffic impacts.*

V. FTA Procedures

The regulations implementing NEPA, as well as provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), call for public involvement in the EIS process. Section 6002 of SAFETEA–LU requires that FTA and VTA do the following: (1) Extend an invitation to other Federal and non-Federal agencies and Native American tribes that may have an interest in the proposed project to become ''participating agencies;'' (2) provide an opportunity for involvement by participating agencies and the public to help define the purpose and need for a proposed project, as well as the range of alternatives for consideration in the EIS; and (3) establish a plan for coordinating public and agency participation in, and comment on, the environmental review process. An invitation to become a participating or cooperating agency, with scoping materials appended, will be extended to other Federal and non-Federal agencies and Native American tribes that may have an interest in the proposed project. It is possible that FTA and VTA will not be able to identify all Federal and non-Federal agencies and Native American tribes that may have such an interest. Any Federal or non-Federal agency or Native American tribe interested in the proposed project that does not receive an invitation to become a participating agency should notify at the earliest opportunity the Project Manager identified above under **ADDRESSES**.

A comprehensive public involvement program and a Coordination Plan for public and interagency involvement will be developed for the project and posted on *http://www.vta.org.* The public involvement program includes a full range of activities including the development and distribution of project newsletters, and outreach to local officials, community and civic groups, and the public. Specific activities or

events for involvement will be detailed in the public involvement program.

The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, it is FTA policy to limit insofar as possible distribution of complete printed sets of environmental documents. Accordingly, unless a specific request for a complete printed set of environmental documents is received (preferably in advance of printing), FTA and its grantees will distribute only the executive summary of the environmental document together with a Compact Disc of the complete environmental document. A complete printed set of the environmental document is available for review at the grantee's offices and elsewhere; an electronic copy of the complete environmental document is also available on *http://www.vta.org.*

The Supplemental Draft EIS will be prepared in accordance with NEPA and its implementing regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508) and with the FTA/Federal Highway Administration regulations ''Environmental Impact and Related Procedures'' (23 CFR part 771). In accordance with 23 CFR 771.105(a) and 771.133, FTA will comply with all Federal environmental laws, regulations, and executive orders applicable to the proposed project during the environmental review process to the maximum extent practicable. These requirements include, but are not limited to, the environmental and public hearing provisions of Federal transit laws (49 U.S.C. 5301(e), 5323(b), and 5324); the project-level air quality conformity regulation of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulation implementing section 106 of the National Historic Preservation Act (36 CFR part 800); the regulation implementing section 7 of the Endangered Species Act (50 CFR part 402); section 4(f) of the Department of Transportation Act (23 CFR 771.135); and Executive Orders 12898 on environmental justice, 11988 on floodplain management, and 11990 on wetlands.

Related Documents: The Final Environmental Impact Report (April 2005), and the Final Supplemental Environmental Impact Report (April 2007) for the Capitol Expressway Corridor are available by contacting Tom Fitzwater at the address and phone number given above.

Issued on: September 9, 2009.

Raymond Sukys,

Acting Regional Administrator.

[FR Doc. E9–22322 Filed 9–15–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Issuance of Final Report of the 2008 Amateur-Built Aircraft Aviation Rulemaking Committee.

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: This notice announces the issuance of the final report of the 2008 Amateur-Built Aircraft Aviation Rulemaking Committee (2008 ARC). The report provides the 2008 ARC's recommendations regarding the disposition of (1) public comments received on the proposed changes to Order 8130.2F and AC 20–27G; (2) the definition of ''fabrication'' as it differs from ''assembly'' within the scope of Title 14, Code of Federal Regulations (14 CFR) part 21, Certification Procedures for Products and Parts, § 21.191(g), Operating amateur-built aircraft; and (3) a process to minimize the impact of the proposed policy on amateur-built kits evaluated by the FAA before February 15, 2008.

FOR FURTHER INFORMATION CONTACT: Frank P. Paskiewicz, Manager, Production and Airworthiness Division, Aircraft Certification Service, AIR–200, Federal Aviation Administration, 950 L'Enfant Plaza, SW., 5th Floor, Suite 500, Washington, DC 20024; *telephone number:* (202) 385–6346. A copy of the final report may be obtained by accessing the FAA's Web site at *http://www.faa.gov/aircraft/gen_av/ultralights/amateur_built/media/ARC_FINAL_2008_report.pdf.*

SUPPLEMENTARY INFORMATION:

Background

On February 14, 2008, the 2006 Amateur-Built Aircraft Aviation Rulemaking Committee (ARC) published its Final Report. This report found that FAA directives setting policy for amateur-built aircraft ''do not adequately address the issue of commercial assistance,'' determined that the ''aircraft kit evaluation process is not standardized,'' and cited the need for additional training for inspectors to ''fully understand the FAA's expectations when determining an aircraft's eligibility for an amateur-built certificate.'' Based on the ARC's report, the FAA published a notice in the **Federal Register** on February 15, 2008,[1] temporarily suspending amateur-built aircraft kit evaluations. The FAA decided that its directives governing the amateur-built aircraft sector required review and revision.

Subsequently, the FAA published a notice in the **Federal Register** on July 15, 2008, announcing proposed changes to, and seeking public comments on (1) FAA Order 8130.2F, Airworthiness Certification of Aircraft and Related Products, Chapter 4, Special Airworthiness Certification, Section 9, Experimental Amateur-Built Airworthiness Certifications; and (2) AC 20–27G, Certification and Operation of Amateur-Built Aircraft.[2] The original comment period opened on July 15, 2008, and closed on August 15, 2008.

Upon request, the FAA extended the comment period to September 30, 2008,[3] and then reopened the comment period from October 31, 2008, through December 15, 2008.[4]

On November 4, 2008, the Amateur-Built ARC was rechartered with Order 1110.143A, Amateur-Built Aircraft Aviation Rulemaking Committee to advise the FAA on issues concerning disposition of the public comments, the enhanced definition of the term ''fabrication'' and grandfathering of FAA-listed amateur-built aircraft kits.

The 2008 ARC met in Washington, DC on January 27 through 29, 2009, to consider the items listed above; the ARC also—

- Reevaluated the 20/20/11 requirement; [5]
- Evaluated an updated FAA Form 8000–38, Fabrication/Assembly Operation Checklist;
- Discussed the creation of a National Kit Evaluation Team, consisting of FAA

[1] Notice of Temporary Suspension of Amateur-Built Aircraft Kit Evaluations Previously Conducted by the Federal Aviation Administration, Aircraft Certification Service (73 FR 8926, February 15, 2008).

[2] Notification of Policy Revisions, and Requests for Comments on the Percentage of Fabrication and Assembly that Must Be Completed by an Amateur Builder to Obtain an Experimental Airworthiness Certificate for an Amateur-Built Aircraft (73 FR 40652, July 15, 2008).

[3] *See* Notification of Policy Revisions, and Requests for Comments on the Percentage of Fabrication and Assembly That Must Be Completed by an Amateur Builder to Obtain an Experimental Airworthiness Certificate for an Amateur-Built Aircraft; Extension of Comment Period (73 FR 43278, July 24, 2008).

[4] The FAA reopened the comment period because the proposed Order 8130.2F and AC 20–27G had been inadvertently removed from the FAA Web site during the comment period. (*See* 73 FR 65007, October 31, 2008.)

[5] 20/20/11 was an FAA proposal requiring an amateur builder to fabricate a minimum 20 percent of an aircraft and assemble a minimum of 20 percent of the aircraft.

Learn the newest information about the Capitol Expressway Light Rail Project (Alum Rock to Eastridge Transit Center) at a Public Scoping Meeting/Open House for the Environmental Impact Statement.

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Capitol Expressway Light Rail Project

- Receive a project overview, schedule and funding update.
- Visit displays of project route and updated station areas.
- Learn more about other studies and projects along Capitol Expressway, including pedestrian/bicycle/landscaping improvements, Bus Rapid Transit, and Eastridge Transit Center Access Study.
- Give your comments on the significant environmental issues that will be discussed in the Federal Environmental Document.

For more information, please contact VTA Community Outreach at (408) 321-7575 or log onto *www.vta.org*.

The deadline for receiving comments on the project scope is Wednesday, October 19, 2009. Comments can be sent by mail to VTA Environmental Programs at the address listed below or by email to *Tom.Fitzwater@vta.org* or by fax to (408) 321-5787.

Written comments: Tom Fitzwater, Environmental Resources Program Manager
VTA Environmental Programs and Resources Management
3331 North First Street, Bldg. B-2
San José, CA 95134-1927

0908-6985

¡Obtenga la información más reciente acerca del Proyecto de Tranvía de Capitol Expressway y dé sus comentarios!

Tìm hiểu tin tức mới nhất về "Capitol Expressway Light Rail Project" trong cuộc họp công khai gần nơi quý vị cư ngụ!

Wednesday, September 30, 2009

Eastridge Shopping Center
(use the Old Navy/JC Penney's entrance)
Community Room, Second Floor
2200 Eastridge Loop
San José, California 95122
6:00 p.m. – 7:30 p.m.

Take VTA Bus Lines: 12, 22, 26, 31, 39, 43, 70, 71, 77, 103, and 522.

VTA

VTA NEWS

CONTACT: Jennie Loft
Cell: (408) 464-7810
Pager: (408) 994-7001

MEDIA ADVISORY ONLY
Release NR 09 09 14
September 28, 2009

ATTENTION ASSIGNMENT EDITORS, CITY EDITORS:

VTA Hosts Public Scoping Meeting for Capitol Expressway Light Rail Project

WHO: Santa Clara County residents and the Santa Clara Valley Transportation Authority (VTA).

WHAT: VTA invites all interested persons and agencies to a public scoping meeting/open house to share the newest information about the project and provide an opportunity for the public to give comments on the environmental issues that will be discussed in the Federal Environmental Document. Visit display stations of project route and updated station areas, or speak with staff about other studies and projects that are occurring along the Capitol Expressway corridor.

WHEN & WHERE: Wednesday, September 30, 2009, 6:00 p.m. to 7:30 p.m.
(Presentations begin at 6:30 p.m.)
Eastridge Shopping Center,
Community Room, Second Floor (Near Old Navy/JC Penney's entrance)
2200 Eastridge Loop
San Jose, CA 95122
This location is served by VTA Bus Lines 12, 22, 26, 31, 39, 43, 70, 71, 77, 103 and 522.

WHY: VTA is in the process of pursuing federal funding for the Capitol Expressway Light Rail Project.

Draft Environmental Impact Statement

VTA and the Federal Transit Administration are planning to prepare a Draft Environmental Impact Statement (EIS) for the proposed 2.3 mile extension of light rail along Capitol Expressway from the existing Alum Rock Station to

~more~

Eastridge Transit Center in San Jose. The project will include new light rail stations at Story Road, Ocala Avenue, and Eastridge Mall. VTA is preparing a Draft EIS in order to be eligible for federal funds for this project.

Written comments on the scope of the Supplemental Draft EIS should be submitted via mail, email, fax or the project website, with attention to Tom Fitzwater, VTA Environmental Resources Program Manager, by October 19, 2009 before 5 p.m.

Tom Fitzwater
VTA Environmental Resources Program Manager
Santa Clara Valley Transportation Authority
3331 North First Street, Building B-2
San Jose, CA 95134-1927
Email: Tom.Fitzwater@vta.org
Fax: 408.321.5787
Project Website: http://www.vta.org

About VTA

Santa Clara Valley Transportation Authority (VTA) is an independent special district that provides sustainable, accessible, community-focused transportation options that are innovative, environmentally responsible, and promote the vitality of our region. VTA is responsible for bus, light rail and paratransit operations; congestion management; specific highway improvement projects; countywide transportation planning and provides these services throughout the county including the cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale. VTA continually builds partnerships to deliver transportation solutions that meet the evolving mobility needs of Santa Clara County.

###

Appendix B

Capitol Expressway Light Rail Project

Public Scoping Meeting/
Open House

September 30, 2009

DOWNTOWN ◆ EAST VALLEY

VTA

Presentation Outline

- Purpose of Scoping Meeting
- Project Overview
- Environmental Process
- Public Comment

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What is Scoping?

- Early opportunity for public to provide input into the environmental review process.
- Process of determining the scope, focus, and content of an environmental document.
- Objective is to define Purpose and Need, Alternatives to Project, and Significant Issues

Background

- Included in VTA Long Range Transportation Plan since 1992
- Supported by the voters in November 2000 ballot measure to increase sales tax for transit
- Approved state environmental documents for Light Rail in May 2005 and August 2007
- Approved state environmental document for Bus Rapid Transit in December 2008
- Proceeding with design and construction of Capitol Expwy Pedestrian, Bicycle, and Landscaping improvements
- An Environmental Impact Statement is necessary to be eligible for federal funds

Project Overview

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Project Overview

- Purpose and need
- Alternatives

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Purpose and Need

- Improve public transit service
- Enhance regional connectivity
- Expand mobility options
- Improve regional air quality
- Accommodate future travel demand
- Support local economic/land use plans & goals

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Project Alternatives

- Busway/Carpool Lane Alternatives
- Bus Rapid Transit Alternatives
- LRT Alternatives

DOWNTOWN ◆ EAST VALLEY

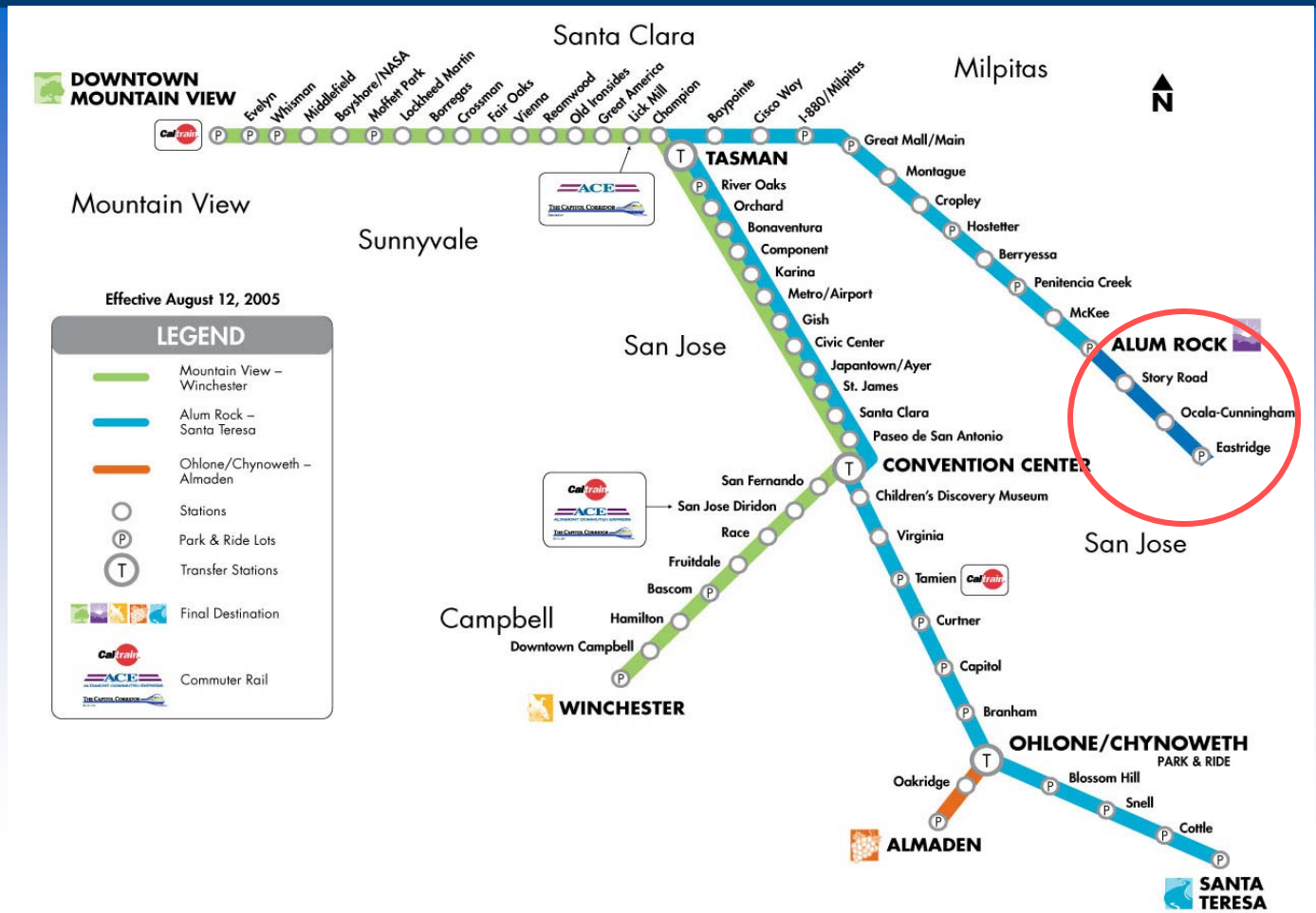
VTA

Proposed Project

DOWNTOWN ◆ EAST VALLEY

VTA

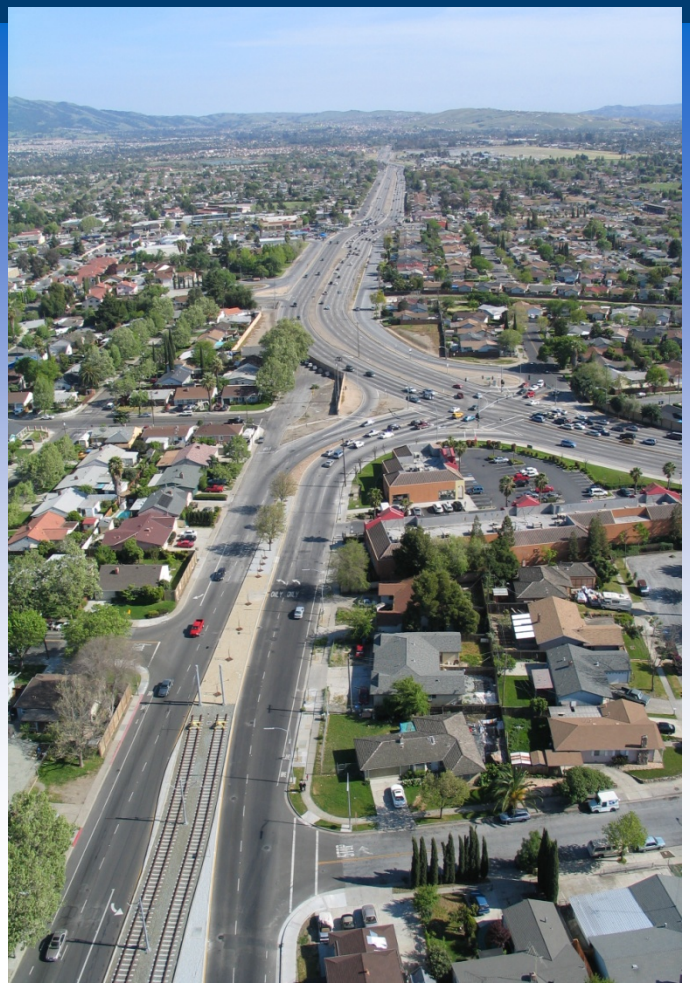
Light Rail System with Proposed Project



DOWNTOWN • EAST VALLEY

Capitol Expressway Light Rail

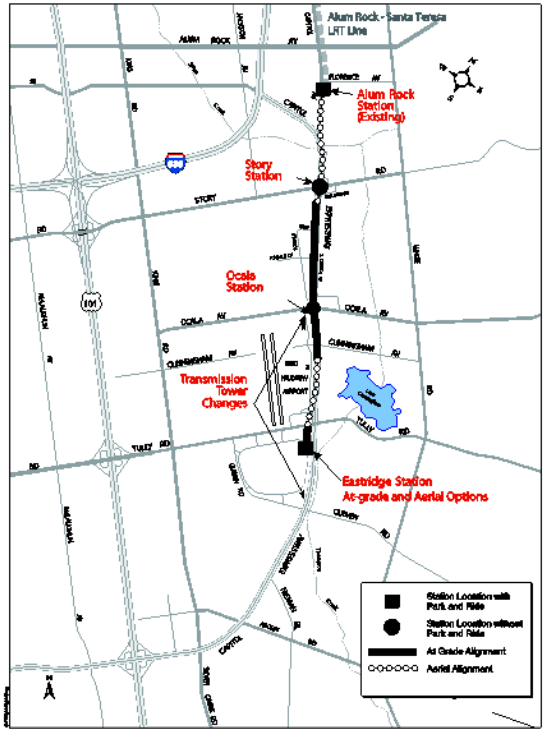
- Extends Light Rail by 2.3-miles
- New Stations at Story Road, Ocala Avenue, and Eastridge Mall
- Includes both Median and Side-running Track Alignments
- Includes Elevated and At-Grade Alignments
- Removes Carpool Lanes
- Current Project Cost: $334 million



DOWNTOWN ◆ EAST VALLEY

Project Alignment

- Median running with aerial structure from existing Alum Rock Station through Story Road
- Aerial Station at Story Road
- Median running at-grade alignment from Story Road to Tully Road
- At-grade station at Ocala Avenue
- Side running alignment from Tully Road to Eastridge
- Grade separation at Tully Road
- At-grade and aerial station options at Eastridge

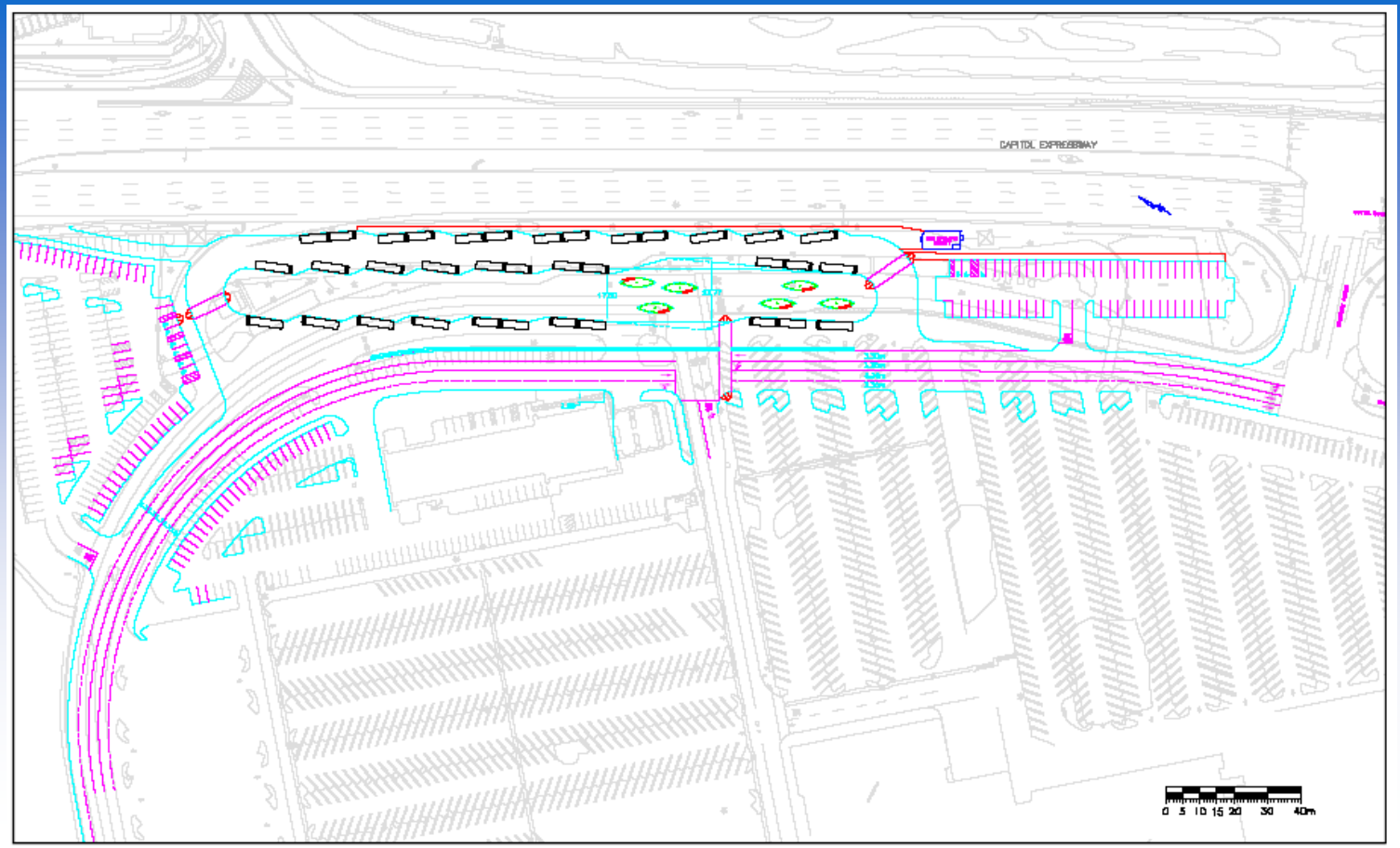


Right-of-Way Requirements

- Businesses at Story Road and Capitol Expressway Intersection
- Residences along Brownstone Court, Pinkstone Court, and Silverstone Place
- Eastridge Mall Parking

At-grade Eastridge Station

Aerial Eastridge Station



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Transmission Towers Relocations

Traction Power Substations

DOWNTOWN ◆ EAST VALLEY

Environmental Review Process

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VTA

Key Environmental Issues

- Traffic & circulation
- Noise & vibration
- Visual quality
- Energy
- Climate Change

Environmental Schedule

Notice of Intent Published in the Federal Register	**September 16, 2009**
Public Scoping Meeting/ Open House	**September 30, 2009**
Scoping Period Ends	**October 19, 2009**
Development of Draft EIS	**Fall 2009 to Spring 2010**
Public Meetings on Draft EIS	**Spring 2010**
Development of Final EIS	**Fall 2010**
Record of Decision	**Winter 2010**

Public Comment

DOWNTOWN EAST VALLEY

Speaker Guidelines

- Please submit a speaker card
- Moderator will call speakers
- Speakers will have 2 minutes to present comments
- Tonight, we will not be responding to your comments
- We will document your comments in the Draft EIS

DOWNTOWN ◆ EAST VALLEY

VTA

Contact Us

- Submittal of written comments to VTA
  - Email: CapitolExpresswayEIS@vta.org
  - Mail: Tom Fitzwater, VTA Environmental Programs
    3331 North First Street, Building B
    San Jose, CA 95134
  - Fax: (408) 321-5787
- **Comments must be received by 5:00 pm on October 19, 2009**

DOWNTOWN • EAST VALLEY

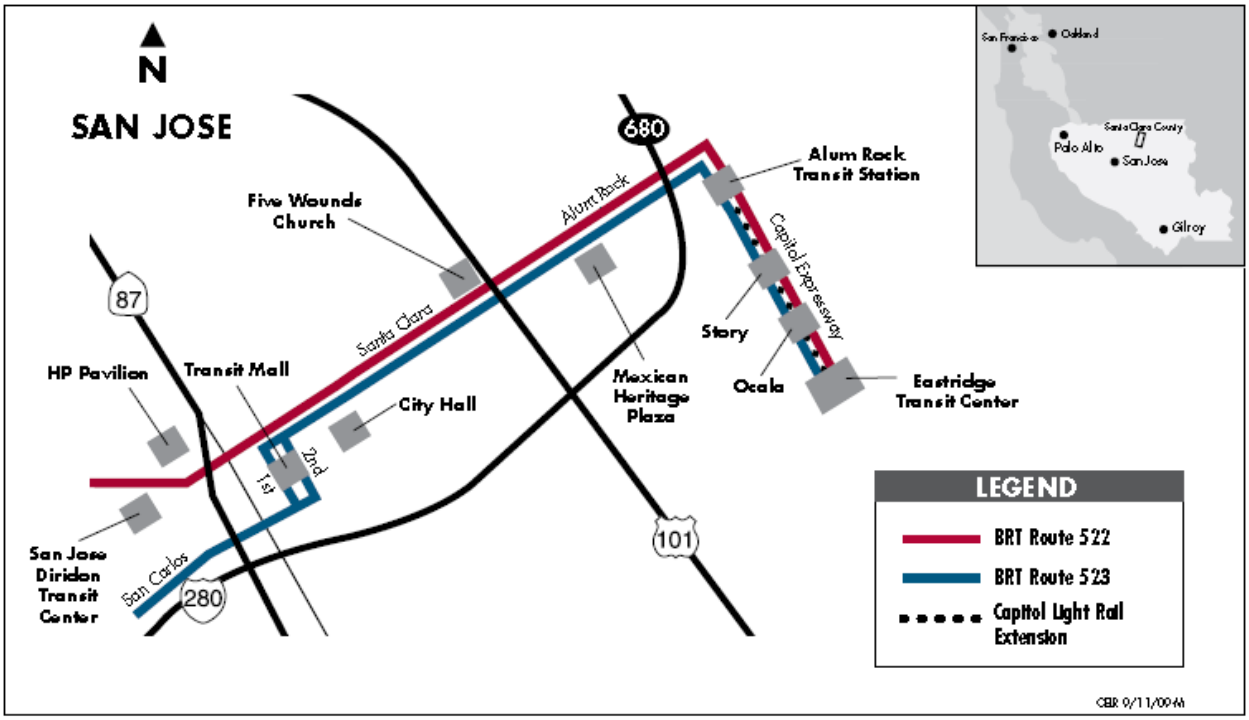
VTA Community Outreach Resources

Lupe Solis
Public Communication Specialist
Phone: (408) 321-7522
Email: *community.outreach@vta.org*
www.vta.org

DOWNTOWN • EAST VALLEY

Capitol Expressway Light Rail Project Goals

- Improve public transit service
- Enhance regional connectivity
- Expand mobility options
- Improve regional air quality
- Accommodate future travel demand
- Support local economic/land use plans & goals



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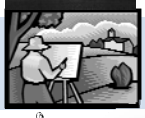
Please rate the following issues in order of importance to you, with 1 being "not important" and 5 being "very important."

Environmental Issues	1 ☹	2	3 😐	4	5 ☺
Traffic and Circulation 					
Noise and Vibration 					
Climate Change 					
Energy and Utilities 					
Visual Quality 					
Natural Resources 					
Community Resources 					
Safety and Security 					
Social and Economic issues 					
Air Quality and Pollution 					
Hazardous Materials 					
Land Use 					
Water Quality/Flood Plains 					
Geology and Seismicity 					

Public involvement is a key element in the environmental evaluation process.

Your feedback will help us prepare for future public meetings and outreach.

How did you hear about this meeting?

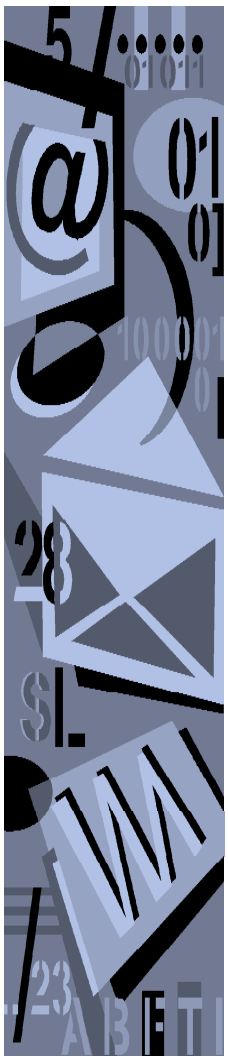
Please indicate your answers with a ✓

- Postcard in the mail
- VTA poster or flyer
- Email
- Other: _____

What ways do you recommend to get the word out?

Please indicate your answers with a ✓

- Postcard in the mail
- VTA poster or flyer
- Email
- Local Newspaper
- Radio Ad
- Other: _____



Downtown/East Valley Initial List of Candidate Conceptual Alternatives

Alternative	Mode and Description
1	Light Rail Transit (LRT) on Santa Clara/Alum Rock from Downtown to Capitol (Avenue) LRT
2	LRT on Capitol Expressway from terminus of Capitol (Avenue) LRT to Eastridge Mall
3	LRT on Capitol Expressway from Eastridge Mall to Guadalupe LRT (Capitol Station)
4	LRT on 10th/11th Streets and Senter Road from Downtown to Tully Road. *[Modified by the PAB on December 16, 1999, as follows: LRT on 2nd/3rd, 5th, and 7th or 8th Streets from Downtown to County Fairgrounds.]*
5	LRT on 10th/11th Streets, Senter and Tully Roads from Downtown to Eastridge Mall
6	LRT on 10th/11th Streets and Keyes/Story Road from Downtown to terminus of Capitol (Avenue) LRT
7	LRT on Alum Rock and White/San Felipe Road from Capitol (Avenue) LRT to Evergreen Valley College
8	Busway/HOV lanes on Highway 101 for Express Bus Service from the Alum Rock, Capitol Eastside and Evergreen study area neighborhoods to "Golden Triangle" employment centers
9	Busway/HOV lanes on Capitol Expressway for Express Bus Service from Eastridge Mall to Guadalupe LRT (Capitol Station)
10	Busway/HOV lanes on Capitol Expressway from terminus of Capitol (Avenue) LRT to Eastridge Mall and Bus Rapid Transit (BRT) features on Quimby and White Roads from Eastridge Mall to Evergreen Valley College
11	BRT on Santa Clara/Alum Rock, King, Tully and White/San Felipe Roads from Downtown to Evergreen Valley College. *[Modified by the PAB on December 16, 1999, as follows: BRT on Santa Clara/Alum Rock from Downtown to White Road, and along King, Tully and White/San Felipe Roads to Evergreen Valley College.]*
12	BRT on Santa Clara/Alum Rock and White/San Felipe Road from Downtown to Evergreen Valley College
13	BRT on 10th/11th Streets, Senter Road and Tully Road from Downtown to Eastridge Mall
14	BRT on 10th/11th Streets and Keyes/Story Road from Downtown to terminus of Capitol (Avenue) LRT
15	BRT on Monterey Highway from Downtown to Guadalupe LRT (Santa Teresa Station)
16	Transportation System Management (TSM) improvements throughout study area including more frequent bus services and improved intersection signalization.
17	No Project

FACT SHEET: **Transit**

Capitol Expressway Light Rail Project

Project Description

The Capitol Expressway Transit Improvement Project will transform Capitol Expressway into a multi-modal boulevard offering bus rapid transit, light rail transit, and safe pedestrian and bicycle pathways with connections to the regional trail system. The project includes the following two phases:

Phase I of the project will construct pedestrian and bicycle safety improvements along Capitol Expressway to support future transit services. To accommodate pedestrian and bicycle access and to ensure safety, the project includes a continuous landscaping buffer between the sidewalk and the roadway along the corridor, pedestrian lighting and signalized crosswalks.

Phase I- Pedestrian and Bicycle Safety Improvements on Capitol Expressway

This phase will also support the subsequent BRT shelters and amenities at Story and Ocala as part of the new Santa Clara–Alum Rock Bus Rapid Transit (BRT) which will provide service on Capitol Expressway.

Phase II will extend light rail from the existing Alum Rock Light Rail Station to the Eastridge Transit Center. Light rail will operate primarily in the center of Capitol Expressway with elevated track structures crossing Capitol Avenue, Story Road, and Tully Road. The Eastridge extension will include three stations: Story Road, Ocala Avenue (optional), and the reconstruction of the Eastridge Transit Center.

Project Status

- The planning process for improving transit services in the Capitol Expressway Corridor has been ongoing since early 1999.
- In May 2005 and in August 2007, the VTA Board of Directors certified the Final Environmental Impact Report and approved the Light Rail Alternative.
- In order to be eligible for federal funding, VTA is in the process of preparing an Environmental Impact Statement for the Light Rail Alternative.
- Design plans for the light rail improvements and associated utility relocation plans and right-of-way mapping has been completed to a final design level.
- The pedestrian improvement portion of the project along the expressway will be constructed prior to the completion of light rail. This work includes sidewalk, landscaping and street lighting on Capitol Expressway between Capitol Avenue and Quimby Road.
- VTA is in the process of preparing construction documents for these pedestrian improvements.

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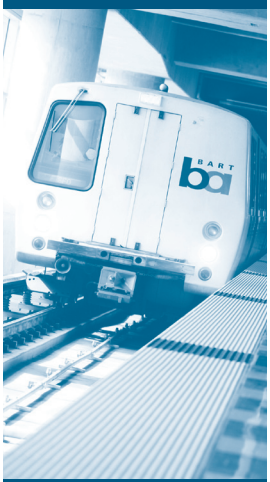


Providing Transit Solutions for Santa Clara County

CELR 9/11/09

Capitol Expressway Light Rail Project

Project Schedule

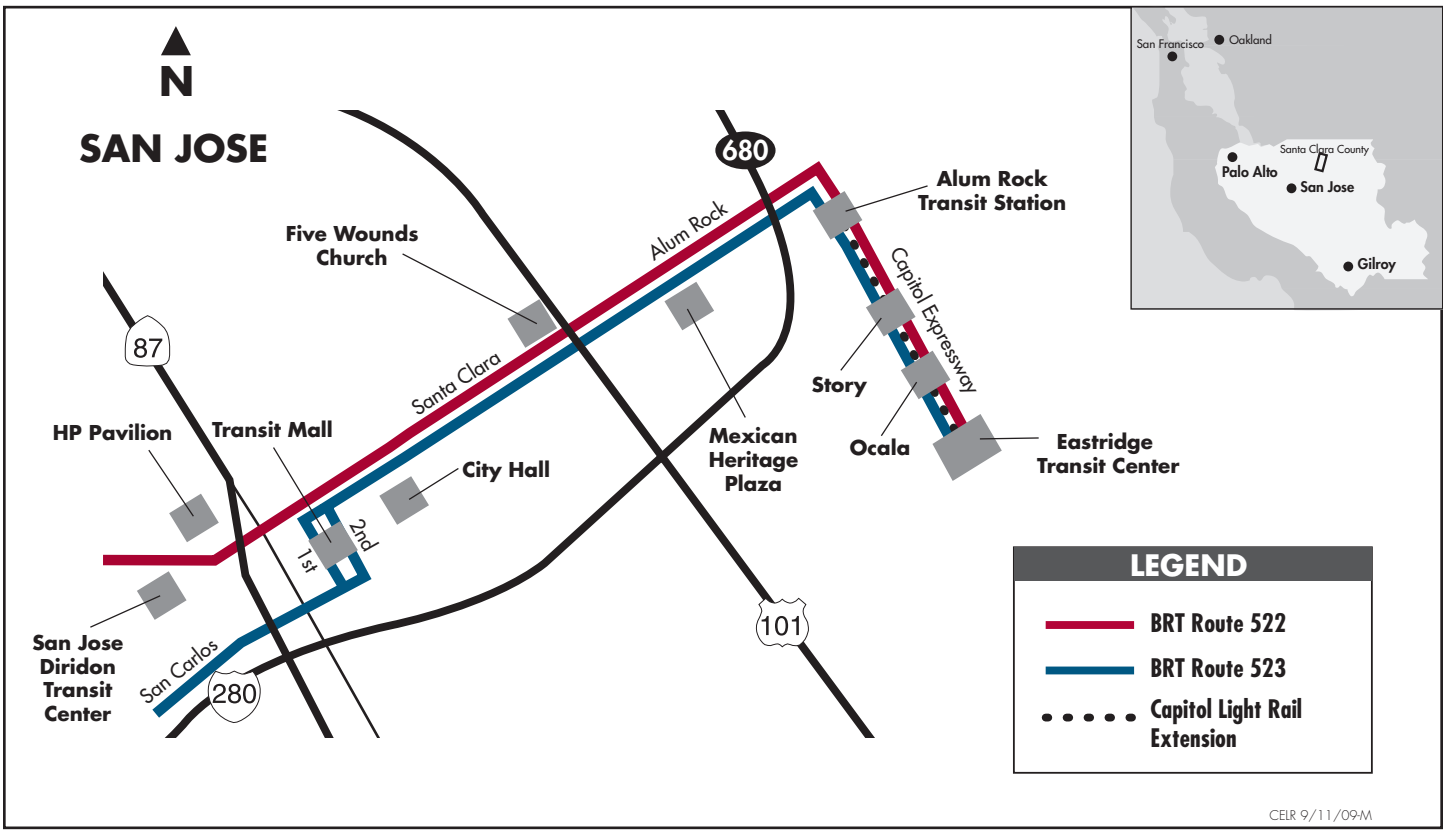
• Obtain federal environmental clearance	Summer 2009 to early 2011
• Acquire property for pedestrian improvements	Begin mid 2010
• Construction for pedestrian improvements	Begin early to mid 2011
• Construction for Eastridge Transit Center and light rail	To be determined based on future funding.

Project Cost

The cost for Phase I Pedestrian and Bicycle Improvements is $25 million, which is included in the approved VTA FY 2010-11 budget. The total cost of the extension of light rail from the Alum Rock Transit Center to Eastridge Transit Center is $334 million. This project is included in the 2000 Measure A Transit Improvements Program.

How to Reach Us

If you have any questions about the Capitol Expressway Light Rail Project, please contact VTA's Community Outreach Department at (408) 321-7575, TTY for the hearing-impaired (408) 321-2330. You may also visit us on the web at *www.vta.org*, or e-mail us at *community.outreach@vta.org.*



VTA Mission: *VTA provides sustainable, accessible, community-focused transportation options that are innovative, environmentally responsible, and promote the vitality of our region.*

Appendix C

Capitol Expressway Light Rail Project
Summary of Comments on the Notice of Intent and Scoping Process

#	Date of Comment	Type of Comment	Topic of Comment	First Name	Last Name	Affiliation	Summary of Comments
1	09/30/09	Verbal	Climate Change	Lowell	Grattan	Resident	Removing HOV lanes will increase GHG
2	09/30/09	Verbal	Construction	Jose	Aguila	Resident	Backyard acquisition and construction impacts to health, air quality (asthma), standard of living
3	09/30/09	Verbal	Environmental Process	Patricia	Martinez-Roach	Resident	Disappointed we are doing another study. Eastridge is always left behind/delayed.
4	09/30/09	Verbal	Environmental Process	Ted	Johnson	Resident	People on the East Side are tired of this. Why is the project always changing
5	09/30/09	Verbal	Financial	Alofa	Talivaa	Sierra N/Assoc.	Weren't the funds already approved?
6	09/30/09	Verbal	Financial	Patricia	Martinez-Roach	Resident	Whey is there no money? What happened to it? We have not been included in the Measure A program. It is not okay to use our tax money on other projects.
7	09/30/09	Verbal	Financial	Ted	Johnson	Resident	Can the money be earmarked so we don't loose it?
8	09/30/09	Verbal	Financial	Tom	Hank	Resident	How does VTA board money get spent?
9	09/30/09	Verbal	Land Use	Ben	Nguyen	Resident	TOD design parntership with CSJ
10	09/30/09	Verbal	Noise/Vibration	Tom	Hank	Resident	Does the N/V study include construction impacts? Underground tunnel design would reduce sound.
11	09/30/09	Verbal	Noise/Vibration	Alofa	Talivaa	Sierra N/Assoc.	Soundwall along Capitol Expressway
12	09/30/09	Verbal	Noise/Vibration	Ian	Kluft	Resident	Combined noise of airport, construction and light rail operations.
13	09/30/09	Verbal	Outreach	Patricia	Martinez-Roach	Resident	Flyer language and translations need to be improved.
14	09/30/09	Verbal	Parking	Chris		Resident	Parking is never full at Eastridge. It be good to do joint parking initiative and expand community plaza.
15	09/30/09	Verbal	Ped/Bike/Land Design	Ian	Kluft	Resident	Ensure ped access via Cunningham and Ocala to Hillview Airport.

Capitol Expressway Light Rail Project
Summary of Comments on the Notice of Intent and Scoping Process

#	Date of Comment	Type of Comment	Topic of Comment	First Name	Last Name	Affiliation	Summary of Comments
16	09/30/09	Verbal	Ped/Bike/Land Design	Chris		Resident	Will there be bike lanes?
17	09/30/09	Verbal	Ped/Bike/Land Design	Tom	Hank	Resident	How will people acess the median?
18	09/30/09	Verbal	Property Acquisition	Alofa	Talivaa	Sierra N/Assoc.	Were residents notified ahead of time regarding ROW takes?
19	09/30/09	Verbal	Property Acquisition	Jose	Aguila	Resident	Fair and equitable process for determining market value and ROW compensation
20	09/30/09	Verbal	Property Acquisition	Larry		Business	Acquisition of Texas BBQ; Request to be informed prior to construction and during project design
21	09/30/09	Verbal	Safety	Patricia	Martinez-Roach	Resident	Ocala and Mt. Pleasant schools, overhead towers, street crossings
22	09/30/09	Verbal	Safety	Chris		Resident	Concern about pedestrian crossings to platforms in median of Capitol Expressway
23	09/30/09	Verbal	Seismic	Tom	Hank	Resident	Earthquake and emergency safety/access and potential impacts to neighboorhoods
24	09/30/09	Verbal	Traffic	Patricia	Martinez-Roach	Resident	Traffic is a large issue
25	09/30/09	Verbal	Traffic	Lowell	Arcadia	Resident	Removing HOV lanes will increase congestion, would feeder buses help to get people to light rail?
26	09/30/09	Verbal	Traffic	Tom	Hank	Resident	Will the speed limit be the same?
27	09/19/09	Written	Green Building	Perry	Mistry	Svpmtech-LabServices	How To Implement Green Building Technologies for Light Rail Projects at VTA
28	10/09/09	Written	Property Acquisition; Noise and Vibration; Safety; Traffic; Construction.	Minh	Hua	Resident	Need update on Property Acquisition; Elimination of HOV lanes will create traffic problems; At-grade pedestrian crossing of the street by using the existing crossing at the Ocala/Capitol Exp. intersection is a terrible idea

Capitol Expressway Light Rail Project
Summary of Comments on the Notice of Intent and Scoping Process

#	Date of Comment	Type of Comment	Topic of Comment	First Name	Last Name	Affiliation	Summary of Comments
29	10/08/09	Written	Cultural	Susan	Stratton	SHPO	SHPO does not routinely engage in NEPA reviews, nor do they accept NEPA documentation in lieu of a proper Section 106 submittal package
30	10/14/09	Written	Transportation; Purpose and Need; Alternatives	Raluca	Nitescu	County	Negative impact from removing the HOV lanes; Revisit BRT Alternative; Project will increase automobile emissions through impacts on intersection levels of service; Project will not "support local economic and land development goals" due to negative impact on road transportation which affects approximately 90% of travelers
31	10/16/09	Written	Alternatives	Raluca	Nitescu	County	It appears that the Base Line Alternative is still very viable and should be evaluated in the Draft EIS; Concerns about operating BRT and LRT concurrently

Capitol Expressway Light Rail Project
Summary of Comments on the Notice of Intent and Scoping Process

#	Date of Comment	Type of Comment	Topic of Comment	First Name	Last Name	Affiliation	Summary of Comments
32	10/15/09	Written	Transportation; Air Quality; Environmental Justice; Alternatives Analysis	Carolyn	Mulvihill	EPA	Disclose impacts to both the regional and local transportation network from removing two HOV lanes; Discuss air quality impacts from operation and construction of the project; Identify effects on the mobility of low-income or minority populations and provide appropriate mitigation; Impacts of facility options should be discussed and appropriate mitigation proposed; Provide justification for eliminating the range of Alternatives analyzed; Analyze whether existing and planned facilities will provide adequate power supply for the project and region; Include a cumulative analysis of energy demand and supply; Identify how industrial materials recycling will be incorporated into the project design; Identify measures to lower adverse noise and vibration impacts, particularly on sensitive receptors or low-income or minority communities
33	09/30/09	Written	Access	Ian	Kluft	Resident	Supports the Eastridge extension; Include access to Reid-Hillview Airport; Post meeting materials on VTA website

From: Fitzwater, Tom
To: Jaworski, Christina; Lee, Keelikolani;
Subject: FW: Request on EIR/EIS comments for Capital Expressway Light Rail Project
Date: Monday, September 21, 2009 11:55:33 AM

For you to file.

From: Childress, Brandi
Sent: Monday, September 21, 2009 11:44 AM
To: 'Perry Mistry'
Cc: Fitzwater, Tom
Subject: RE: Request on EIR/EIS comments for Capital Expressway Light Rail Project

Thank you for your email Perry!

I am forwarding this to the Environmental Resource Program Manager Tom Fitzwater to be included in the EIR comment period. If you have other comments, please send them to Tom.Fitzwater@vta.org.

Thank you,

Brandi Childress
Community Outreach Supervisor
Media Relations and Community Outreach Department
Santa Clara Valley Transportation Authority
(408) 952-4297

From: Perry Mistry [mailto:svpmtech@yahoo.com]
Sent: Saturday, September 19, 2009 9:34 PM
To: Childress, Brandi
Subject: Request on EIR/EIS comments for Capital Expressway Light Rail Project

Perry Mistry
Svpmtech-LabServices
R&D Pilot Projects:EIR-EIS
San jose-CA-USA:
Email; svpmtech@yahoo.com

REF: Tel-Con on Capital expressway LRT Project -Public Comments:

- **I will appreciate a request on How-To Implement /// implementing these listed services and additional consulting services are available for**

Implementing Green Building Technologies for Light Rail Projects at VTA:Santa Clara County Projects/ LRT Projects

- *Brandi Childress*
  Community Outreach Supervisor
  Media Relations and Community Outreach Department
  Santa Clara Valley Transportation Authority
- Childress, Brandi <Brandi.Childress@ vta.org
  (408) 952-4297

-
- Tom Fitzwater, VTA Environmental Programs and
  Resources Management Manager

I have the pleasure of introducing myself Perry Mistry resident of San Jose since 1996 at District 8/Evergreen Valley Region.

The District 8 /Evergreen Valley and Eastridge Mall Extension of Light Rail from Alum Rock to Eastridge is an importantHigh Density Light Rail Project and I would like offer the following Public Comments for Implementation at Design State-Construction Stage-Final Completion of Project Stage:

1. Request to Conduct an Outreach Meeting for Electrical-Engineers Association/ Mechanical Engineers-Civil Engineers-Architects-Chemical engineers & high Tech Manufacturing Companies outreach with SVLG=silicon valley leadership group & Seperate Outreach for Schools-Teachers-Community Colleges-University etc:
2. Seperate Outreach for VC Investors/Venture Capital Community & Financial Investors-Accounting Mngt-Grant Writers-Administrators & retail Business Operators Association:
3. Sepeate Outreach Meetings for Mineta Transportation University Students/and Plan for Intership Programs /Research Projects-Design Projects for Implementing State of Art Green building Technology that is available Globally can be implemented at Capital Expressway-LRT
4. SAN JOSE CITY AND ITS COUNCIL MEMBERS ARE DEVELOPING VISION -NORTH SAN JOSE DEVELOPMENTAL PROJECTS AND THE SAN JOSE-RDA EXPERIENCE GAINED IN THESE DEVELOPMENTAL

PROJECTS AND LOCAL-COMMERCIAL BUILDERS & LOCAL-CONSTRUCTION CONTRACTORS MEETING AND PRESENTATION FOR PUBLIC COMMENTS FOR BUILDERS & CONTRACTORS /request a seperate outreach meeting for Fast Track Implementation Financial Participation/DBOOT Projects/design -build-own-operate and transfer projects OR DBTF/design-build-transfer-finance projects (For details on DBOOT projects & DBFT Projects) please contact Perry Mistry at email svpmtech@yahoo.com:

5. Implement Green Building Technologies that are readily available at West Coast 2008 & West Coast 2009 Green Building Technology Suppliers/ Contractors/Design engineers-Architects/Municipal Architects-Planners for Transportation Projects/Designers for Transportation Projects/Light Rail Projects at usa nationwide & Global Light Rail Contractors/Projects Promoters/ Financiers should be able to participate for Fast Track Completion of Projects and Better Financing Solutions readily available by exploring Global Financial Oppurtunities:
6. DEVELOP A SPECIAL FAST TRACK SERVICES /RAPID TRANSIT LIGHT RAIL SERVICE/ OR NON-STOP SERVICES CONNECTING TO THE TWO MALLS GREAT MALL & EASTRIDGE MALL **FOR MALL SHOPPING & GLOBAL=INTERNATIONAL TOURIST SHOPPING / INTERNATIONAL TOURIST TO SAN JOSE-BAY AREA**:
7. Alum Rock=Eastridge Mall Capital Expressway will have Very Large Concentration of School-Elementary School-Middle school-High School Students /Request to Plan Financial Budget for Free Pass /Annual Pass or Quarterly/Monthly Pass for Students Only /// **Request to Consider Free Pass / Annual Pass-Quarterly Pass/Monthly Pass for k 1 to k12 with provision for Free=parents/elders pass who would like to escort these students To & Fro School to their Home**
8. Provide Drinking Water Facility at Alum Rock to Eastridge Mall on Trial Basis & expand to other stations //// Plan To Have Vendor Machines in Light Rail Coach and On Stations with Provisions for Good Cleaning at Stations/In Coach :
9. Plan for Apartments-Condominiums-Single Family Homes & Request Total Elimination of High Rise Apartments at/near Light Rail ///High Rise Office & R&D Buildings generating Employment at/near Light Rail is ok"
10. **BASED ON GLOBAL OUTREACH FOR FINANCIAL -BUDGET FOR LIGHT RAIL PROJECTS ;DEVELOP A LIGHT RAIL =ENTERPRISE ZONE WITH MAXIMUM BENEFITS RELATED TO TAX INCENTIVES AND PLAN FOR LOCAL CITY=LOCAL RDA-ECONOMIC DEV-DEPT-LOCAL STATE-LOCAL COUNTY- AND MATCHING FEDERAL ECONOMIC STIMULUS GRANTS**

11. **I STRONGLY RECOMMEND TO UTILISE SOLAR POWER - UTILITY SCALE SOLAR POWER FOR SMALL & MEDIUM HIGH TE4CH MNFG /SMALL BUSINESS & R&d OFFICE/SCIENTIFIC LABORATORY**

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Date: October 9, 2009

To: Tom Fitzwater, Environmental Program Manager
3331 North First Street, Building B-2
San Jose, CA 95134-1927
(408) 321-5789 (phone); (408) 321-5787 (fax)

Re: *Capitol Expressway Light Rail Extension Project*

After attending the Sep. 30th meeting at Eastridge Mall on the Environmental Impact Study and having a chance to look at the sketch of proposed extension, I have the following requests and concerns that need to be addressed.

1. I need specific details of the impact the project will have on my property at the location indicated above.
2. I need an update on the property acquisition process. I have been getting many letters in the last 3 years (2007 to now), but nothing has materialized. The uncertainty of the timeline of the project as well as the lack of commitment from the City on what it's going to do is unfair to the property owner. It makes it difficult for me to create any short or long term plans for the property.
3. The Environment Impact Study to include the followings
    a. Additional noise and vibration from the Light rail and any other structures
    b. Impact on neighborhood security and serenity because of additional people and traffic coming to the area.
    c. Parking spaces for people using/working on the Light Rail
    d. Impact on local neighborhood traffic
4. For the Environment Impact Study to include the followings during the construction phase:
    a. An estimate of the construction date and duration.
    b. Hours of operations
    c. Noise and vibration
    d. Closure of streets or impact on normal traffic.
    e. Any utilities interruption
    f. Any compensation provided to the property owners/renters during construction because they can not stay at the property due to construction activities.
5. The elimination of the two OHV lanes is going to create more traffic problems and more congestion on Capitol Expressway. Going from eight lanes to six lanes is a 25% reduction in capacity. A lot of drivers now are using residential streets (i.e. Leeward Drive) to bypass the clogged Capitol Expressway; the increase congestion on Capitol Expressway is going to force more drivers to use the residential streets. The additional bike lanes and pedestrian sidewalks in a crowded expressway make no sense.
6. The current plan calls out for riders going to the Light rail stations, and pedestrian crossing the street by using the existing crossing at the Ocala/Capitol Exp. intersection is a terrible idea. There should be a dedicated aerial pedestrian crossing. Many accidents and red light violations have occurred at this particular intersection.

Sincerely,

Minh Hua

Minh H. Hua
Resident & Property Owner
1698 Silverstone Place
San Jose, CA 95122

From: Hurley, Kim
To: Lee, Keelikolani; Jaworski, Christina;
Subject: FW: Consultation
Date: Thursday, October 08, 2009 8:21:51 AM

FYI

From: Stratton, Susan [mailto:SSTRATTON@parks.ca.gov]
Sent: Wednesday, October 07, 2009 5:09 PM
To: Hurley, Kim; Donaldson, Milford; Lindquist, Natalie
Subject: Consultation

Kim,

The SHPO looks forward to engaging in Section 106 consultation when initiated for the Capitol Expressway Light Rail project. We do not routinely engage in NEPA reviews, nor do we accept NEPA documentation in lieu of a proper Section 106 submittal package.

Please remember that Section 106 consultation needs to be concluded prior to the signing of the ROD. Should you have specific 106 questions, contact Natalie Lindquist, the staff reviewer currently assigned to this project. Natalie may be reached at 916 654 0631.

Thank you,
Susan Stratton

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

October 14, 2009

Mr. Tom Fitzwater, AICP
Manager, Environmental Programs Planner, FTA
Valley Transportation Authority
3331 North First Street
San Jose, CA 95134-1927

Subject: Notice of Intent (NOI) to prepare a Supplemental Draft Environmental Impact Statement (EIS) for the Capitol Expressway Light Rail Project in the City of San Jose

Your September 2, 2009 letter along with the attachments for the subject project have been received by our office. Our comments on NOI are as follows:

1. Page 5 indicates:

   "Property acquisition for the project will be minimized through of the removal of two High. Occupancy Vehicle (HOV) lanes on Capitol Expressway."

   However the Draft EIS does not discuss the negative traffic impact of this action. In order to prevent excessive traffic congestion (this traffic already backs up onto southbound Highway 680 in the PM) and minimize project impact, we previously suggested the fourth lane should be kept from Hwy. 680 to at least Story Road. The number one southbound lane can become a double left turn lane to eastbound Story Road and the number four lane northbound can start at Story Road as a free running right turn lane from westbound Story.

   Additionally, VTA's planned Bus Transit System indicates that Bus Rapid Transit (BRT) Route 522 and Route 523 will be utilizing the Capitol Expressway High Occupancy Vehicle (HOV) lanes to connect to Eastridge Transit Center. This is part of the extension of the Santa Clara - Alum Rock routes which serve the highest number of passengers in VTA's network, as stated in VTA's marketing information. Serving the Capitol route with BRT was an option in the project's now long ago Major Investment Study. We encourage revisiting the BRT option as the fully built out alternative.

2. Page 6 indicates:

   Capitol LRT offers "convenient access to downtown San Jose."
   Going by way of Milpitas is not convenient access.

The project will "improve regional air quality by reducing the growth in the automobile emissions".
The project will increase automobile emissions through impacts on intersection levels of service, impacts that will far outweigh any theoretical reduction in automobile trips.

including U.S. 101 (Guadalupe Corridor)".
Should this say Hwy. 85 and Hwy. 87, rather than U.S. 101?

3. Page 7 indicates:

   The project will "support local economic and land development goals"
   It appears that this is not possible due to negative impact on road transportation which affects approximately 90% of travelers.

   "A Baseline Alternative representing the optimal level of bus service that could be provided in the corridor without an investment in major new infrastructure is not proposed".
   Our question: Why not? It seems likely that upward trending BART costs along with downward trending VTA sales tax revenue will eventually force a postponement of the Capitol LRT to a date so distant this environmental document will require a complete reassessment to align with facts on the ground when that time comes. With the next generation of plug-in hybrids and other rapidly developing automotive technologies, those facts could include a completely changed perspective about the relative financial and environmental costs of mode choice. Whether reached now or at a distant future date, a credible conclusion is the LRT extension generates too few riders to justify the expense, particularly when more economically viable alternatives are available.

Thank you for the opportunity review and comment on this application. If you have any questions, please contact me at (408)573-2464.

Sincerely,

Raluca Nitescu, PE
Associate Civil Engineer

cc: DEC, MA, MLG, TH, WRL, File

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

October 16, 2009

Mr. Tom Fitzwater, AICP
Manager, Environmental Programs and Resources Management
Valley Transportation Authority
3331 North First Street
San Jose, CA 95134-1927

Subject: Scoping Information Packet for the Capitol Expressway Light Rail Project in the City of San Jose

Your September 29, 2009 e-mail along with the attachments for the subject project have been received by our office. Our comments on the Scoping Packet are as follows:

1. Page 2 of the Coordination Plan states that the original environmental document published in 2004 has analyzed:

    1. No Project Alternative
    2. Base Line Alternative
    3. Light Rail Alternative.

    Currently, VTA is preparing a new Draft EIS that will replace the 2004 Draft EIS. However, as stated on Page 5 of the Scoping Packet, the new EIS will not evaluate alternative (2), Base Line Alternative. It appears that the Base Line Alternative is still a very viable alternative. For the EIS to be complete, alternative (2) should also be evaluated in the new EIS, even if investment in new infrastructure is required. Since alternative (3), Light Rail Alternative, will require infrastructure investment in all likelihood far exceeding investment requirements of alternative (2), these two alternatives (Light Rail and Base Line) should both be evaluated in the new EIS.

2. In our letter dated May 15, 2000, in response to VTA's Major Investment Study (MIS, see attachment), it was mentioned that Alternative 8 (Bus Service) Improvements) has many advantages, and Alternative 8 was recommended for further study. Bus Rapid Transit (BRT) was identified as one of the alternatives in the MIS. Despite VTA's plans to not include a bus option in this EIS, other available information indicates that VTA is planning to introduce a BRT line on Capitol Expressway in the same area as the proposed Light Rail service. There is no indication the BRT will be an "interim" service, in fact VTA management has presented the concept of operating both the BRT service and the LRT in the same Capitol Expressway corridor (at SBTOA meeting October 13, 2009). We believe it is difficult to demonstrate cost effectiveness of the LRT even without the competition of the BRT, and it would seem to make more sense to implement and evaluate the operation of the BRT before making funding commitments to both options at the same time.

If you have any questions, please contact me at (408)573-2464.

Sincerely,

Ralnica Nitescu, PE
Associate Civil Engineer

Attachment: Letter dated May 15, 2000

cc: DEC, MA, MLG, TH, WRL, File

Dan

County of Santa Clara
Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302

May 15, 2000

Ms. Julie Render
Principal Transportation Planner
Santa Clara Valley Transportation Authority
3331 North First Street
San Jose, CA 95134-1906

Subject: Downtown/East Valley Major Investment Study

Dear Ms. Render:

We appreciate the time you and your staff have taken advising us of the subject study. We are in receipt of your letters of March 30, 2000 and April 10, 2000, transmitting various related documents. Our comments follow:

As you are aware, Capitol Expressway is an important transportation facility that is operated and maintained by the County. The County has long planned for HOV lanes on Capitol, and participated in the design and construction of the currently existing HOV lanes east of US101 as part of the Evergreen Development traffic mitigation.

Given our in place HOV facilities, we have reviewed your documents with interest to see how these existing investments play a part in the planned transportation improvements. Conceptual Alternatives 8, 9, 10, and 16 have elements that include use of the existing HOV lanes. None of the options appears to include full build out of the planned Capitol HOV lanes (Alternative 16 is so vaguely described it is difficult to tell what might be included), none include direct HOV connector ramps at Capitol, and none discuss HOV connection to northbound I-680. Despite this, it is noted that in "Working Paper: Evaluation of Conceptual Alternatives (December 1999)" Alternate 8 has as many positive scorings as the LRT options, and is recommended for further study. Alternative 10 is also recommended for further study, but not Alternative 9, which appears from the scoring to be the better alternative. We look forward to review of whatever further analysis is done.

Based on our meetings, communication, and the documents reviewed to date we are concerned there may be a desire to conclude positively for the LRT option regardless of quantifiable study results. The preliminary ridership numbers don't seem to justify the removal of existing transportation capacity at a time when transportation demand is growing. Our preferred alternative is the alternative which best uses the reasonable rights-of-way limits of Capitol to provide the most effective transportation corridor (effective= expressway person capacity/ expressway person delay) with the most efficient use of transportation funds (efficient= expressway person capacity/ improvement costs).

As discussed at our recent meetings, we share your concern with traffic service levels at Capitol and Story Road and look forward on working with VTA, the City of San Jose, and the local community on identification of possible improvements.

If VTA proceeds with further development of the LRT option, we feel it is important that the expressway be studied intersection by intersection for appropriate safety auxiliary lane/ turning pocket storage provisions. Impacts of removal of a lane on Capitol to add LRT will be worsened if provisions for turning movements are not carefully considered and backups block through lanes.

The LRT cross section developed in "Refined Definition of Conceptual Alternatives SUMMARY WORKING PAPER" (Figure 11) does not address the prior comment. We look forward to working with your designers as more specific plans are developed. At present we have the following concerns with the proposed section and aerial concept sketch:

- Median trees will not be permitted in the narrow median strips without additional safety provisions. At our meeting we discussed aligning the rail off center to allow a wider one-sided median landscape area.

- Shoulder areas on Capitol should be delineated.

- We have committed to improving pedestrian provisions along Capitol, and over the last few years have spent a considerable amount of time and money installing both asphalt and portland cement concrete walks. The LRT work should improve on the sidewalk along Capitol.

- Trees will not be permitted immediately behind the curb as shown in the sketch. Safety setback will be required.

- Maintenance of landscaping will need to be resolved. County cannot supply resources for any new expressway landscaping.

- Prior commitments have been made that LRT will be responsible for improvement of sound walls along Capitol Expressway

We appreciate this opportunity to review VTA's plans for Capitol Expressway.

Sincerely,

Rollo Parsons

for Michael J. Murdter
Director

Cc: Rollo Parsons, Jim Randall, Dan Collen, Masoud Akbarzadeh

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

October 15, 2009

Eric Eidlin
Federal Transit Administration
201 Mission Street, Suite 1650
San Francisco, California 94105

Subject: Scoping Comments for the Capitol Expressway Light Rail Project, Santa Clara County, California

Dear Mr. Eidlin:

The U.S. Environmental Protection Agency (EPA) has reviewed the Notice of Intent (NOI) published in the Federal Register on September 16, 2009, by the Federal Transit Administration (FTA) to prepare a Supplemental Draft Environmental Impact Statement (SDEIS) for the Capitol Expressway Light Rail Project. The project proposes a 2.3 mile extension of an existing light rail line along the Capitol Expressway from the existing Alum Rock Station to the Eastridge Transit Center in the City of San Jose. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) regulations (40 CFR 1500-1508) and Section 309 of the Clean Air Act.

EPA appreciates the opportunity to provide comments for preparation of the SDEIS for this project. We provided comments on the NOI for the original DEIS on November 1, 2001 and on the DEIS on June 25, 2004. Our comments below reflect the concerns we expressed in our comments on the DEIS and which we recommend be addressed in the SDEIS.

While EPA supports the project's goal of providing improved transit service, which could increase transit mode share and reduce air quality impacts from automobile emissions, we have concerns about various aspects of the proposed project based on our review of the proposal as identified in the DEIS in 2004 and based on information provided in the recent NOI. Our concerns are based on the project's transportation impacts, and subsequent air quality and environmental justice impacts, and the impacts of various facility options. We also continue to recommend that additional information regarding alternatives analysis and energy use be included in the SDEIS.

Transportation Impacts

The NOI states that the proposed project would remove two High Occupancy Vehicle (HOV) lanes on the Capitol Expressway. As we stated in our comments on the DEIS, the removal of these lanes could have impacts on both local circulation and on the regional transportation network, since completion of a regional HOV lane network has been a regional goal to facilitate express bus service and to provide overall congestion management.

The SDEIS should disclose the impacts to both the regional and local transportation network from removing a segment of the regional HOV network. The discussion should include the long-term impacts to existing and future express bus service, and provide an estimate of travel time increases for express bus users and other HOV lane users.

Air Quality

The San Francisco Bay Area is federally designated marginal nonattainment for the 8-hour ozone standard. Because of the area's nonattainment status, it is important to reduce emissions of ozone precursors resulting from the project. While the project has the potential to reduce air quality impacts by supporting transit service that could reduce automobile use, implementation of the project may result in impacts to air quality resulting from changes to traffic operations, parking, and local circulation. The SDEIS should include a thorough analysis of these potential air quality impacts for each of the alternatives and identify opportunities to reduce emissions.

The San Francisco Bay Area will also be designated as non-attainment for the 24-hour National Ambient Air Quality Standard (NAAQS) for fine particulate matter ($PM_{2.5}$). On October 8, 2009, EPA issued final area designations, including the San Francisco Bay Area, as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The designation will be effective 30 days after publication in the Federal Register, which is expected to occur within the next several weeks. EPA recommends addressing the new 24-hour $PM_{2.5}$ NAAQS San Francisco Bay Area designation in the SDEIS and incorporating mitigation measures to address project $PM_{2.5}$ emissions. For the latest information on the 24-hour $PM_{2.5}$ NAAQS area designations and timelines for implementing the standard, please visit EPA's website at http://www.epa.gov/pmdesignations/2006standards/regs.htm#4 .

As we stated in our DEIS comments, impacts to traffic levels of service in the vicinity of the project would have air quality impacts. The SDEIS should discuss these impacts, and identify and discuss mitigation as appropriate. The air quality impacts related to the transfer of HOV lane users to other routes or modes of transportation, particularly single-occupant vehicles, should also be discussed and mitigation proposed if significant impacts will result. Further, the SDEIS should discuss the impact of the removal of two HOV lanes on the region's NAAQS attainment status.

The SDEIS should also address potential air quality impacts during the construction period. EPA recommends that the following mitigation measures be included in the SDEIS to reduce construction emissions:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate. This applies to both inactive and active sites, during workdays, weekends, holidays, and windy conditions.
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Reduce use, trips, and unnecessary idling from heavy equipment.
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification, where applicable, levels and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications. The California Air Resources Board has a number of mobile source anti-idling requirements which could be employed. See their website at: http://www.arb.ca.gov/msprog/truck-idling/truck-idling.htm
- Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
- If practicable, lease new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, use equipment meeting Tier 3 or greater engine standards and commit to the best available emissions control technology. Tier 3 engine standards are currently available; for some equipment Tier 4 is available for the 2009-model year and should be used for project construction equipment to the maximum extent feasible. Lacking availability of non-road construction equipment that meets Tier 3 or greater engine standards, commit to using the best available emissions control technologies on all equipment.
- Utilize EPA-registered particulate traps and other appropriate controls where suitable to reduce emissions of particulate matter and other pollutants at the construction site.

Administrative controls:

- Identify all commitments to reduce construction emissions and update the air quality analysis to reflect additional air quality improvements that would result from adopting specific air quality measures.

- Identify where implementation of mitigation measures is rejected based on economic infeasibility.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. (Suitability of control devices is based on: whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.) Meet EPA diesel fuel requirements for off-road and on-highway, and where appropriate use alternative energy sources such as natural gas and electric.
- Develop a construction traffic and parking management plan that minimizes traffic interference and maintains traffic flow.
- Identify sensitive receptors in the project area, such as children, elderly, and infirm, and specify the means by which you will minimize impacts to these populations. For example, locate construction equipment and staging zones away from sensitive receptors and fresh air intakes to buildings and air conditioners.

Environmental Justice and Community Involvement

The SDEIS should identify how the proposed alternatives may affect the mobility of low-income or minority populations in the surrounding areas and provide appropriate mitigation measures for any anticipated adverse impacts. This issue is of special concern to EPA for this project, since the removal of HOV lanes could adversely impact existing bus service and other users of the HOV lanes.

Executive Order 12898 addresses Environmental Justice in minority and low-income populations, and the Council on Environmental Quality has developed guidance concerning how to address Environmental Justice in the environmental review process (http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf). Future environmental justice analyses for this project and the SDEIS should include a description of the area of potential impact used for the analysis and provide the source of the demographic information. The SDEIS should identify whether the proposed alternatives may disproportionately and adversely affect low-income or minority populations in the surrounding area and should provide appropriate mitigation measures for any adverse impacts.

Community involvement activities for the project should include opportunities for incorporating public input to promote context sensitive design, especially in Environmental Justice communities.

Light Rail Facilities and Options

The DEIS described three potential sites for a vehicle storage facility and our DEIS comments requested disclosure of the direct, indirect, and cumulative impacts anticipated from construction and operation of the facility at each of the three potential

locations. The SDEIS should clarify whether the storage facility is still part of the proposed project and, if so, what the impacts of that facility would be.

The NOI states that the existing transit center at the Eastridge Mall would be modified and expanded to accommodate the project. Our DEIS comments requested disclosure of the direct, indirect, and cumulative impacts anticipated from construction and operation of the previous two proposed parking lots, and we reiterate this request that the impacts of the transit center expansion be discussed in the SDEIS.

The DEIS discussed station options of at-grade, aerial, and depressed open-air platforms and either aerial, at-grade, or tunnel alignment options. We requested that the impacts of each of these options be clarified, and we reiterate that the impacts of any of the options being considered should be discussed in the SDEIS and appropriate mitigation measures proposed.

Alternatives Analysis

Our comments on the DEIS requested that the Final Environmental Impact Statement (FEIS) provide a justification for eliminating the range of alternatives analyzed through the 1999 Major Investment Study (MIS) as well as other previously studied alternatives. EPA recommends that the SDEIS include in the range of alternatives analyzed both the continued use of HOV lanes and/or additional express bus service. The SDEIS should include the justification for eliminating these alternatives from detailed analysis if they are not included within the range of alternatives analyzed. Any justification for elimination should include confirmation that there is no new, substantive information that has become available since the previous analyses that led to previously eliminated alternatives. The SDEIS should include a summary of any previous analysis of traffic and other impacts resulting from the eliminated alternatives, especially in light of the fact that construction of the proposed light rail may increase congestion levels and reduce levels of service throughout the corridor.

Energy Usage and Efficiency

The DEIS stated that the proposed light rail alternative was expected to increase annual electricity use by VTA and decrease use of diesel fuel and gasoline, and that successful implementation of the proposed project depended on the availability of sufficient sources of energy. Information presented in the DEIS identified that future supply was expected to be adequate to meet growth in demand due to the project "if the current trend toward increased transmission capacity continues." The energy analysis did not take into consideration the cumulative impact of other planned projects that will also increase demand on the existing energy supply.

As we requested in our 2004 comment letter, the SDEIS should analyze whether existing and planned facilities will provide adequate power supply for the proposed project and the region. Include a cumulative impact analysis of the proposed project and other reasonably foreseeable projects that will also increase demand on the regional

energy supply. Some reasonably foreseeable projects include: (1) the extension of Bay Area Rapid Transit to Warm Springs and/or to San Jose and Santa Clara, (2) the electrification of Caltrain, (3) the development of the California High Speed Rail system, and (4) other light rail extensions planned in the region.

For the construction of new infrastructure EPA recommends industrial materials recycling, or the reusing or recycling of byproduct materials generated from industrial processes. Nonhazardous industrial materials, such as coal ash, foundry sand, construction and demolition materials, slags, and gypsum, are valuable products of industrial processes. Industrial materials recycling preserves natural resources by decreasing the demand for virgin materials, conserves energy and reduces greenhouse gas emissions by decreasing the demand for products made from energy intensive manufacturing processes, and saves money by decreasing disposal costs for the generator and decreasing materials costs for end users. EPA recommends that, for any new construction proposed, the SDEIS identify how industrial materials recycling can be incorporated into project design. More information can be found at: http://www.epa.gov/epawaste/conserve/rrr/imr/index.htm.

Noise and Vibration Impacts

The NOI stated that based on the findings of the Final and Supplemental Environmental Impact Report, it is anticipated that the project will result in adverse noise and vibration impacts. EPA encourages FTA to identify mitigation measures to lower these impacts, particularly if they will impact sensitive receptors or low-income or minority communities.

We appreciate the opportunity to provide comments on the preparation of the SDEIS, and look forward to continued participation in this process as more information becomes available. When the SDEIS is released for public review, please send two copies to the address above (mail code CED-2). If you have any questions, please contact me at 415-947-3554 or mulvihill.carolyn@epa.gov.

Sincerely,

Carolyn Mulvihill

Carolyn Mulvihill
Environmental Review Office

cc: Tom Fitzwater, VTA
David Burch, Bay Area Air Quality Management District

YOUR OPINION COUNTS

Date: 9/30/09 Name of Project: Eastridge LRT

I have a question/comment about:

- I support the Eastridge extension
- Please make sure there is pedestrian access from and to Reid-Hillview Airport to connect the two transportation resources
- Please post all the meeting materials on the VTA web site

I would like more information about:

☒ Design Features ☐ Community Meetings ☐ Funding
☐ Property Acquisition ☐ Environmental Effects ☐ Schedule
☐ Construction Impacts ☐ Other: _____

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call the Community Outreach Line at (408) 321-7575. Thank you for your interest.

Name Ian Kluft

Address 1708 Goldentree Dr

City: SJ State: CA Zip: 95131

Phone: _____ Best time to call: _____

Fax: _____ E-mail: ik-vta@thunder.sbay.org

0806-6409

VTA Santa Clara Valley Transportation Authority

YOUR OPINION COUNTS

Date: 9-30-09 Name of Project: EAST RIDGE LIGHT-RAIL

I have a question/comment about:

? Increase in road Congestion and GHG.

I would like more information about:

☐ Design Features ☐ Community Meetings ☐ Funding
☐ Property Acquisition ☐ Environmental Effects ☐ Schedule
☐ Construction Impacts ☐ Other: _____

Thank you for your comments. If you would like us to respond or be included in our mailing list, please fill out the information below. You may also call the Community Outreach Line at (408) 321-7575. Thank you for your interest.

Name LOWELL GRATTAN

Address 204 CASITAS BLVD.

City: LOS GATOS State: CA Zip: 95032

Phone 408 379-2350 Best time to call: _____

Fax: 379-2355 E-mail: _____

0806-6409

VTA Santa Clara Valley Transportation Authority