

TRANSIT PLANNING & OPERATIONS COMMITTEE

Thursday, April 21, 2011
4:00 PM

VTA Conference Room B-104
3331 North First Street
San Jose, CA

AGENDA

CALL TO ORDER

1. ROLL CALL

2. RECESS TO CLOSED SESSION

Anticipated Litigation-Conference with Legal Counsel
[Government Code Section 54956.9(c)]

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: One case

RECONVENE TO OPEN SESSION

3. CLOSED SESSION REPORT

4. PUBLIC PRESENTATIONS:

This portion of the agenda is reserved for persons desiring to address the Committee on any matter not on the agenda. Speakers are **limited to 2 minutes**. The law does not permit Committee action or extended discussion on any item not on the agenda except under special circumstances. If Committee action is requested, the matter can be placed on a subsequent agenda. All statements that require a response will be referred to staff for reply in writing.

5. ORDERS OF THE DAY

CONSENT AGENDA

6. Approve the Regular Meeting Minutes of March 17, 2011.

REGULAR AGENDA

7. Receive a report regarding the Committee for Transit Accessibility Activities. (Verbal Report) (Morrow)
8. ACTION ITEM - Authorize the General Manager to execute a contract with KONE Elevators and Escalators, the lowest responsible and responsive bidder, in the amount of \$4,824,750 for construction of the Guadalupe South Line Elevator and Escalator Retrofit. This contract is 70% federally funded.
9. ACTION ITEM - Authorize the General Manager to execute a contract with Con Quest Constructors, Inc., the lowest responsible and responsive bidder, in the amount of \$7,266,140, for the construction of Agua Fria, Toroges and Agua Caliente Creek Improvements. This contract is funded by 2000 Measure A, the City of Fremont and Alameda County Flood Control District.
10. ACTION ITEM - Authorize the General Manager to execute a Cooperative Agreement with the City of Fremont in an amount not to exceed \$3.44M for construction costs related to the Agua Fria Creek improvements. Under the proposed agreement, VTA's financial obligation will be limited to \$1.12M and funded by 2000 Measure A.
11. ACTION ITEM - Authorize the General Manager to enter into a master agreement with the City of Fremont in support of the BART Silicon Valley Project.
12. ACTION ITEM - Authorize the General Manager to execute a contract amendment with Rajappan & Meyer Consulting Engineers, Inc. in a not to exceed amount of \$1.5 million for a new contract total amount of \$28,989,916 and extend the contract through November 30, 2014, to perform design support services during construction of the pedestrian improvements, and final design and design support services during construction for the bus stop improvements of the Capitol Expressway Light Rail Project. This contract is 100% funded by the 2000 Measure A Program.
13. INFORMATION ITEM - Receive informational presentation on the Santa Clara Alum Rock Rapid Transit Project - Draft Relocation Plan.

OTHER ITEMS

14. Receive a report on Marketing/Sales and Promotions Peer Review. (Helm) (Verbal Report)
15. Receive a report on the March 2011 Monthly Ridership and Fare Revenue Performance. (Verbal Report)
16. Items of Concern and Referral to Administration.

17. Review Committee Work Plan. (D. Smith)
18. Committee Staff Report. (D. Smith)
19. Chairperson's Report. (Larsen)
20. Determine Consent Agenda for the May 5, 2011 Board of Directors Meeting.
21. **ANNOUNCEMENTS**
22. **ADJOURN**

In compliance with the Americans with Disabilities Act (ADA), those requiring accommodations or accessible media for this meeting should notify the Board Secretary's Office 48 hours prior to the meeting at (408) 321-5680 or e-mail: board.secretary@vta.org, (408) 321-2330 (TTY only). VTA's Homepage is located on the Web at: <http://www.vta.org/> or visit us on Facebook <http://www.facebook.com/scvta>.

Disclosure of Campaign Contributions to Board Members (Government Code Section 84308)
In accordance with Government Code Section 84308, no VTA Board Member shall accept, solicit, or direct a contribution of more than \$250 from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency. Any Board Member who has received a contribution within the preceding 12 months in an amount of more than \$250 from a party or from any agent or participant shall disclose that fact on the record of the proceeding and shall not make, participate in making, or in any way attempt to use his or her official position to influence the decision. A party to a proceeding before VTA shall disclose on the record of the proceeding any contribution in an amount of more than \$250 made within the preceding 12 months by the party, or his or her agent, to any Board Member. No party, or his or her agent, shall make a contribution of more than \$250 to any Board Member during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. The foregoing statements are limited in their entirety by the provisions of Section 84308 and parties are urged to consult with their own legal counsel regarding the requirements of the law.

All reports for items on the open meeting agenda are available for review in the Board Secretary's Office, 3331 North First Street, San Jose, California, (408) 321-5680, the Monday, Tuesday, and Wednesday prior to the meeting. This information is available on VTA's website at <http://www.vta.org/> and also at the meeting.

**NOTE: THE BOARD OF DIRECTORS MAY ACCEPT, REJECT OR MODIFY
ANY ACTION RECOMMENDED ON THIS AGENDA.**

Transit Planning & Operations Committee

Thursday, March 17, 2011

MINUTES

CALL TO ORDER

The Regular Meeting of the Transit Planning and Operations (TP&O) Committee was called to order at 4:23 p.m. by Chairperson Larsen in Conference Room B-104, Valley Transportation Authority (VTA), 3331 North First Street, San Jose, California.

1. ROLL CALL

Attendee Name	Title	Status
Margaret Abe-Koga	Member	Absent
Xavier Campos	Vice Chairperson	Present
Rich Larsen	Chairperson	Present
Sam Liccardo	Member	Present
Jamie Matthews	Alternate Member	Absent
Nancy Pyle	Alternate Member	N/A

***Alternates do not serve unless participating as a Member.**

A quorum was present.

2. PUBLIC PRESENTATIONS

Raymond Rodriguez, Interested Citizen, expressed concern with the intersection of Almaden and Willow Glen Way which houses a high population of seniors but the closest bus stop is located approximately a mile away.

Richard Zappelli, representing the Willow Glen Neighborhood Association, expressed concern with the lack of transit service in the Almaden/Willow Glen area noting the obstacles seniors and disabled persons have accessing public transportation.

Diann Welbourne, Interested Citizen, expressed concern with and provided suggestions for the transportation route in the Almaden/Willow Glen area.

Michael T. Burns, General Manager, indicated staff is aware of the issue and will meet with representatives from the community to further learn about this request and evaluate their recommendations. Staff will provide an update on or before the next TPO Meeting.

3. **ORDERS OF THE DAY**

Dan Smith, Chief Operations Officer and Staff Liaison, noted changes were made to the Call to Order and the numbering of the February TPO Meeting minutes.

On order of Chairperson Larsen and there being no objection, the Committee received the Orders of the Day.

CONSENT AGENDA

4. **Minutes of February 17, 2011 TPO meeting**

M/S/C (Liccardo/Campos) to approve the Minutes of February 17, 2011.

REGULAR AGENDA

5. **Report from the Committee for Transit Accessibility (CTA) Activities**

There was no report from the Committee for Transit Accessibility.

6. **California Transit Security Grant Program-California Transit Assistance Fund**

John Ristow, Chief CMA Officer, provided a report and background information on the grant received for transit security projects.

A discussion ensued regarding surveillance on vehicles, light rail platforms, and at transit malls.

M/S/C (Liccardo/Campos) to approve submitting a recommendation to the Board of Directors to adopt a resolution authorizing the General Manager to submit and execute grant applications and agreements, certifications, assurances, and other documents as necessary to the California Emergency Management Agency (Cal EMA) to receive \$3,329,471 from the FY10-11 California Transit Security Grant Program-California Transit Assistance Fund (CTSGP-CTAF).

7. **Capitol Expressway Pedestrian Improvements**

Mark Robinson, Chief Engineering and Construction Officer, provided a brief report on improvements planned for design services on Capitol Expressway.

M/S/C (Campos/Liccardo) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to execute an amendment to the Cooperative Agreement with the City of San Jose, in the amount of \$150,000, to perform design services during construction of the Capitol Expressway Pedestrian Improvements for a total contract amount of \$459,225, and extend the agreement through June 30, 2012. This amendment is 100% funded by the 2010 State Transportation Improvement Program.

NOTE: M/S/C MEANS MOTION SECONDED AND CARRIED AND, UNLESS OTHERWISE INDICATED, THE MOTION PASSED UNANIMOUSLY.

8. Light Rail Left Hand Turn and Track Intrusion Project Phase IIA

Mr. Robinson provided information on Light Rail Left Hand Turn and Track Intrusion Project and the safety improvements at crossings along the light rail corridor.

M/S/C (Liccardo/Campos) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to execute a contract with Pacific Electric Contracting, Inc. in an amount of \$381,930 for the construction of the Light Rail Left Hand Turn and Track Intrusion Project Phase IIA. This contract is 80% funded by Federal Grant funds (Section 5309-Fixed Guideway Modernization Formula Grant), with VTA Enterprise funds providing a 20% match.

9. April 2011 Transit Service Changes

Jim Unites, Deputy Director, Operations, provided information on the April 2011 Transit Service changes noting minor changes to schedules due to current traffic conditions.

Chairperson Larsen questioned if VTA can accommodate changes requested by the Willow Glen community.

Mr. Unites indicated the area is difficult to provide service to, but staff will continue to look at it and provide a report to the Board.

On order of Chairperson Larsen and there being no objections, the Committee received a report on the April 2011 Transit Service Changes.

OTHER ITEMS

10. February 2011 Monthly Ridership Report

Joonie Tolosa, Manager, Operations Analysis and Reporting, provided report on the February 2011 Monthly Ridership Report noting there was an increase system wide notably in Light Rail Express ridership.

On order of Chairperson Larsen and there being no objection, the February 2011 Monthly Ridership Report was received.

11. Items of Concern and Referral to Administration

Member Liccardo requested staff provide information on transit service in the Willow Glen area and keep the Board informed on decisions.

Chairperson Larsen questioned the status of route tracking software program for VTA transit vehicles.

Mr. Burns noted there have been problems with the contractor and indicated staff will provide a response and agenda for the next meeting.

12. Committee Work Plan

Mr. Smith reviewed the work plan calling attention to BART items, Agua Caliente/Agua Fria construction award, and the Southline elevator and escalator project which are scheduled for the April Agenda.

On order of Chairperson Larsen and there being no objection, the Committee Work Plan was reviewed.

13. Committee Staff Report

On order of Chairperson Larsen and there being no objection, the Committee Staff Report was received.

14. Chairperson's Report

Chairperson Larsen informed the Committee the Ad-hoc Recovery Enhancement Committee (REC) will be reviewing marketing programs and technology and providing a report to the Board in June.

On order of Chairperson Larsen and there being no objection, the Chairperson's Report was received.

15. Determine Consent Agenda for the March 3, 2011 Board of Directors Meeting.

Consent Agenda:

Agenda Item #6., Adopt a resolution authorizing the General Manager to submit and execute grant applications and agreements, certifications, assurances, and other documents as necessary to the California Emergency Management Agency (Cal EMA) to receive \$3,329,471 from the FY10-11 California Transit Security Grant Program-California Transit Assistance Fund (CTS-GP-CTAF).

Agenda Item #7., Authorize the General Manager to execute an amendment to the Cooperative Agreement with the City of San Jose, in the amount of \$150,000, to perform design services during construction of the Capitol Expressway Pedestrian Improvements for a total contract amount of \$459,225, and extend the agreement through June 30, 2012. This amendment is 100% funded by the 2010 State Transportation Improvement Program.

Agenda Item #8., Authorize the General Manager to execute a contract with Pacific Electric Contracting, Inc. in an amount of \$381,930 for the construction of the Light Rail Left Hand Turn and Track Intrusion Project Phase IIA. This contract is 80% funded by Federal Grant funds (Section 5309-Fixed Guideway Modernization Formula Grant), with VTA Enterprise funds providing a 20% match.

Agenda Item #9., April 2011 Transit Service Changes

Regular Agenda: None

16. ANNOUNCEMENTS

Mr. Burns, announced discussions of the future of Caltrain have been positive. He indicated SamTrans and San Francisco Muni are looking at ways they can help close the gap.

17. ADJOURNED

On order of Chairperson Larsen and there being no objection, the meeting was adjourned at 5:06 pm.

Respectfully submitted,

Menominee McCarter, Board Assistant
Office of the Board Secretary



Date: April 12, 2011
 Current Meeting: April 21, 2011
 Board Meeting: May 5, 2011

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Transit Planning & Operations Committee

THROUGH: General Manager, Michael T. Burns

FROM: Chief Engineering & Construction Officer, Mark S. Robinson

SUBJECT: Guadalupe South Line Elevator & Escalator Retrofit Contract

Policy-Related Action: No

Government Code Section 84308 Applies: No

ACTION ITEM

RECOMMENDATION:

Authorize the General Manager to execute a contract with KONE Elevators and Escalators, the lowest responsible and responsive bidder, in the amount of \$4,824,750 for construction of the Guadalupe South Line Elevator and Escalator Retrofit. This contract is 70% federally funded.

BACKGROUND:

With the completion of South Line Platforms Retrofit Project, VTA's 42-mile light rail system and 62 stations are fully accessible with level boarding at all doors for all passengers. However, the elevators and escalators serving the Guadalupe South Line light rail stations are showing signs of deterioration and require some ADA and code upgrades. Elevator structural car frames and platforms are corroded and the cabs are worn and damaged from frequent use. Escalators have also exhibited signs of corrosion and require some code upgrades. In addition, the State of California, Division of Occupational Safety and Health, Elevator Unit has observed deficiencies which need to be resolved.

The last major work on South Line elevators was performed in 2004, when VTA completed replacement of structural car frames and platforms at Blossom Hill, Capitol, Curtner, Tamien and Virginia Stations. The structural car frames and platforms at the remaining elevators along the Guadalupe South Line (Cottle, Snell and Branham Stations, and Snell Park and Ride) are as originally constructed.

The South Line Elevator and Escalator Retrofit contract will perform work along the Guadalupe South Line at locations identified on Attachment A. The scope of work includes replacement of the structural car frames and platforms at Cottle, Snell and Branham Stations, and Snell Park and Ride. All car platforms shall be stainless steel. In addition, all elevators on the Guadalupe South Line will receive new cabs, complete with stainless steel walls, ceiling and sill, lighting, spray-in-place epoxy flooring, controls, speakers and emergency communications, and closed circuit television for increased passenger safety and security. Elevator entrances on the station platform level at Blossom Hill, Capitol, Curtner, Tamien and Virginia Stations will also receive new overhead canopies designed to protect passengers and provide weather protection of the elevator hoistway opening. Similar canopies will be provided at elevator entrances on the station plaza level at Cottle, Snell and Branham, and Snell Park and Ride. One elevator at Hamilton Station along the Vasona Line will receive minor safety improvements. The scope of work for the 11 escalators on the Guadalupe South Line includes updating the step chains, handrails, skirt panels, and replacing emergency shutdown switches and controllers.

All LRT stations will remain in service during construction, however, a group of elevators and escalators at two alternate stations will be taken out of service so that construction can proceed safely and quickly. The work will take between 10 to 15 weeks to complete two alternate stations at a time.

A critical element to the success of this contract work will be the Community Outreach Program strategy led by VTA. Early, frequent and effective communications with our riders and the local community will ensure minimum disruption and inconvenience.

The elevator and escalator closures may prevent some customers with disabilities from accessing a specific light rail station. For these customers, alternate accessible transportation will be provided by special arrangement with VTA’s Paratransit provider, Outreach. VTA Supervisor vans will also be deployed in the event Outreach is not available to provide prompt service.

DISCUSSION:

The South Line Elevator and Escalator Retrofit contract was advertised on December 10, 2010. Contractor pre-qualification was required for this contract. Four bids were opened on February 22, 2011 with the following results:

<u>Company Name</u>	<u>Total Bid Amount</u>
KONE Elevators and Escalators	\$4,824,750
Rodan Builders	\$4,924,725
Ascent Elevator Services	\$5,257,618
Turner Construction	\$8,598,665
Engineer’s Estimate	\$4,009,000

KONE Elevators and Escalators is the lowest responsible and responsive bidder. The bid is 20% above the Engineer’s Estimate. VTA staff has completed a bid analysis, has determined the bid to be fair and reasonable, and recommends award of this contract to KONE Elevators and Escalators. The high bids as compared to the Engineer’s Estimate are attributed to the limited data available for cost estimating for the special nature of this elevator and escalator retrofit work.

Construction is anticipated to begin in June 2011, with completion by September 2012.

ALTERNATIVES:

All bids could be rejected and the contract readvertised, however, this alternative is not recommended given the age and condition of the existing Guadalupe South Line elevators and escalators. A delay would require a continued greater than normal level of maintenance and repairs for the elevators and escalators to stay in operation.

FISCAL IMPACT:

This action will authorize \$4,824,750 for construction of elevator and escalator improvements as part of the larger South Line Platforms Retrofit Project. Appropriation for this project is included in the VTA Transit Capital Program FY 2010 and FY 2011 Adopted Biennial Budget. This contract is 70% funded by Federal Grant funds (Section 5309-Fixed Guideway Modernization Formula Grant) with VTA Transit funds providing 30% to match the federal funds and to fund the items not grant-eligible.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION:

VTA is complying with Federal requirements that the advertisement and award of this contract would utilize race-neutral provisions, as this contract will have Federal financial assistance. Based on identifiable subcontracting opportunities, a DBE goal of 2.5% was established for this contract. Contractor has committed to a goal of 2.8% DBE participation, but the participation of DBEs is not a condition of contract award.

Prepared by: Ken Ronsse, Deputy Director
Memo No. 2290



Date: April 13, 2011
 Current Meeting: April 21, 2011
 Board Meeting: May 5, 2011

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Transit Planning & Operations Committee

THROUGH: General Manager, Michael T. Burns

FROM: Chief Engineering & Construction Officer, Mark S. Robinson

SUBJECT: Freight Railroad Relocation - Agua Fria, Toroges and Agua Caliente Creek
 Improvements Contract

Policy-Related Action: No

Government Code Section 84308 Applies: No

ACTION ITEM

RECOMMENDATION:

Authorize the General Manager to execute a contract with Con Quest Constructors, Inc., the lowest responsible and responsive bidder, in the amount of \$7,266,140, for the construction of Agua Fria, Toroges and Agua Caliente Creek Improvements. This contract is funded by 2000 Measure A, the City of Fremont and Alameda County Flood Control District.

BACKGROUND:

In December 2002, VTA purchased right-of-way from the Union Pacific Railroad (UPRR) for use as a transportation corridor extending approximately 15 miles from Fremont to San Jose. To fulfill VTA's obligations under the Purchase and Sale Agreement with UPRR, VTA has initiated Freight Railroad Relocation (FRR) activities to eliminate ongoing freight operations on VTA property and clear the corridor for SVRT Program improvements.

VTA entered into cooperative agreements on February 2, 2006 with the Alameda County Transportation Authority (ACTC) for preliminary engineering, and on January 4, 2007 with ACTC and the City of Fremont (Fremont) for final design of the combined improvements at Mission Boulevard, Warren Avenue, and other FRR activities. These projects are collectively known as the Mission/Warren/Truck Rail (MWT) Program. VTA will complete bid-ready construction documents on the combined MWT Program improvements in September 2011.

The design and construction for the MWT Program includes the following activities:

- Relocate the UPRR trackwork from the Warm Springs Yard in Fremont to the Milpitas Yard, including railroad signal work, yard switches, and railroad crossings at streets.
- Relocate petroleum pipes and fiber optic communication utilities owned by Chevron, Kinder Morgan, Verizon/MCI, and others located within the railroad corridor from the UPRR Warm Springs Yard south to Highway 101.
- Reconfigure an existing Truck-Rail transfer facility at its current location on Warren Avenue in Fremont, including the construction of a new access to the facility from Kato Road.
- Grade separate Warren Avenue in Fremont.
- Widen Mission Boulevard, construct ramps from Kato Road, and construct a new freight railroad bridge over the widened Mission Boulevard.
- Modify the following creek structures crossing the VTA right-of-way corridor: Agua Caliente Creek, Agua Fria Creek, Toroges Creek, Line B, Scott Creek, Calera Creek, Wrigley Creek and other incidental drainage culverts.

VTA staff has been working on strategies to shorten the overall schedule for the FRR Program, as well as deliver projects while there is still a favorable bidding climate, in order to reduce costs. With the recent delays experienced on certain features of the MWT Program, it was determined that as much as 6 months could be saved by removing the creek work from the major MWT civil contract and putting it into an advance construction contract. Therefore, the following scope of work has been separated from the major MWT civil contract and placed into contract C115 - Agua Fria, Toroges, and Agua Caliente Creek Improvements:

- Agua Fria Culvert: A new precast concrete box culvert to accommodate the Warren Avenue Grade Separation.
- Toroges Creek Culvert: A precast concrete box culvert to support future BART tracks; and Toroges Creek Bridge: Widen the existing UPRR bridge to accommodate freight railroad relocation.
- Agua Caliente Creek Improvements: Install a 78-inch diameter storm drain pipe to accommodate the 100-year storm event.
- S129 Retaining Wall: Construction of a retaining wall along UPRR right-of-way to accommodate freight railroad relocation.

DISCUSSION:

The Agua Fria, Toroges and Agua Caliente Creek Improvements contract was advertised on February 24, 2011. Contractor pre-qualification was required for this contract. Three bids were submitted on March 25, 2011 with the following results:

<u>Company Name</u>	<u>Bid Amount</u>
Con Quest Constructors, Inc.	\$7,266,140
Proven Management, Inc.	\$7,787,787
Gordon B. Ball, Inc.	\$8,219,161
Engineer's Estimate	\$9,325,623

Con Quest Constructors, Inc. is the lowest responsible and responsive bidder. The bid is 22% under the Engineer's Estimate. VTA staff has completed a bid analysis, has determined the bid to be fair and reasonable, and recommends award of this contract to Con Quest Constructors, Inc. The low bids as compared to the Engineer's Estimate are attributed to the special nature of the work at Agua Caliente Creek, involving micro-tunneling under the UPRR Warm Springs Yard. This work element and its associated risk accounts for a majority of the pricing difference.

Construction is anticipated to begin in June 2011 with completion by June 2012.

ALTERNATIVES:

The Board may elect to reject all bids and have this work included in the major MWT civil contract as originally planned. This action would negate the favorable bid received in the current competitive bidding environment as well as the expected 6-month reduction in overall construction schedule for the MWT Program, potentially delaying the BART Silicon Valley Berryessa Extension Project.

FISCAL IMPACT:

This action will authorize \$7,266,140 for construction. Appropriation for this expenditure is included in the FY11 Adopted 2000 Measure A Transit Improvement Program Fund Capital Budget. The contract is funded from three sources: 2000 Measure A (\$4,505,173); Alameda County Flood Control District (\$850,000); and Fremont (\$1,910,967).

SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION:

Based on identifiable subcontracting opportunities, a Small Business Enterprise (SBE) goal of 15% has been established for this contract. Contractor has complied with the goal and has committed to attain 67.5% SBE participation.

Prepared by: James Chai, Transportation Engineering Manager
Memo No. 2875



AGUA FRIA, TOROGES AND AGUA CALIENTE CREEK IMPROVEMENTS (C115) PROJECT SITE



Date: April 12, 2011
 Current Meeting: April 21, 2011
 Board Meeting: May 5, 2011

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Transit Planning & Operations Committee

THROUGH: General Manager, Michael T. Burns

FROM: Chief Engineering & Construction Officer, Mark S. Robinson

SUBJECT: Freight Railroad Relocation – Cooperative Agreement with City of Fremont for the Agua Fria Creek Improvements

Policy-Related Action: No

Government Code Section 84308 Applies: No

ACTION ITEM

RECOMMENDATION:

Authorize the General Manager to execute a Cooperative Agreement with the City of Fremont in an amount not to exceed \$3.44M for construction costs related to the Agua Fria Creek improvements. Under the proposed agreement, VTA's financial obligation will be limited to \$1.12M and funded by 2000 Measure A.

BACKGROUND:

In December 2002, VTA purchased right-of-way from the Union Pacific Railroad (UPRR) for use as a transportation corridor extending approximately 15 miles from Fremont to San Jose. To fulfill VTA's obligations under the Purchase and Sale Agreement with UPRR, VTA has initiated Freight Railroad Relocation activities to eliminate ongoing freight operations on VTA property and clear the corridor for SVRT Program improvements.

VTA entered into a cooperative agreement on January 4, 2007 with the City of Fremont (Fremont) for final design of the combined improvements at Mission Boulevard and Warren Avenue, which included improvements at Agua Fria Creek. These projects are collectively known as the Mission/Warren/Truck Rail (MWT) Program.

VTA staff has been working on strategies to shorten the overall schedule for the FRR Program, as well as deliver projects while there is still a favorable bidding climate, in order to reduce costs. This effort has led to the creek work being separated out from the major MWT civil contract and placed into an advanced construction contract, the C115 - Agua Fria, Toroges, and

Agua Caliente Creek Improvements. As part of the C115, the Agua Fria Creek work involves the construction of a new precast concrete box culvert to accommodate the Warren Avenue Grade Separation.

DISCUSSION:

The recommended Cooperative Agreement with Fremont will define the obligations, including financial contributions, of each party to construct the Agua Fria Creek improvements. The Agua Fria Creek improvements are required as part of Fremont's Warren Avenue Grade Separation Project and benefits the future SVBX Project. The City and VTA have agreed on a cost share of 67.4% for City to 32.6% for VTA based on previous negotiated agreements regarding the MWT Program. The Cooperative Agreement will include cost sharing for construction costs, construction management/administration, design services during construction as well as VTA overhead costs.

ALTERNATIVES:

There are no practical alternatives to executing this agreement.

FISCAL IMPACT:

This action will provide funding for the Agua Fria Creek improvements portion of the Freight Railroad Relocation Project. Appropriation for the Agua Fria Creek improvements is included in the FY11 Adopted 2000 Measure A Transit Improvement Program Capital Budget.

Prepared by: James Chai, Transportation Engineering Manager
Memo No. 3083



Date: April 12, 2011
 Current Meeting: April 21, 2011
 Board Meeting: May 5, 2011

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Transit Planning & Operations Committee

THROUGH: General Manager, Michael T. Burns

FROM: Chief SVRT Program Officer, Carolyn M. Gonot

SUBJECT: SVRT: City of Fremont Master Agreement

Policy-Related Action: No

Government Code Section 84308 Applies: No

ACTION ITEM

RECOMMENDATION:

Authorize the General Manager to enter into a master agreement with the City of Fremont in support of the BART Silicon Valley Project. This agreement will include provisions to ensure a commitment of cooperation from both parties.

BACKGROUND:

The extension of Bay Area Rapid Transit (BART) services into Santa Clara County is being implemented under agreement with BART by VTA's Silicon Valley Rapid Transit Program. This extension is being implemented in stages, the first stage being a two-station (Milpitas and Berryessa) extension of approximately 10-miles from BART's planned Warm Springs station in Alameda County to VTA's planned Berryessa Station in the City of San José. This initial segment has been identified as the Silicon Valley Berryessa Extension (SVBX) Project. VTA is seeking \$900 million in federal funds for the SVBX to be provided by the Federal Transit Administration's (FTA) New Starts program, with the balance of capital funding provided by state and local sources including 2000 Measure A revenues.

VTA was granted permission to enter the Final Design phase of the federal New Starts program on April 4, 2011. VTA will formally request a Full Funding Grant Agreement (FFGA) from FTA in June 2011. FTA's current project schedule indicates a target date for executing the FFGA of January 2012.

In preparation for the issuance of the FFGA, FTA has asked VTA to submit executed inter-agency agreements documenting how VTA will work cooperatively with other local agencies

affected by the project. These agreements guide the working relationship between the project sponsor and its local partner agencies and are intended to minimize risk to the project by defining the framework for key overarching interactions between stakeholder agencies. FTA has asked VTA to include these agreements in its advance submittal package in June 2011. In addition to fulfilling FTA requirements, completion of inter-agency agreements prior to June 2011, will allow those agreements to be included as attachments to the final addendum to the Request for Proposals for the initial design-build contract for the project.

DISCUSSION:

Due to the magnitude of the Silicon Valley Rapid Transit Project, staff determined that establishment of master agreements with our city partners was the most appropriate approach to ensuring a commitment of cooperation from all parties. The final agreement between VTA and the City of Fremont focuses on several key areas, including the establishment of lines of communication, foundation for sub-agreements, and processes for dispute resolution and review and approval of design plans for City facilities. The master agreement defines the relationship between the City of Fremont and VTA with respect to the project. Topic areas in the agreement include a description of project features, general commitments of the parties, work on City infrastructure, mitigation measures, storm water pollution control, indemnification, insurance, warranties and resolution of disputes.

In the past, VTA has typically not reimbursed the cost of internal review of VTA plans by local agencies. Recent Master Agreements executed with the Cities of Milpitas and San José departed from this policy because of the large magnitude of the project, the need for expedited reviews, and because the design-build project delivery approach necessitates increased cooperation between VTA and the cities. The Master Agreement with Fremont includes a similar provision for reimbursement of review costs. The proposed reimbursement would cover City review related to encroachment permits for work within City rights-of-way or for relocation of City-owned facilities. The Master Agreement provides that the City will prepare estimates for its costs for reviewing the plans and specifications for work affecting City Infrastructure, the BART bridge over Warren Avenue, aesthetic treatment of wayside facilities, and noise and vibration mitigation measures submitted after January 1, 2011. The City will also provide estimates of its costs for construction inspection services and participation in VTA-requested meetings, including partnering sessions, and for providing reviews of building fire protection plans by the City Fire Department, for all SVBX Contracts in accordance with the City's current published fee schedule. The proposed Master Agreement provides that VTA will review and approve the City's estimate of such costs, and issue written Work Authorizations to the City, which will define the scope of the City's services and the maximum authorized amount of reimbursement for those services.

ALTERNATIVES:

There are no practical alternatives to the recommended action, if VTA is to meet the planned New Starts Project schedule as reported to the FTA and satisfy FTA's expectations with respect to inter-agency cooperation.

FISCAL IMPACT:

The estimated cost to fund the City of Fremont's plan review and permitting activities through 2011 is \$200,000. The actual amount of reimbursement would be further defined and controlled through the use of Work Authorizations to be approved by VTA staff prior to acceptance of invoices from the City of Fremont for reimbursement. Appropriation for these expenditures is included in the FY11 Adopted 2000 Measure A Transit Improvement Program Fund Capital Budget.

Prepared by: John Morris
Memo No. 3059



Date: April 12, 2011
 Current Meeting: April 21, 2011
 Board Meeting: May 5, 2011

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Transit Planning & Operations Committee

THROUGH: General Manager, Michael T. Burns

FROM: Chief Engineering & Construction Officer, Mark S. Robinson

SUBJECT: Capitol Expressway Light Rail Project - Amendment to Design Services
 Contract with Rajappan & Meyer Consulting Engineers, Inc. for the Pedestrian
 and Bus Stop Improvements Phase

Policy-Related Action: No

Government Code Section 84308 Applies: Yes

ACTION ITEM

RECOMMENDATION:

Authorize the General Manager to execute a contract amendment with Rajappan & Meyer Consulting Engineers, Inc. in a not to exceed amount of \$1.5 million for a new contract total amount of \$28,989,916 and extend the contract through November 30, 2014, to perform design support services during construction of the pedestrian improvements, and final design and design support services during construction for the bus stop improvements of the Capitol Expressway Light Rail Project. This contract is 100% funded by the 2000 Measure A Program.

BACKGROUND:

In March 2005 and May 2007, the VTA Board of Directors approved the Capitol Expressway Light Rail Project Environmental Impact Report (EIR) and Supplemental Environmental Impact Report (SEIR). The project scope includes a 2.5 mile light rail extension from the existing Alum Rock Station along Capitol Expressway to the Eastridge Transit Center in the City of San Jose, three light rail stations, the expansion of the Eastridge Transit Center, and sidewalk and landscape improvements along both sides of the expressway (Attachment A).

In November 2004, the Board approved a design services agreement with Rajappan & Meyer Consulting Engineers, Inc. (R&M) to complete preliminary engineering on the Capitol Expressway Light Rail Project. In August 2006, the Board approved a contract amendment for final design services, increasing the total contract value to \$27,489,916.

During design development, a series of 2000 Measure A Program discussions were conducted that evaluated program priorities, and it was decided that the Capitol Expressway Light Rail Project design would continue into final design concurrent with VTA preparing a Federal Environmental Document that would allow pursuit of Federal funds for construction should they become available. This Federal Environmental Document is being completed for FTA review and approval in early 2012. During final design, R&M was asked to perform additional design evaluations related to project impacts, potential project phasing and coordination with key stakeholders. As a result of these evaluations, it was agreed to advance certain elements of the project in a phased implementation strategy. The scope of these phases is outlined as follows:

Phase 1

- Pedestrian Improvements: Sidewalk, landscape and street lights along both sides of the Capitol Expressway between Capitol Avenue and Tully Road.
- Bus Stop Improvements: Expansion, reconfiguration and access improvements to Eastridge Transit Center and bus stop improvements at Story Road and Ocala Avenue, designed to accommodate the RT service.

Phase 2

- Light Rail: Double track alignment along Capitol Expressway with light rail stations at Story Road (aerial station), Ocala Avenue (at grade) and Eastridge (at grade).

VTA was successful in obtaining State Transportation Improvement Program (STIP) funding for the construction of the pedestrian improvements and property acquisition for the bus stop improvements, including Eastridge Transit Center. The pedestrian work began construction in April 2011, and right-of-way acquisition for the bus stop improvements is anticipated to begin in May 2011. Provided that STIP funding programmed for FY12 is approved by the State, construction of the bus stop improvements will begin in mid 2012. The schedule for the light rail phase of the project is dependent on funding availability.

DISCUSSION:

The proposed contract amendment with R&M will provide sufficient budget to prepare construction documents for the expanded and reconfigured transit center and to perform design services during construction of both the pedestrian improvements and bus stop improvements. VTA staff is integrated into the design team to utilize available VTA experts in the design of certain elements of work. The R&M contract is structured as a time and materials contract and will provide approximately 7720 hours of design services.

The R&M team includes two subconsultants. Their information is included in Attachment B.

The bus stop improvements design will be coordinated with the future light rail improvements and the Santa Clara/Alum Rock Rapid Transit (RT) project that is currently in design. The RT project will upgrade bus stops with enhanced shelters and station amenities (real time information, ticket vending machines, etc.).

ALTERNATIVES:

There are no practical alternatives to the recommended action. The Board could decide to delay or not complete the design of the Eastridge Transit Center. This could jeopardize the approved STIP funding for the pedestrian and bus stop improvements. It would also impact the proposed operations of the future RT service at Eastridge Transit Center.

FISCAL IMPACT:

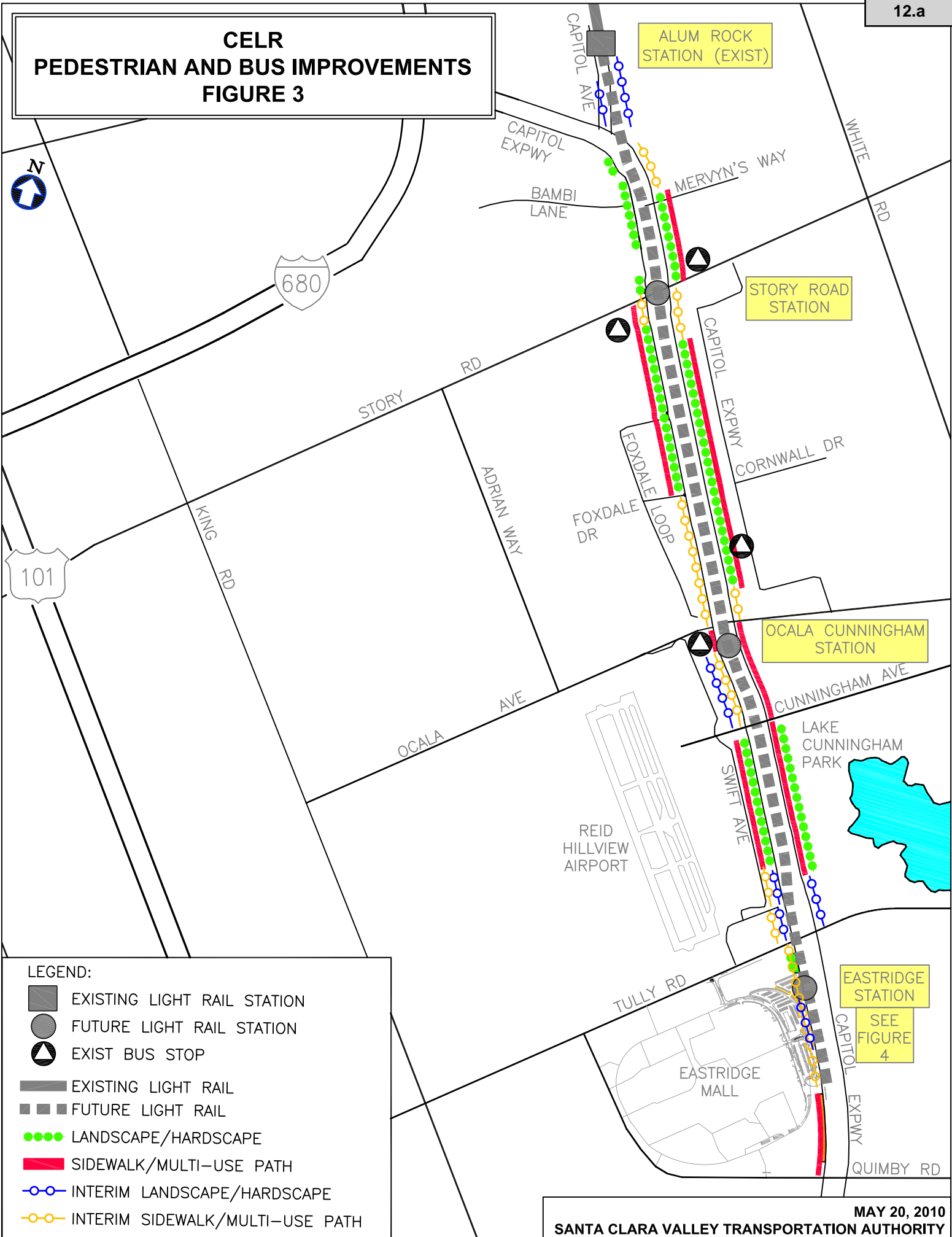
This action will authorize up to an additional \$1.5 million for design support services. Appropriation for these expenditures is available in the FY 2011 Adopted 2000 Measure A Transit Improvement Program Fund Capital Budget. Design services associated with this amendment (\$1.5M) are 100% funded by 2000 Measure A funds.

SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION:










Based on identifiable subcontracting opportunities, a SBE goal of 21% has been established for this contract. Contractor has achieved 25% for engineering services provided to date and has committed to 21% SBE participation for design services through final design and construction.

Prepared by: Ken Ronsse, Deputy Director
Memo No. 3074

CELR PEDESTRIAN AND BUS IMPROVEMENTS FIGURE 3



LEGEND:

-  EXISTING LIGHT RAIL STATION
-  FUTURE LIGHT RAIL STATION
-  EXIST BUS STOP
-  EXISTING LIGHT RAIL
-  FUTURE LIGHT RAIL
-  LANDSCAPE/HARDSCAPE
-  SIDEWALK/MULTI-USE PATH
-  INTERIM LANDSCAPE/HARDSCAPE
-  INTERIM SIDEWALK/MULTI-USE PATH

EASTRIDGE STATION
SEE FIGURE 4

ATTACHMENT B
List of Recommended Prime and Sub-Consultants

	Consultant Firm	Contact Person	Location
Prime	Rajappan & Meyer , Inc	Jiri Vitek	San Jose
Sub-Consultant	AECOM	Daniel Hartman	San Jose
	Sasaki Landscape Architech	Joanna Fong	San Francisco



Date: April 12, 2011
 Current Meeting: April 21, 2011
 Board Meeting: May 5, 2011

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Transit Planning & Operations Committee

THROUGH: General Manager, Michael T. Burns

FROM: Chief CMA Officer, John Ristow

SUBJECT: Santa Clara Alum Rock Rapid Transit Project - Draft Relocation Plan

FOR INFORMATION ONLY

BACKGROUND:

The Santa Clara Street/Alum Rock Avenue Rapid Transit Improvement (Project) Project Final Environmental Impact Report (Final EIR) was approved by the VTA Board of Directors in December 2008. Since this approval, staff has proceeded with developing detailed designs that enable VTA to commence the acquisition of the requisite right of way for the Project.

Prior to acquiring properties which may cause displacement of occupants, federal and state law requires a public agency to plan appropriately for persons and businesses that are impacted by the public agency's acquisition of such property. In California, such planning is required to be documented in a Relocation Plan and formally adopted by the respective agency's legislative body.

The Project team has worked diligently to plan the Project in a manner that minimizes the number of potential acquisitions and displacements as an informational item. However, certain displacements may be unavoidable in order to bring this rapid transit service to San Jose. Based on preliminary engineering designs, VTA staff anticipates that several properties may be acquired that potentially cause the displacement of several businesses. VTA will attempt to schedule these acquisitions to provide as much time as possible, well in excess of the statutory minimum of 90 days, to identify replacement sites and relocate.

In this agenda item, VTA staff will be presenting a draft of the Relocation Plan (Draft Plan) for the Project at the May 5th Board meeting. No Board action is required at this time. Following this presentation, the Draft Plan will be circulated to the general public until June 6, 2011, for public review and comment in accordance with California law, which requires a minimum 30-day public circulation period. The Draft Plan will become the Final Relocation Plan when it is updated to respond to public comments. The Final Relocation Plan will be submitted to the

Board for review and consideration on August 4, 2011.

The adoption of the Final Relocation Plan is a critical milestone in the Project schedule, which requires the acquisitions to commence in August 2011.

DISCUSSION:

Overview

The VTA is planning the Project in a manner that minimizes the number of properties to be potentially acquired and limits the number of businesses to be potentially displaced. Based on VTA's current preliminary engineering design, it is presently anticipated that the Project may impact 14 businesses which operate on land that may be acquired for the Project.

Under State law, the VTA Board is required to adopt a formal Relocation Plan which documents how VTA is planning for persons and businesses that are impacted by VTA's acquisition of property prior to commencing the acquisition process of these properties. It is anticipated that the acquisition process will commence in August 2011. To ensure that the Project proceeds in a timely manner and meets critical timelines, it is important that the Board timely consider and adopt a Final Relocation Plan.

After the acquisition process commences and shortly after an initial offer to purchase property is made, displaced occupant(s) eligible for relocation assistance will receive a Notice of Eligibility. Occupants will not be required to vacate the property until at least 90 days after a Notice to Vacate is issued. The VTA will attempt to schedule its acquisition efforts in a manner that will allow occupants more than 90 days to relocate after the Notice is issued if feasible given Project timelines. Advance planning by means of a Relocation Plan will play an important role in ensuring that occupants are able to successfully relocate in a timely manner.

Requests for interviews were made through property owners and some instances directly to tenants where possible. VTA was unable to interview the all of businesses prior to the plan's preparation. Visual inspections of exterior portions of the properties were conducted as well as non-intrusive visits to the businesses to observe their operations. VTA conducted market research to ascertain the availability of relocation sites and explored zoning requirements with respect to those sites.

Based on the foregoing activities, the VTA team prepared a Draft Plan, which includes the following key elements:

- A summary of the Project scope and schedule;
- A commitment that the VTA will have funds available to provide full assistance in compliance with applicable laws and regulations prior to making offers to purchase properties;
- A summary of impact to businesses that may be affected by the Project;
- An analysis of properties that may serve as replacement sites for the businesses if

- they are displaced; and
- An explanation of the VTA's Relocation Assistance Program, how that Program will provide advisory and monetary assistance to affected occupants, and a commitment to comply with State and Federal relocation laws and regulations, including 42 U.S.C *et.seq.*, 49 CFR 24, California Government Code 7260 *et.seq.*, and California Code of Regulations, Title 25, Chapter 6.

The Draft Plan recognizes that persons potentially impacted by the Project may have several questions concerning the Relocation Assistance Program and may need assistance in both planning their relocation and understanding the benefits to which they are entitled. VTA developed a Business Relocation Assistance brochure (included in the Draft Plan) for this purpose. The brochure describes the relocation assistance available to all eligible businesses displaced as a result of the Project. The Draft Plan also requires that a Relocation Advisor be available throughout the relocation process to explain and answer questions and to assist eligible displaced persons in achieving successful relocations. Displaced persons are encouraged to make full use of this benefit.

Additionally, the Draft Plan describes the benefits that impacted businesses will receive. A summary of these benefits is discussed below.

Impacted Businesses

As noted above, based on the current preliminary engineering design, 14 businesses may be impacted if the VTA proceeds with the acquisition of certain properties. Eligible displaced businesses will receive the following benefits under the Draft Plan:

- Advisory Services to assist in identifying appropriate relocation sites, understanding the benefits that are available under the Relocation Assistance Program and filing claims for payment.
- Moving Payment Assistance to reimburse businesses for the cost to move personal property from the site they currently occupy to the replacement site. In general, this benefit covers the cost to disconnect, move, and reconnect all personal property that is moved. There is no monetary limit to this benefit. Displaced businesses are reimbursed for actual, reasonable expenses that are compensable under state and federal laws and regulations.
- Searching Cost Payment to help compensate business owners for the cost to search for a replacement site. This compensation is limited by state law and regulations to \$1,000.
- Reestablishment Payment to help business owners reestablish their businesses at its replacement sites. Compensation under this benefit is limited by state and federal laws and regulations to \$10,000.
- Loss of Business Goodwill compensation. Loss of business goodwill is not a compensable benefit that is included as part of the relocation process under state and federal law. Business owners, however, may seek such compensation through the acquisition process.

Next Steps

VTA staff will make the Draft Plan available to the public for more than the statutorily-required 30-day review and comment period, from May 6, 2011 through June 6, 2011. Potentially displaced businesses will be notified of the availability of the Draft Plan for their review and comment. Copies of the Draft Plan will be available to the public at VTA offices, the VTA website, VTA's Facebook, the Dr Martin Luther King Jr. Main Library, East San Jose Carnegie Library and the Dr. Roberto Cruz Alum Rock Library. An electronic copy of the Draft Plan also may be obtained upon request by interested parties.

The VTA team will collect comments from the public as they are submitted and will incorporate the comments and responses into a final Relocation Plan (Final Plan) that will be submitted to the Board for review and consideration on August 4, 2011. Acquisitions of the first phase of properties for the Project are anticipated to commence in August 2011.

Prepared By: Juanita Villemaire
Memo No. 3041

Santa Clara-Alum Rock Rapid Transit Project Draft Relocation Plan

**Santa Clara-Alum Rock Rapid Transit Project
Draft Relocation Plan
San Jose, California**

PREPARED FOR

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

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EXECUTIVE SUMMARY

The Santa Clara Valley Transportation Authority (VTA) is in the process of planning for the development of a Rapid Transit (RT) system. In order to develop the system's Santa Clara-Alum Rock Corridor (Subject Area), the acquisition of additional right-of-way (R/W) will be required. This additional right-of-way may have an impact to existing business operations within the Subject Area

Several business operations on Alum Rock Avenue, in the City of San Jose, are expected to be impacted by the project. Some business may be required to permanently relocate their operations to a new location or to alter the present configuration of their existing operation. There are a total of 14 business entities and 1 outdoor advertising sign that could be impacted by this project. Those entities employ approximately 65 persons.

At a minimum, each displaced business tenant and operator will receive a Notice of Eligibility/Conditional Entitlement and Ninety (90)-Day-Notice-to-Vacate. Based on the current preliminary engineering design, the following is a summary of persons and businesses that may need to relocate in some manner:

- Eight businesses will need to relocate from their current locations;
- Five businesses may need to relocate due to possible loss of parking and loading;
- One business will be able to remain on site and may need to relocate some of its personal property; and
- An outdoor advertising sign will be impacted by the Project.

Due to the potential displacement of a substantial number of businesses by the project in the subject area, the California Relocation Act (Gov. Code 7260 et seq.) requires VTA to prepare a formal Relocation Plan.

Commercial occupants are considered eligible for relocation assistance and benefits, if they lawfully occupied the subject property on the date of the "Initiation of Negotiations"; this date is defined as the date that VTA makes the first written offer to purchase the property from the current property owner; or, if they occupy the site at the time of acquisition. Specific eligibility requirements and benefit plans will be developed on an individual basis with all displacees.

Overland, Pacific & Cutler, Inc. (OPC), an experienced right-of-way services firm, specializing in the planning and implementation of relocation processes, has been selected by VTA to prepare this Relocation Plan (the Relocation Plan). Adequate funds will be available to relocate the Project occupants, and will be provided by VTA.

Prior to any displacement, VTA's Board of Directors is required to approve the Relocation Plan. Before adoption of a Final Relocation Plan, A Draft Plan will be available for public review and comment from May 6, 2011 through June 6, 2011. Comments and responses will be incorporated into a Final Relocation Plan that will be submitted to VTA's Board of Directors for review and consideration on August 4, 2011.

The relocation budget estimate for this Project is \$1,161,360, exclusive of any relocation administration costs. A cost to relocate an advertising sign is not included in this analysis. Instead of relocating the sign, VTA would compensate the sign owner for the depreciated value of the improvement.

PROJECT DESCRIPTION

The Santa Clara Valley Transportation Authority (VTA) is in the process of planning for the development of a Rapid Transit (RT) system. RT is an enhanced bus service that offers many of the same attributes as rail transit, such as fast, frequent, and reliable service, a branded product, specialized vehicles, high-amenity stations, and real-time passenger information.

Image 1: Conceptual View of Rapid Transit on Alum Rock Avenue



In May 2009 VTA Board of Directors (the Board) adopted the BRT Strategic Plan, which outlines RT service in the County. The Relocation Plan studied six corridors in the County for possible RT implementation, and ultimately recommended three corridors for near-term implementation.

The first of those corridors is Santa Clara-Alum Rock, which is projected to carry the highest number of passengers at nearly 35,000 daily riders, about 40% of total demand. The Strategic plan estimated the capital cost for the RT 10-15 plan between \$490 and \$577 million (with the Santa Clara-Alum Rock Project costing up to \$129 million). The average per mile capital costs for all three corridors for the RT 10-15 were \$15.3 million/mile, but the per mile capital costs for 6.9 miles on Alum Rock will be \$18.6 million/mile.

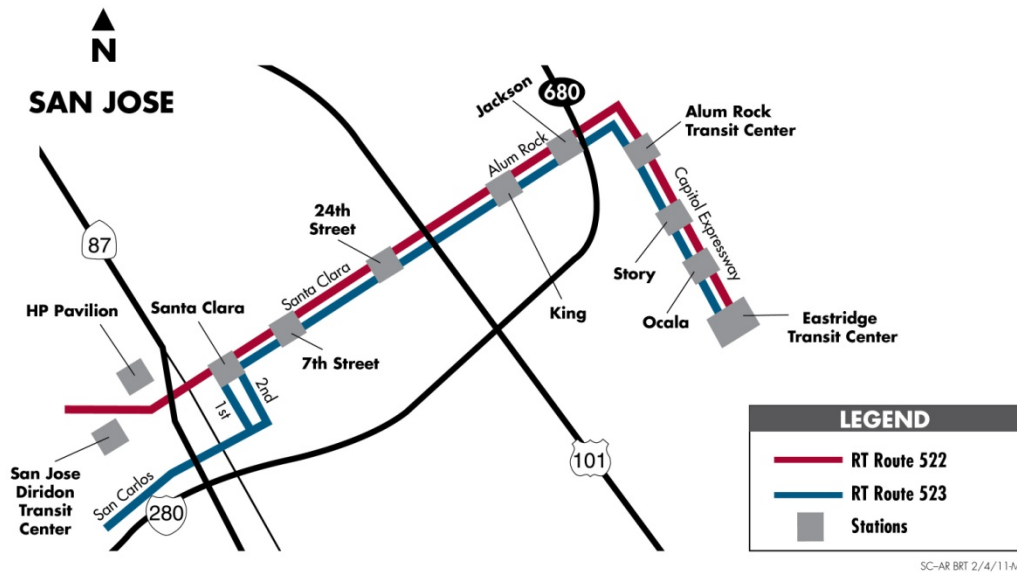
The goal of the infrastructure strategy was to reduce in-vehicle travel time by 30% when compared to a local bus with right-of-way and station upgrades. The

RT would operate in mixed flow traffic on Santa Clara Street, Capital Avenue and in the HOV lanes on Capitol Expressway. On Alum Rock Avenue there will be a dedicated median busway for 1.4 miles between 34th street and Alexander Avenue. The project will also build 11 new RT stations, with enhanced pedestrian amenities similar to what is available for rail with real time information, ticket vending machines, enhanced lighting and seating, etc. The remainder of the project will operated in mixed flow lanes and

1. Location of the Project

The corridor begins at the Diridon Station on Santa Clara Street and ends at the Eastridge Transit Center. The subject area of this Relocation Plan is a portion of the Santa Clara-Alum Rock Corridor (the Project) that is roughly between 34th Street and S Jackson Avenue (Subject Area).

Image 2: RT Route Map



2. Impacts of the Project

In order to develop the Project in the Subject Area, the acquisition of additional right-of-way (R/W) will be required to create the proper alignment. The acquisition of necessary R/W is also expected to impact several business operations in the Subject Area. These impacts will necessitate some businesses having to relocate their operations or alter the present configuration of their existing operations.

There are a total of 14 business entities that could be impacted by the Project's development in the Subject Area. Those entities employ approximately 65 persons according to business license data available from the City of San Jose.

Should the project move forward, approximately 8 businesses, primarily medical and dental offices, will be required to relocate permanently from their current location. The proposed R/W will sever the use of the property in which these businesses operate in to a degree that the commercial spaces would be un-useable; cutting and re-facing the building is not feasible to mitigate the impacts of the Project in the Subject Area at this location.

As many as 6 other businesses may lose property frontage they utilize for business functions such as parking, loading, and storage. The loss of this frontage may lead to a permanent relocation of up to 5 of these additional businesses. The sixth business possibly would lose a portion of its frontage presently used for storage of bulk materials, which will require a move of personal property only and likely not result in a permanent or temporary relocation.

An advertising sign is impacted and will be displaced.

Provisions for permanent displacements, relocation of advertising signs and signage, and personal property moves are described in **APPENDIX 1** of this Plan. A listing of the properties potentially impacted is shown in Table 1 below.

Table 1: Properties Impacted

Count	Type of Business	Zoning District	Zoning Code	Description of Space	Size/SF
1	Dental	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
2	Dental	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
3	Medical	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
4	Insurance	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
5	Orthodontist	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
6	Dental	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
7	Medical	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	Shares space with Dental Office
8	Income Tax Preparation	Neighborhood Commercial	CN	Retail/office suite within multi-tenant building.	1,716 sf of commercial space
9	Automotive	Light Industrial	LI	Free standing automotive shop on multi-tenant parcel.	1,975 bldg .38 ac lot
10	Construction	Light Industrial	LI	Construction yard with open storage and office.	.56 acre lot
11	Bar/Night Club	Light Industrial	LI	Free standing commercial building.	2,282 sf bldg/7,405 sf lot
12	Retail Store	Light Industrial	LI	Free standing commercial building	.35 acre lot
13	Retail & Wholesale Store	Heavy Industrial/Light Industrial	HI/LI	Free standing commercial building.	1.25 acre lot*

14	Income Tax Preparation	Heavy Industrial/Light Industrial	HI/LI	Free standing commercial building	1.25 acre lot*
15	Sign/Outdoor advertising sign	Neighborhood Commercial	LI	Commercial advertising sign	

*This site is improved with other structures

3. Proposed Project Funding

VTA’s proposed funding plan for the Project is a mix of local self-help funding and funding from the State of California,

- **2000 Measure A**
- On November 7, 2000, 70.3% of the Santa Clara County voters approved a half-cent sales tax for transportation improvements in the county. The collection of the tax began in April 2006.
- **Public Transportation Modernization, Improvement, and Service Enhancement Account Program (PTMISEA)**
 - PTMISEA was created by Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006

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RELOCATION PLAN

1. Statutory Requirements for the Plan

Due to the potential displacement of a substantial number of businesses by the project, the California Relocation Act requires VTA to prepare a formal Relocation Plan. In accordance with State law, a draft of the Relocation Plan is required to be made available for a 30-day review and comment period by impacted parties and the public prior to submitting it to the agency's decision making body for approval.

The purpose of the Relocation Plan is to

- (a) Describe the transit portion of the project, its schedule and financing plan;
- (b) Identify the anticipated impact that the project would have on the occupants of property that may be acquired;
- (c) Identify the availability of potential replacement sites for impacted occupants; and
- (d) Explain VTA's Relocation Assistance Program.

The Draft Relocation Plan will be circulated for public review and comment for 30 days from May 6, 2011 through June 6, 2011. The public will have an opportunity to submit comments regarding the Draft Relocation Plan. Comments and responses will be incorporated into a Final Relocation Plan that will be submitted to the Board for review and consideration.

2. Plan Preparation

Overland, Pacific & Cutler, Inc. (OPC), an experienced right-of-way services firm, specializing in the planning and implementation of relocation processes, has been selected by VTA to prepare this Relocation Plan , and will provide all subsequently required relocation assistance for this Project.

This Relocation Plan sets forth policies and procedures necessary to conform to statutes and regulations established by the California Relocation Assistance Law (the Act), California Government Code Section 7260 et seq (the CRAL) and the California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, Chapter 6, Section 6000 et seq. (the Guidelines) for commercial displacements and VTA's rules and regulations.

2.1 Needs Assessment Methodology

To obtain information necessary for the preparation of this Relocation Plan, visual inspections were conducted of exterior portions of the properties visible from the street and analysis of aerial photography. When possible OPC conducted non-intrusive visits to the businesses to observe their operations and examine the physical conditions, fixtures and equipment, and overall existing conditions of the businesses.

Additional information regarding the businesses was obtained via search of public records such as zoning and business licenses. Requests for interviews were made through the property owners and to business operators where possible; however, OPC was unable to interview the businesses for the plan's preparation.

For implementation of the plan, a personal interview and inquiries will be made of the impacted commercial occupants including questions concerning the existing conditions of the businesses such as the type of business or service provided, type of occupancy, current monthly lease/rental amounts, description and size of current operations, special requirements, if any, and area/facility preferences for replacement locations.

2.2 Replacement Resources

While there is no specific requirement under California Relocation Law or Federal Guidelines mandating that alternate relocation sites be made available to businesses at the time of displacement, it is prudent to provide such assistance and VTA is committed to making every effort to satisfactorily relocate and re-establish the businesses. This Plan outlines the requirements for moving and re-establishing the businesses being displaced, and demonstrates the level of advisory and financial assistance that will be provided.

A brief survey of office, commercial, and light industrial properties closely matching the size of the impacted properties is shown in Tables 2 and 3 below,

Table 2: Sample of Proximate Office Space

Address	Suites Available	Space Type	SF Available	Rental Rate (\$/sf)	Lease Type
175 N. Jackson Ave	1	Medical Office	924-1,946	\$1.85 sf	NNN
1172 Murphy	4	Medical Office	1,704-5,412	\$2.00	NNN
1897 Alum Rock	1	Medical Office	1,790	\$2.00	NNN
120 Blossom Hill Rd.	1	Strip Center	1,029	Negotiable	NNN

Source: Loopnet

Table 3: Sample of Proximate Commercial Property

Address	Suites Available	Space Type	SF Available	Rental Rate (\$/sf)	Lease Type
151 Tully Road	1	Vehicle Related	1,500-5,600	\$0.95	NNN
2652 Alum Rock	1	Neighborhood Center	986-1,080	Negotiable	NNN
855 Park Ave	1	Free Standing	5,376-7,120	\$0.50	Modified Gross
960 E Santa Clara St	1	Free Standing	5,860	\$2.30	Modified Gross

Source: Loopnet

As there are some owner occupants that operate businesses that may be displaced, a brief survey was also conducted to identify available commercial properties for sale. Table 4 below displays the properties located that most closely match the impacted properties.

Table 4: Commercial Properties for Sale

Address	Properties Available	Building Type	SF Available	Listed Sales Price
885 S 1st St	1	Retail	2000	\$540,000
2259-2263 Alum Rock	1	Retail	4320	\$709,888
422 E. Santa Clara	1	Retail	2430	\$599,000
3739 Madeline Dr.	1	Retail	1,155	\$299,000

Additionally, data was collected pertaining to the health of San Jose's industrial and office (retail/commercial was unavailable) leasing markets. Tables 5 and 6 below, display that space is relatively plentiful throughout San Jose.

Table 5: San Jose Industrial Statistics

Market Conditions		
Total SF	Vacant SF	Average Vacant %
89,713,427	32,517,626	14%

Source: Grubb and Ellis

Table 6: San Jose Office Statistics

Market Conditions		
Total SF	Vacant SF	Average Vacant %
13,914,431	2,368,329	16%

Source: Grubb and Ellis

3. Concurrent Displacement

VTA has several transit and transportation improvement projects in planning, design and construction. Many of these projects have the potential to displace other business enterprises.

However, these potential displacements are not expected to substantially impact the relocation of the businesses potentially impacted in the Subject Area by the Project due to the variation in the types of businesses, the separation between the projects' locations, and potentially the timing of the projects' developments.

4. Temporary Relocation

There is no anticipated need, or requirement for temporary relocation. Should such a need arise, VTA will respond appropriately, and in conformance with all applicable laws and requirements.

5. Program Assurances and Standards

Adequate funds will be available to relocate the Project occupants, and will be provided by VTA. Relocation assistance services will be provided to ensure that displacement does not result in different or separate treatment of occupants

based on race, color, religion, national origin, sex, marital status, familial status, disability or any other basis protected by the federal Fair Housing Amendments Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the California Fair Employment & Housing Act, and the Unruh Act, as well as any otherwise arbitrary or unlawful discrimination. The occupant will not be permanently displaced without a minimum of a ninety (90) days advance written notice.

5. 1 Relocation Assistance Program

OPC staff is available to assist the displaced tenants with questions about relocation and/or assistance in relocating. Relocation staff can be contacted toll-free at (800) 400-7356 from **8:30 a.m. to 6:00 p.m.**, Monday through Friday and also available on-site by appointment. The Relocation Office is located at **7901 Oakport Street, Suite 4800, Oakland, CA.**

A comprehensive relocation assistance program, with technical and advisory assistance, will be provided to the tenants being displaced. Specific activities will include:

1. Distribution of informational statements. **APPENDIX 1** contains a sample of the informational notice that will be given to the displaced occupant.
2. Timely referrals to appropriate spaces.
3. Assistance with completion and filing of relocation claims and appeals forms, if necessary.

5.2 Relocation Benefits Category

Benefits will be provided in accordance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4051 et seq) (the URA), the CRAL, the Guidelines, and all other applicable regulations and requirements. Benefits will be paid upon submission of required claim forms and documentation in accordance with approved procedures. VTA will provide appropriate benefits for the displacees as required by the above laws and requirements.

Commercial occupants are considered eligible for relocation assistance and benefits, if they lawfully occupied the subject property on the date of the “Initiation of Negotiations”; this date is defined as the date that VTA makes the first written offer to purchase the property from the current property owner; or, if they occupy the site at the time of acquisition.

Specific eligibility requirements and benefit plans will be detailed on an individual basis with all displacees. In the course of personal interviews and follow-up visits, the displacee will be counseled as to available options and the consequences of any choice with respect to financial assistance.

Commercial Moving Expense Payments

Relocation benefits will be provided to the commercial occupant pursuant to State law. Benefits will be paid upon submission of required claim forms and documentation in accordance with the procedures outlined in **APPENDIX 1**.

Pursuant to California Relocation Assistance Law, eligible businesses may receive a relocation payment to cover the reasonable cost of moving their personal property from the Project site to the selected replacement site.

There are two options:

(A) A payment for actual reasonable and necessary moving and related expenses;

Or,

(B) A fixed payment not to exceed twenty thousand dollars (\$20,000).

Payment for Actual Reasonable and Necessary Moving and Related Expenses

This payment may include the following:

- a)** Transportation of persons and property from the present location to the replacement location (transportation costs are limited to a distance of 50 miles);
- b)** Packing, crating, uncrating, and unpacking personal property;
- c)** Disconnecting, dismantling, removing, reassembling, and installing relocated and substitute machinery, equipment and other personal property. This includes connection to utilities available nearby, and modifications necessary to adapt such property to the replacement structure, or to the utilities, or to adapt the utilities to the personal property;
- d)** Storage of personal property generally for up to twelve (12) months, at the Agency's discretion;

- e)** Insurance of personal property while in storage or transit and, the replacement value of property lost, stolen, or damaged (though not through the fault or negligence of the displaced person) in the process of moving;
- f)** Subject to certain limitations, any license, permit or certification required by the displaced business, to the extent that the cost is necessary for reestablishment at the replacement location;
- g)** Subject to certain limitations, reasonable and pre-authorized professional services, including architects', attorneys', engineers' fees and consultants' charges, necessary for: (1) planning the move of the personal property; (2) moving the personal property; or, (3) installing the relocated personal property at the replacement location;
- h)** Subject to certain limitations, the purchase and installation of substitute personal property limited to the lesser of: (1) the estimated cost to move the item to the replacement location; or, (2) the replacement cost, less any proceeds from its sale;
- i)** Subject to certain limitations, modifying the machinery, equipment or other personal property to adapt it to the replacement location or to utilities available at the replacement location or modifying the power supply.
- j)** Actual direct losses of tangible personal property resulting from moving, or discontinuing a business or non-profit organization, *not-to-exceed the lesser of:*

- i) The fair market value of the tangible, personal property for continued use at its location prior to displacement; **or**,
- ii) An amount equal to the reasonable expenses that would have been required to relocate the property, as determined by VTA, subject to certain limitations;
- k) Actual, and reasonable expenses incurred in searching for a replacement business location, *not-to-exceed* \$1,000.
- l) Actual, and reasonable expenses necessary to reestablish a displaced small business at its new location, *not-to-exceed* \$10,000. Examples of expenses that may be considered for reimbursement include advertising, redecoration and certain increased costs of operation at the new location.

Fixed Payment In Lieu of a Payment for Actual Reasonable Moving and Related Expenses

The amount of this payment shall be based on the *average, annual net* earnings of the business. The payment to an eligible business may neither be less than \$1,000, nor more than \$20,000. To qualify for this payment a displaced business:

- A) *Cannot* be a part of a commercial enterprise having *at least* three (3) other establishments which are *not* being displaced by VTA as part of this Project, and which is under the *same ownership* and engaged in the *same, or similar* business activities;

B) Must *not* be able to relocate without substantial loss of patronage; and,

C) Must have contributed *at least* 33% of the owner's total gross income during *each* of the two (2) taxable years *prior to* displacement, *or* meet specific earnings criteria.

5. 3 Payment of Relocation Benefits

Relocation benefit payments will be made expeditiously. Claims and supporting documentation for relocation benefits must be filed with VTA, through Overland Pacific & Cutler, within eighteen (18) months from the date the claimant moves from the displacement property. Procedures for preparing and filing of claims and processing and delivering of payments are included in this Plan as **APPENDIX 1**.

6. Eviction Policy

After acquisition of the property, the occupant may become a tenant of VTA. VTA recognizes that eviction is permissible only as a last resort and that relocation records must be documented to reflect the specific circumstances surrounding any eviction. Eviction will only take place in cases of nonpayment of rent, serious violation of the rental agreement, a dangerous or illegal act in the unit, or if the displacees refuse all reasonable offers to move. Eviction will not affect the eligibility of a person legally entitled to relocation benefits.

7. Appeals Policy

The appeals policy will follow the standards described in Section 6150 et seq. of the Guidelines. Briefly stated, the displaced business will have the right to ask for review when there is a perceived grievance regarding any of their rights to relocation and relocation assistance, such as a determination as to eligibility, the amount of payment, or the failure to provide a comparable replacement referral.

8. Projected Relocation Action Dates

Prior to any displacement, the VTA Board must first approve the Relocation Plan. An estimated schedule for the Plan's approval is shown below,

- May 5, 2011 – VTA Board Approval of Draft Relocation Plan for Public Circulation
- May 6, 2011 – Commencement of 30 Day Public Review and Comment Period
- August 2011 – Final Relocation Plan Approval by VTA Board

Within two weeks of VTA making the first written offers (FWO) to the property owners, OPC will provide each displacee, at a minimum, a Notice of Eligibility/Conditional Entitlement (NOE). A Ninety (90)-Day-Notice-to-Vacate may be served concurrently to each displacee. These notices may be issued as early as September of 2011.

9. Estimated Relocation Cost

Relocation benefits will be provided by VTA. The relocation budget estimate for this Project is \$1,161,360. This estimate includes a 20% contingency for budgetary purposes and is exclusive of any relocation administration costs.

This estimate will be refined once the number of displacements is finalized and OPC has the opportunity to meet individually with each business and work with those businesses to obtain cost estimates to relocate and re-establish their businesses.

10. Plan Availability to the Public:

The Draft Relocation Plan is available online at:

http://www.vta.org/brt/santa_clara_alum_rock.html

The Draft Relocation Plan can be viewed at the following locations during normal business hours:

Santa Clara Valley Transportation Authority River Oaks Administrative Offices
3331 North First Street, San Jose

Hours

Mon. – Fri. 8 AM – 5 PM

Dr. Martin Luther King Jr. Main Library
150 East San Fernando Street, San Jose

Hours

Mon.-Thurs. 8AM-Midnight

Fri. 8AM - 6PM

Saturdays 9AM-6PM

Sundays 1PM-Midnight

East San Jose Carnegie Library
1102 E. Santa Clara Street

Hours

Mon. CLOSED

Tue. 11AM – 8 PM

Wed. 11AM – 8 PM

Thu. 10 AM - 6 PM

Fri. 1 PM - 6 PM

Sat. 10 AM - 6 PM

Sun. CLOSED

Dr. Roberto Cruz Alum Rock Library

3090 Alum Rock Avenue San Jose

Hours

Mon. CLOSED

Tue. 11 AM - 8 PM

Wed. 11AM - 8 PM

Thu. 10 AM - 6 PM

Fri. 1 PM - 6 PM

Sat. 10 AM - 6 PM

Sun. CLOSED

APPENDIX 1: Informational Brochure for Business Operation

Relocation Assistance Program for Businesses, Farms and Non-Profit Organizations

(under California law and guidelines)

February 2009

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INTRODUCTION

In the development of needed transportation facilities, it is not always possible to avoid displacement of businesses, farms or non-profit organizations. To minimize the impact caused by such displacement, the Santa Clara Valley Transportation Authority (VTA) has established a Relocation Assistance Program, including relocation advisory assistance and monetary benefits, for commercial enterprises that must move as a result of VTA's acquisition of the property they occupy.

This brochure broadly summarizes this program and describes the principal provisions of relocation legislation concerning where and how to get assistance, eligibility for benefits, payments and requirements. Relocation regulations are complicated and difficult to interpret. Therefore, persons reading this brochure are urged not to form advance opinions as to the benefits and amounts to which they may be entitled. Strict requirements must be met before eligibility can be established and payment benefits determined. Premature action may jeopardize your eligibility for a relocation payment.

BENEFIT ELIGIBILITY

Every owner or tenant who is displaced from property on which they operate their business, farm or non-profit organization, as a result of a VTA transportation project, is protected under applicable State of California or Federal relocation laws. This brochure describes the relocation assistance and benefits an eligible displaced person may receive under the California Relocation Law (Government Code Section 7260 et. seq.) and the implementing Guidelines (California Code of Regulations, Title 25, Chapter 6).

The California Guidelines establish strict eligibility and documentation requirements for owners and tenants. To receive payment for a particular benefit, you must satisfy all requirements for that particular benefit payment. This brochure will explain the requirements and the process for obtaining financial and advisory relocation assistance services.

SUMMARY OF RELOCATION ASSISTANCE

As an eligible displaced person, you would be offered appropriate financial and advisory assistance to help you relocate, including:

- A. Payment for your moving expenses, which include either
- A payment for Actual Reasonable Moving and Related Expenses

OR

- A Fixed Payment in Lieu of a Payment for Actual Moving and Related Expenses

- B. Advisory Assistance to explain the relocation process, the related eligibility requirements and the procedures for obtaining reimbursement for moving expenses.
- C. Other help as needed to reestablish your business to minimize the impact of the move.

If you disagree with VTA's decision as to the amount of your payment or your eligibility for assistance, you may appeal that decision.

RELOCATION ADVISORY ASSISTANCE

A Relocation Advisor will help you find a replacement property either for sale or rent that is suitable in condition, price or rental range, and will help you submit the documentation required to file the appropriate benefit claim forms. Information on services offered by other agencies is also available. The Relocation Advisor is your principal contact in all matters concerning VTA's relocation programs and procedures.

Your Relocation Advisor will:

- Maintain contact with the business owner throughout the relocation process in order to determine the needs and preferences for a replacement location. Among other matters, requirements as to space, location, site configuration, zoning and cost will be taken into account.
- Assist in determining the need for outside specialists to plan, move and install personal property.
- Assist in identifying and resolving any issues regarding what is real estate and what is personal property to be moved.
- Assist in filing claim forms for the various types of relocation payments, including the type of documentation required to support the amount being claimed.
- Provide referrals to available replacement facilities or provide the names of local real estate agents and brokers who can assist in finding the type of replacement location which appears to the needs of the business.
- Explain which moving costs are eligible for reimbursement and which are not eligible.
- Maintain strict confidentiality regarding all matters related to the business operation.

- Provide assurance that the business will not be required to move until VTA has provided at least 90 days advance written notice of the specific date by which the property must be vacated.

FINANCIAL ASSISTANCE

Owners or tenants may be paid on the basis of actual, reasonable moving costs and related expenses incurred in moving personal property up to a distance of 50 miles from the displacement location, or under certain circumstances, a fixed payment. Actual, reasonable moving expenses may be paid when the move is performed by a professional mover or when the business chooses a self-move. Some related expenses, such as personal property losses, expenses in finding a replacement site and reestablishment expenses may also be reimbursable.

The business owner must provide VTA with an inventory of the personal property to be moved and advance notice of the approximate date of the move, unless VTA specifically informs you that these notices are not necessary.

VTA has the right to inspect the personal property at the displacement and replacement sites and to monitor the move.

ACTUAL REASONABLE AND NECESSARY MOVING EXPENSES

An owner-occupant or tenant-occupant who qualifies as a displaced person is entitled to payment of actual moving and related expenses as VTA determines to be reasonable and necessary. All moving expenses must be supported by paid receipts or other evidence of expenses incurred. In addition to the cost of transporting your personal property up to 50 miles to your replacement site, certain other expenses may be reimbursable, such as:

Packing, unpacking	Crating, uncrating
Loading, unloading	Disconnecting, dismantling
Removing and reassembling machinery	Reinstalling relocated machinery
Temporary storage (with prior approval)	Reprinting obsolete stationery
Connection to utilities within the building	

Other eligible reimbursable costs may include:

- Any license, permit or certification caused by the move to the extent that the cost is necessary for the operation of the business at the replacement site.
- The reasonable cost of professional services necessary for planning the move of the personal property, moving the personal property, or installing the relocated personal property at the replacement site.
- Insurance of personal property in connection with the move and required storage (if any).

- The reasonable cost of moving and reinstalling telephone, burglar, fire alarm and other specialty equipment or systems, if not purchased by VTA.
- Searching expenses incurred while looking for a replacement site. This payment may not exceed \$1,000 and may cover costs for mileage, time spent searching (based on a reasonable salary) and meals and lodging away from home.

Moving payments are generally made after the move is completed and the premises are left clean and orderly. Payment typically takes three weeks to process from receipt of a signed claim form with required documentation.

Estimated Cost Move

If you agree to take full responsibility for all or part of the move of your operation, VTA may approve a payment not to exceed the lower of two acceptable bids or estimates obtained by VTA from qualified moving firms, moving consultants, or a qualified VTA staff employee. A low cost or uncomplicated move may be based on a single bid or estimate at VTA's discretion. The advantage of this moving option is that it relieves you from documenting all moving expenses because the payment is limited to the amount of the lowest acceptable bid or estimate. VTA may make this payment without additional documentation.

Purchase of Substitute Personal Property

If an item of personal property which is used as part of a business is not moved but is promptly replaced with a comparable item, the displaced business is entitled to reimbursement in an amount not to exceed:

- The replacement cost, minus any net proceeds received from its sale **or**
- The estimated cost of moving the item, whichever is less.

Direct Loss of Tangible Personal Property

A business may claim payment for actual direct loss of tangible personal property as a result of moving or discontinuing a business operation. This payment cannot exceed the cost of moving the personal property.

Actual direct loss of personal property is allowed when a person who is displaced from a place of business is entitled to relocate such property in whole or in part, **but elects not to do so.**

Payment is computed on the basis of the **lesser** of:

- The fair market value of the personal property for continued use at its location prior to displacement, **or**

- The estimated reasonable cost of moving the item. VTA may require that the owner first make a bona fide attempt to sell the property, with the proceeds from the sale being **deducted** from the determination of loss. The reasonable cost of the effort to sell the item may be **added** to the determination of loss.

The sales price and the actual reasonable costs of advertising and conducting the sale of personal property that is not to be relocated to the replacement site, must be supported by a copy of the bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records, or other data supporting the bona fide nature of the sale.

When personal property is abandoned with no effort being made by the owner to dispose of such property, the owner will not be entitled to claim moving expenses or losses for the items involved.

Low Value-High Bulk Personal Property

If VTA considers personal property to be of low value and high bulk, and moving costs are disproportionate to its value, the allowable reimbursement for the expense of moving such property cannot exceed the **lesser** of:

- The difference between the cost of replacing the same property with comparable property available on the market, and
- The amount which would have been received for such property upon liquidation.

Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property.

Please discuss this with your Relocation Advisor before incurring these costs to assure that they are reimbursable.

INELIGIBLE MOVING AND RELATED EXPENSES

The following expenses are not reimbursable:

- The cost of moving any structure or other real property improvement in which the business owner reserves ownership;
- Interest on a loan to cover moving expenses;
- Loss of goodwill*;
- Loss of profits;
- Loss of trained employees;

- Personal injury;
- Any legal fee or other cost for preparing a claim for relocation payment or for representing the business before VTA;
- Expenses in searching for a replacement dwelling;
- Costs for storage of personal property on real property already owned or leased by the displaced person;
- Refundable security and utility deposits.

*Payment for loss of goodwill is considered a cost related to the acquisition of property. California law and the Federal regulations mandate that relocation payments cannot duplicate other payments, such as loss of business goodwill.

RE-ESTABLISHMENT PAYMENT

In addition to a payment for actual reasonable moving and related expenses, a small business, non-profit organization or farm may be eligible to receive a payment of up to \$10,000 for reasonable and necessary expenses actually incurred in re-establishing its operation at a replacement site. To qualify, the business must have not more than 500 employees working at the site.

Business re-establishment benefits may include but are not limited to:

- Repairs or improvements to the replacement real property required by Federal, State or local laws, code or ordinance.
- Modifications to the replacement real property to accommodate the business or make the structure(s) suitable for the operation.
- Construction and installation costs of exterior advertising signs to advertise the business and advertising of the replacement location.
- Provision of utilities from the right-of-way to improvements on the replacement site.
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
- Licenses, fees and permits when not paid as part of moving expenses.
- Feasibility surveys, soil testing and marketing studies.

- Professional services in connection with the purchase or lease of a replacement site.
- Estimated increased costs of operation at the replacement site during the first 2 years for items such as monthly lease or rental costs, personal or real property taxes, insurance premiums, utility charges (excluding impact fees).
- Impact fees or one-time assessments for anticipated heavy usage.
- Other items which VTA considers essential to the re-establishment of the business.

INELIGIBLE RE-ESTABLISHMENT EXPENSES

The following are not considered to be reasonable, necessary or otherwise eligible expenses:

- Purchase of capital assets, such as office furniture, filing cabinets, and machinery or trade fixtures.
- Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- Interior or exterior refurbishment at the replacement site which are for aesthetic purposes only.
- Interest on money borrowed to make the move or purchase the replacement property.
- Payment to a part-time business in the home which does not contribute materially to the household income.

FIXED PAYMENT “IN LIEU OF” ACTUAL MOVING & RELATED EXPENSES

Under certain circumstances, eligible businesses, non-profit organizations and farms are eligible to obtain a Fixed Moving Payment “in lieu of” (**i.e., instead of**) receiving a payment for actual, reasonable moving and reestablishment expenses.

The fixed payment for a business or farm operation is based on the average annual net earnings of the business or farm for the 2 years immediately prior to displacement; the fixed payment for a non-profit organization is based on average annual gross revenues for the 2 years immediately prior to displacement, less administrative expenses.

To be eligible, the business, non-profit organization or farm cannot be part of a commercial enterprise having more than three other similar establishments which are not being acquired for the project.

The minimum fixed payment is \$1,000 and the maximum fixed payment is \$20,000. You must provide VTA with proof of net earnings to support your claim. Proof of net earnings can be documented by income tax returns, certified financial statements, or other reasonable evidence acceptable to VTA. The VTA Relocation Advisor will inform you as to your eligibility for this payment and the documentation you must submit to support your claim.

Example of Computation of a Fixed Payment

2007	2008	2009
Annual Net Earnings \$16,500	Annual Net Earnings \$18,500	Year Displaced
Average annual net earnings $\$16,500 + \$18,500 = \$35,000 / 2 = \$17,500$ Fixed Payment = \$17,500		

Remember, if an “in lieu” payment is selected, there is no entitlement to reimbursement for any other moving, related or reestablishment expenses.

OUTDOOR ADVERTISING SIGNS

An owner of an outdoor advertising sign may be eligible for the reasonable cost of moving such sign or its in-place value, whichever is lesser. An owner is NOT eligible to receive a Payment “in Lieu” of a Payment for Actual Reasonable Moving and Related Expenses.

LOSS OF GOODWILL

Goodwill consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage. The owner of a business conducted on property acquired by VTA (or on the remainder if the property is part of a larger parcel) may be compensated for a “loss of goodwill” if the owner proves all of the following:

- The loss is caused by the acquisition of the property by VTA;
- The loss cannot reasonably be prevented by relocation of the business or taking steps and adopting procedures that a reasonably prudent person would take to preserve the goodwill; and
- The compensation for the loss has NOT been included as a relocation payment, or duplicated in compensation otherwise awarded to the owner.

If a claim for loss of goodwill is to be made, it must be filed after displacement has occurred, allowing sufficient time to enable determination of loss, if any.

RELOCATION PAYMENTS NOT CONSIDERED TO BE INCOME

California government Code Section 7269 indicates that no payment received by any person under this chapter shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

This statement is not tendered as legal advice in regard to tax consequences and displaced persons should consult with their own tax advisor or legal counsel to determine the current status of relocation payments.

FILING OF CLAIMS

Your Relocation Advisor will assist you in completing the required relocation claims and explain the type of documentation that you must submit in order to receive payment.

If you are a tenant, you must file your claim within eighteen (18) months of the date you move. If you own the property, you must file your claim within eighteen (18) months after the date you move, or the date you receive the final acquisition payment, whichever is later. However, it is to your advantage to file your claim as soon as possible after you move. The sooner you submit the claim, the sooner it can be processed and paid.

YOUR RIGHT TO APPEAL

California relocation guidelines provide that a person may appeal to the responsible agency if the person believes that the agency has failed to properly determine eligibility for, or the amount of payment authorized by the Guidelines. If you indicate your dissatisfaction, both verbally or in writing, your VTA Relocation Advisor will assist you in filing an appeal and explain the procedure to be followed. You will be given a prompt and full opportunity to be heard. You have the right to be represented by legal counsel or another representative in connection with the appeal (but solely at your own expense).

VTA will consider all pertinent justifications and materials submitted by you and other available information needed to ensure a fair review. VTA will provide you with a written determination resulting from the appeal with an explanation of the basis for the decision. If you are still dissatisfied with the relief granted, you may seek judicial review.

WHEN VTA BECOMES YOUR LANDLORD

After VTA purchases the property you currently occupy, you may become a tenant of VTA. You will be asked to enter into a rental agreement with VTA which specifies the

rent to be paid, its due date and the property management policies which will apply to your tenancy.

No person eligible for relocation payments, who is lawfully occupying real property acquired for a VTA transportation project, will be asked to move without at least 90 days advance written notice. However, you may be evicted for the following reasons:

- You received an eviction notice prior to the date VTA made an offer to purchase the property and as a result of that notice you are later evicted;
- Serious or repeated violation of material terms of the rental agreement;
- Failure to pay rent, except for just cause acceptable to VTA;
- Performance of a dangerous or illegal act on the premises;
- Maintenance of a nuisance and failure to abate within a reasonable time following notice;
- The eviction is required by State law or County ordinance and cannot be prevented by reasonable efforts on the part of VTA.

ADDITIONAL INFORMATION

This brochure is a general description of VTA's relocation assistance program and is not intended as a complete statement of all the State of California laws and regulations which, if not complied with, could cause loss of or reduction in the amount of relocation benefits a person might otherwise receive. Loss of eligibility may occur if you sell or move from your property without first contacting your Relocation Advisor.

While every effort has been made to assure the accuracy of this brochure, it should be understood that it does not have the force and effect of law, rule, or regulation governing the payment of benefits. Should any difference or error occur, the law will take precedence.

If you have any questions which have not been adequately answered in this informational brochure, please contact your Relocation Advisor or a member of VTA Real Estate Staff at (408) 321-5777.

APPENDIX 2: SAMPLE INTIAL CONTACT LETTERS

SAMPLE LETTER TO BUSINESS OWNERS

[Date]

[Business Occupant Name]
 [Address]
 San Jose, CA 95116

Re: Relocation Plan Interview Request

Dear [Business Occupant Representative]:

As you may be aware, the Santa Clara Valley Transportation Authority (VTA) is in the process of studying the area where your business is located for potential development of a Bus Rapid Transit project, also known as BRT, (the Project), on Alum Rock Avenue in San Jose (Project Area). The property that you currently operate your business may be affected by the Project. Overland, Pacific & Cutler, Inc. (OPC), a professional right-of-way consulting firm, has been retained by VTA to investigate the potential impacts to properties and businesses in the Project Area and any potential relocation issues resulting from those impacts.

OPC needs to meet with a representative from your business to learn more about the business and to conduct a relocation interview at a convenient time for you. OPC respectfully requests to meet in person at your business location. *Time is of the essence and OPC needs to complete interviews by [DATE].* The interview should take no more than 1 hour; day and evening appointments may be scheduled. Please call Linh Inokuchi at (800) 400-7356 to discuss the best time to schedule an interview. Linh can also be reached via email at linkuchi@opcservices.com.

Thank you for your cooperation.

Sincerely,

XXXX
 XXXX

Business Occupant Acknowledgement of Receipt

 Business Occupant Representative Name

 Date

SAMPLE LETTER TO PROPERTY OWNERS

[Date]

[Owner Name]
 [Address]
 San Jose, CA 95116

Re: Relocation Plan Interview Request

Dear [Business Occupant Representative]:

As you may be aware, the Santa Clara Valley Transportation Authority (VTA) is in the process of studying the area where your business is located for potential development of a Bus Rapid Transit project, also known as BRT, (the Project), on Alum Rock Avenue in San Jose (Project Area). The property that you currently operate your business may be affected by the Project. Overland, Pacific & Cutler, Inc. (OPC), a professional right-of-way consulting firm, has been retained by VTA to investigate the potential impacts to properties and businesses in the Project Area and any potential relocation issues resulting from those impacts.

OPC needs to meet with a representative from your business to learn more about the business and to conduct a relocation interview at a convenient time for you. OPC respectfully requests to meet in person at your business location. Time *is of the essence and OPC needs to complete interviews by [DATE]*. Please call Linh Inokuchi at (800) 400-7356 with any questions. Linh can also be reached via email at linkuchi@opcservices.com.

Thank you for your cooperation.

Sincerely,

XXXX
 XXXX

Property Owner Acknowledgement of Receipt

 Property Owner Representative Name

 Date