

**RECORD OF DECISION
ON
VTA's BART SILICON VALLEY
PHASE II EXTENSION PROJECT
BY THE
FEDERAL TRANSIT ADMINISTRATION**

Decision

The Federal Transit Administration (FTA), pursuant to Title 23 of the Code of Federal Regulations (CFR) Part 771 and Title 40 CFR Parts 1500-1508, has determined that the requirements of the National Environmental Policy Act (NEPA) of 1969 and related federal environmental statutes, regulations, and executive orders have been satisfied for the Santa Clara Valley Transportation Authority's (VTA's) Bay Area Rapid Transit (BART) Silicon Valley Phase II Extension Project (Phase II Project) in Santa Clara County, California.

This Record of Decision (ROD) applies to the BART Extension Alternative, which was described and evaluated in VTA's BART Silicon Valley Phase II Extension Project Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report and Section 4(f) Evaluation (SEIS/SEIR), dated February 2018. FTA served as the federal lead agency under NEPA, and VTA served as the lead agency under the California Environmental Quality Act (CEQA).

VTA will seek financial assistance from FTA for the project and carry out the project's engineering and construction. The Phase II Project consists of the design, construction, and future operation of a 6-mile extension of the BART system from the Berryessa/North San José Station (currently under construction) in the City of San José through downtown San José to the Santa Clara Caltrain Station. If FTA provides financial assistance for final design or construction of the Phase II Project, FTA will require the Phase II Project to be designed and built as presented in the Final SEIS/SEIR and in the ROD. Any proposed change must be evaluated in accordance with 23 Code of Federal Regulations (CFR) Section 771.129-130 and FTA must approve the change before the agency requesting the change can proceed.

Background

VTA's BART Silicon Valley Program consists of a 16-mile extension of the BART system from BART's existing Warm Springs/South Fremont Station in southern Fremont in Alameda County into Santa Clara County through the Cities of Milpitas, San José, and Santa Clara. VTA's BART Silicon Valley Program is being implemented in two phases: the Phase I Berryessa Extension Project (Phase I Project) and the Phase II Project. The Phase I Project is a 10-mile extension from the existing Warm Springs/South Fremont Station to the Berryessa/North San José Station in the City of San José. In 2010, FTA issued a ROD for the Phase I Project, which is currently under construction and scheduled to be open in late 2018. The remaining approximately 6-mile extension of VTA's BART Silicon Valley Program, referred to as the Phase II Project, was the subject of the 2018 combined Final SEIS/SEIR, which included both NEPA and CEQA analyses.

The purpose of the Phase II Project is to improve transit services and increase intermodal connectivity and modal options. The Phase II Project addresses the need for improved transportation choices and capacity in Silicon Valley and the region and would lead to an increased number of transit trips from origins and destinations in Alameda and Santa Clara

Counties, as well as Contra Costa County and portions of the Central Valley (San Joaquin and Sacramento Valleys) that are linked to the Santa Clara Valley by rail. Benefits of the Phase II Project include: (1) improving public transit service and modal options, (2) enhancing regional transit connectivity, (3) providing transit options to traveling on congested highways and supporting road networks, (4) improving transportation options that will maintain continuing economic vitality of the Silicon Valley, (5) improving mobility options for transit-dependent populations, (6) maximizing transit usage and ridership which reduces automobile traffic and related air quality emissions, and (7) supporting local and regional economic and land use plans and transit investments.

Planning For The Project

The extension of BART into Santa Clara County is the outcome of prior studies that have evaluated transportation needs in the BART Silicon Valley corridor and major capital improvements intended to expand transit service. Many studies were conducted from 1994 through 2011. These studies were incorporated by reference and discussed in Chapter 2 of the FSEIS. The studies constitute a comprehensive, systematic study of transportation conditions in the BART Silicon Valley corridor, including existing and future needs. They also established transportation goals and objectives that guide the development of transportation solutions that address identified needs.

The 2001 Major Investment Study (MIS) Final Report served as a federal alternatives analysis of the various transportation investment options for the 16-mile BART extension into Santa Clara County, then called the Silicon Valley Rapid Transit Corridor Project (SVRTC Project, now called the VTA BART Silicon Valley Program). Eleven alternatives were identified in the 2001 MIS Final Report that addressed project goals and corridor needs. Results of the 2001 MIS Final Report were reviewed by VTA's Board of Directors, which on November 9, 2001, approved a Locally Preferred Alternative (LPA) that would extend BART service from Fremont through the Cities of Milpitas, San José, and into Santa Clara.

In March 2004, a combined Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR) and Section 4(f) Evaluation for the 16-mile SVRTC Project was prepared in accordance with the requirements of NEPA and CEQA and released for public comment. Subsequent to the start of the public review period for the Draft EIS/EIR, a NEPA Notice of Intent to Prepare an EIS was published for the BART Warm Springs Extension Project, a 5.4-mile project extending from what was then the end-of-the-line Fremont Station to south Fremont, terminating at the then-proposed Warm Springs Station.

Once BART decided to pursue federal funding for the BART Warm Springs Extension Project, the SVRTC Project was determined not ripe for NEPA review because it was in the early stages of planning. Funding for the operation and construction of the SVRTC Project was still being explored at that time. Consequently, VTA withdrew the SVRTC Project from FTA's New Starts project qualification and funding program.

A Final EIR was prepared and certified by VTA's Board of Directors in December 2004 for the 16-mile project. In June 2007, a Final Supplemental EIR updating the 2004 EIR to address project design refinements was certified by VTA's Board of Directors. In mid-2007, VTA requested FTA's approval to begin the NEPA process again, and FTA concurred. On September 21, 2007, FTA published in the Federal Register a Notice of Intent to prepare an EIS on the SVRTC Project.

A Draft EIS was released for public comment in March 2009, and a Final EIS was published in March 2010. On June 24, 2010, FTA issued a ROD on the first phase of the SVRTC Project, the Phase I Project, which included an approximately 10-mile segment from Warm Springs to Berryessa. A Draft 2nd Supplemental EIR was prepared and issued for public review in November 2010 to update the CEQA analysis to be consistent with the NEPA analysis for the Phase I Project. The Final 2nd Supplemental EIR was certified and the Phase I Project approved by VTA's Board of Directors in March 2011. VTA proceeded to complete design and initiated construction on the Phase I Project.

The remaining approximately 6 miles of the SVRTC Project is referred to as the Phase II Project. It has been over 8 years since preparation and publication of the 2010 Final EIS on the SVRTC Project, now called VTA's BART Silicon Valley Program. The 2016 Draft and 2018 Final SEIS/SEIR analyzed alternatives for the Phase II Project.

Alternatives Considered

FTA considered two NEPA alternatives in the SEIS/SEIR: the No Build Alternative and the BART Extension Alternative.

No Build Alternative. The No Build Alternative consisted of planned and programmed transit and roadway improvements but did not include the 6-mile BART Extension to Santa Clara. The No Build Alternative consisted of the existing transit and roadway networks and planned and programmed improvements in the corridor that are identified in the Bay Area's Regional Transportation Plan (RTP), Transportation 2035 Plan for the San Francisco Bay Area (Transportation 2035 Plan), adopted by the Metropolitan Transportation Commission (MTC) in April 2009; the Valley Transportation Plan 2040 (VTP 2040), adopted by VTA in October 2014; and the Expressway Plan 2040 Study (County of Santa Clara Roads and Airports Department 2015).

NEPA BART Extension Alternative. The NEPA BART Extension Alternative consists of a 6-mile extension of the BART system from the Berryessa/North San José Station, currently under construction, through downtown San José to the Santa Clara Caltrain Station. The BART Extension Alternative consisted of the approximately 6-mile extension of the BART system from the Berryessa/North San José Station through downtown San José, terminating in Santa Clara near the Santa Clara Caltrain Station. Four stations are planned along the alignment at Alum Rock/28th Street, Downtown San José, Diridon, and Santa Clara. Two location options were considered for the Downtown San José Station (East and West Options) and Diridon Station (North and South Options).

The project would include two ventilation structures, one at 13th Street and another at Stockton Avenue. Four location options were considered for the Stockton Avenue Ventilation Structure south of Taylor Street and east of Stockton Avenue.

Two tunneling methodology options to construct the Phase II Project, the Twin-Bore and Single-Bore Options, were evaluated in the Final SEIS/SEIR. Both options would have a length of approximately 4.5 miles. The tunnel diameter for the Twin-Bore Option would be approximately 20 feet; the tunnel diameter for Single-Bore Option would be approximately 45 feet.

As described in ES.2.1 of the FSEIS, the proposed Transit Oriented Joint Development (TOJD) is not included in the NEPA Build Alternative because it is a proposed independent action by VTA and no federal action is involved. The proposed TOJD serves a separate purpose and need

than the BART Extension Alternative and has independent utility. It is included as an alternative under CEQA to support local and regional land use planning. No private developer has been identified at this time, and the proposed TOJD by VTA may be subject to refinement once a private developer is identified. Any proposed TOJD by VTA, should the Board decide to implement this alternative, would be separately funded, and would not include federal funding. The proposed TOJD may be constructed at the same time as the BART Extension Alternative or later in time, dependent on the availability of funding and subject to market forces. However, the design of the stations and structures would not preclude TOJD. Because no federal action is involved, VTA's proposed TOJD, is intended to be consistent with the general plans and approved area plans of the cities of San Jose and Santa Clara, as applicable, and is considered in the cumulative background conditions for NEPA purposes.

While not a component of the NEPA BART Extension Alternative, the TOJD component of the CEQA BART Extension with TOJD Alternative is reviewed as part of the NEPA cumulative impact analysis in Section 7.1.4 of the FSEIS, *Cumulative Impacts under NEPA and CEQA*. The TOJD review under CEQA is contained in Chapter 3, *NEPA and CEQA Transportation Operation Analysis*, Chapter 6, *CEQA Alternatives Analysis of Construction and Operation*, and Section 7.1, *Cumulative Impacts under NEPA and CEQA*.

Environmentally Preferable Alternative

The "environmentally preferable alternative" is the alternative required by 40 CFR Part 1505.2(b) to be identified that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources.

FTA determined that the BART Extension Alternative is the environmentally preferable alternative when the alternatives were weighted and balanced in terms of their environmental effects. The BART Extension Alternative would result in adverse effects to air quality, noise, vehicular traffic, bicyclists, pedestrians, and transit operations and socio-economic impacts to businesses during construction. However, the BART Extension Alternative would result in long-term operational benefits. It would result in increased transit ridership, decreased regional vehicle-miles traveled, reduced regional criteria pollutant emissions; decrease in greenhouse gas emissions. In addition, the BART Extension Alternative would have transportation benefits of increase connectivity in the San Francisco Bay Area, improved transit reliability and services to improve access to downtown employment opportunities. This would benefit environmental justice populations who live and work near the corridor.

The No Action Alternative would lack the environmental benefits and transportation benefits of the BART Extension Alternative. The No Action Alternative would result in greater traffic congestion, especially on the freeway network, resulting in longer travel times. Therefore, in consideration of the damage to the physical environment and the long-term benefits to environmental resources, particularly air quality, the BART Extension Alternative is the environmentally preferable alternative.

Description of the Project

The Phase II Project described as the NEPA BART Extension Alternative in the Final SEIS/SEIR is the subject of this ROD and is the NEPA Preferred Alternative.

The Phase II Project consists of the approximately 6-mile extension of the BART system from the Berryessa/North San José Station through downtown San José in an approximately 5-mile-long single-bore tunnel terminating in Santa Clara near the Santa Clara Caltrain Station. The Phase II Project includes three stations in the City of San José (Alum Rock/28th Street, Downtown San José, and Diridon Stations), one station in the City of Santa Clara (Santa Clara Station) and the Newhall Maintenance Facility in the City of Santa Clara. Two ventilation structures are included along the alignment.

Two BART lines are planned to serve the Phase II Project: Santa Clara–Richmond and Santa Clara–Daly City. BART would operate weekdays from 4 a.m. to 1 a.m. The headways average 6 to 12 minutes from 4 a.m. to 6 a.m., 6 to 7.5 minutes from 6 a.m. to 7 p.m., and 15 to 20 minutes after 7 p.m. Saturday BART service would be from 6 a.m. to 1 a.m., with 7.5 to 10 minute average headways from about 9 a.m. to 6:30 p.m., and 15 to 20 minute average headways before 9 a.m. and after 6:30 p.m. Sunday BART service would be from 8 a.m. to 1 a.m., with 15 to 20 minute headways all day. However, BART service levels are subject to refinement based on BART's updates to their system-wide operating plan. Approximately 48 new BART vehicles are anticipated to accommodate these service levels and the 2035 Forecast Year ridership demand.

Alignment and Station Features

Connection to Phase I Berryessa Extension. The Phase II Project would begin in the City of San José where the Phase I Project tail tracks end at the Berryessa Road and Mabury Road in San José. The alignment would transition from a retained-fill configuration east of U.S. 101 and south of Mabury Road near the end of the Phase I Project alignment into a retained-cut configuration and enter the East Tunnel Portal near Las Plumas Avenue.

Alum Rock/28th Street Station. Alum Rock/28th Street Station would be located between U.S. 101 and North 28th Street and between McKee Road and Santa Clara Street. The station would be underground with street-level entrance portals with elevators, escalators, and stairs covered by canopy structures. The station would have a minimum of two entrances. A parking structure of up to seven levels would accommodate BART park-and-ride demand with 1,200 parking spaces. Areas for automobiles, shuttles, and buses to drop off passengers would be provided on North 28th Street and/or within the station campus.

Downtown San José Station. The Downtown San José Station would be located between Market and 3rd Streets. The station would consist of boarding platform levels and some systems facilities within the tunnel beneath Santa Clara Street, and entrances at street level. Vertical circulation elements, including elevators, escalators, and stairs, would be at station portal entrances, providing pedestrian access to the boarding platforms. Escalators and stairs would have canopy structures. The station would have a minimum of two entrances.

Diridon Station. The station would consist of a boarding platform level, a concourse level, and entrances at street-level portals. Street-level station entrance portals would provide pedestrian linkages to the Diridon Caltrain Station and SAP Center. Entrances would have elevators, escalators, and stairs covered by canopy structures. The station would have a minimum of two entrances. An underground concourse level would span the two entrances adjacent to the tunnel.

Stairs and escalators would be provided at each of the entrances, and elevators would be provided at each station near each end. The existing VTA bus transit center would be reconfigured for better access and circulation to accommodate projected bus and shuttle transfers to and from the BART station. Kiss-and-ride facilities would be located along Cahill Street. No park-and-ride parking would be provided.

Santa Clara Station. The closest streets to the Santa Clara Station would be De La Cruz Boulevard to the northwest, Coleman Avenue to the northeast, and Brokaw Road to the east. The station would be at grade with an at-grade boarding platform and a concourse one level below. Access to the boarding platform would be provided via elevators, escalators, and stairs covered by canopy structures. A pedestrian underpass would connect from the concourse level of the BART station to the Santa Clara Caltrain station. The pedestrian underpass would continue from the station concourse level to a new BART plaza near Brokaw Road. Kiss-and-ride, bus, and shuttle loading areas would be provided on Brokaw Road.

Newhall Maintenance Facility. The Newhall Maintenance Facility is approximately 40 acres and would begin north of the West Tunnel Portal at Newhall Street in San José and extend to De La Cruz Boulevard near the Santa Clara Station in Santa Clara. The Newhall Maintenance Facility would include a train car washer, yard control tower, inspection pit, blowdown facility, wheel truing facility, revenue vehicle maintenance shop, vehicle turntable, non-revenue vehicle shop, maintenance and engineering offices, material storage area, train control house, gap breaker station, radio tower and high-voltage substation.

Basis For The Decision

FTA weighed the ability of project alternatives to meet the purpose and need, the environmental effects of the alternatives, and the comments from the public and agencies. FTA has reviewed the public and agency comments on the Draft SEIS/SEIR, Final SEIS/SEIR, and the transcripts of the hearings. Attachment B to this ROD includes a summary of comments received on the Final SEIS/SEIR and responses to comments during the public circulation period. Based on these factors, FTA has determined that the Phase II Project meets the purpose and need of the proposed action as outlined in Chapter 1 of the Final SEIS/SEIR and as discussed below.

Improve public transit service and modal options: The Phase II Project would improve public transit service in this corridor by providing increased transit capacity and faster, convenient access to and from major Santa Clara County employment and activity centers for corridor residents and populations throughout the Bay Area and from communities that can access the BART regional rail network.

Enhance regional transit connectivity: The Phase II Project would enhance regional connectivity by expanding and interconnecting BART rapid transit service with VTA bus and light rail and Amtrak, Altamont Corridor Express (ACE), and Caltrain rail services in Santa Clara County and improve intermodal transit hubs where rail, bus, auto, bicycle, and pedestrian links meet. The Phase II Project would also provide travel time savings between Alameda and Santa Clara Counties. Project would reduce the morning peak hour transit travel from Oakland to Santa Clara by 21 minutes and from Newark to downtown San José by 16 minutes.

Provide transit options to traveling on congested freeways and supporting road networks: The Phase II Project would have a beneficial effect by removing some freeway and supporting road network traffic from the ever-increasing traffic congestion in and between Alameda and Santa

Clara Counties. The Phase II Project would generate a considerable number of new linked transit trips which are primarily diverted from automobile trips.

Improve transportation options in the Silicon Valley: The Phase II Project would support transportation solutions that would maintain the economic vitality and continuing development of Silicon Valley by expanding multimodal options and reducing reliance on single auto commute trips. Increasing the use of transit is critical to moving workers through highly-congested travel corridors that serve major employment centers. Substantial job growth is projected with almost 200,000 new jobs in Santa Clara County by 2035.

Improve mobility options for transit-dependent populations: The Phase II Project would improve mobility options to employment, education, medical, and retail centers for corridor residents, particularly for low-income, youth, elderly, disabled, and ethnic minority populations. The Phase II Project would improve accessibility to community facilities in San José and Santa Clara. These are areas with concentrated low-income, low-mobility populations, and have more affordable housing.

Maximize transit usage and ridership which reduces automobile traffic and related air quality emissions: The Phase II Project would greatly improve the transit service between downtown San José and Santa Clara and the primarily residential communities in the East Bay. Commuters would no longer have to transfer to a bus at the BART Berryessa/North San José Station once this station is opened, to get to downtown San José.

Support local economic and land use plans and goals and transit investments: The Phase II Project would be consistent with local and regional plans and policies to extend the BART system, would create a unified transit system that potentially would encircle the Bay Area, and would encourage higher-density, mixed-use development adjacent to proposed transit nodes.

Provide other benefits: As discussed in the Final SEIS/SEIR, the Phase II Project is estimated to result in substantial reductions in transportation system vehicle energy requirements compared to No Build conditions. The Phase II Project would also reduce the total vehicle miles traveled and result in lower related air quality and greenhouse gas emissions.

Public Involvement and Outreach

Chapter 10, Agency and Community Participation in Volume I of the Final SEIS/SEIR describes extensive outreach to the public and federal, state, and local agencies occurred as part of the preliminary design and environmental process. On January 30, 2015, VTA distributed a Notice of Preparation (NOP) to advise interested agencies and the public that VTA intended to prepare an SEIS/SEIR for the Phase II Project. VTA distributed the NOP to approximately 225 agencies, elected officials, and interested parties and organizations in the study area. VTA used multiple methods to announce the scoping process and scoping meetings, including display advertisements in local newspapers, mailings to addresses located in the vicinity of the Phase II Project, emails sent to recipients on the VTA emailing list, news releases posted on the VTA website, and social media postings on VTA's Facebook, Twitter, and Nextdoor accounts.

VTA distributed approximately 58,000 mailers to addresses located within 0.25-mile of the alignment and within 1-mile of station areas. The mailers were translated into five languages (Spanish, Vietnamese, Korean, Chinese, and Portuguese) and provided an overview of the Phase II Project, information regarding the scoping meetings, and instructions on how to submit

comments. Social media postings on VTA's Facebook page and Twitter account also notified the public. VTA conducted three formal environmental scoping meetings to gather input and comments prior to the development of the SEIS/SEIR. Over 200 individuals attended the three scoping meetings.

Notice of the Draft SEIS/SEIR availability was published in the Federal Register on January 6, 2017. The public comment period for the Draft SEIS/SEIR ended March 6, 2017. The Draft SEIS/SEIR was distributed to approximately 200 agencies, elected officials, and interested parties and organizations in the study area. Notices of Availability were distributed to approximately 53,000 addresses located within 0.25-mile of the alignment and within 1/2-mile of station areas. The mailers and the newspaper advertisements were translated into six languages (Spanish, Vietnamese, Korean, Chinese, Portuguese, and Tagalog). Emails were sent to approximately 8,500 recipients on the VTA emailing list.

Over 860 individual comments were received on the Draft SEIS/SEIR in the form of approximately 110 letters, emails, and comments given in person at the public hearings. Responses to comments received on the Draft SEIS/SEIR in writing prior to the close of the public comment period or entered into the public record at the public hearings were provided in the Final SEIS/SEIR. The Final SEIS/SEIR was published in the Federal Register on March 2, 2018 (*Federal Register*, Vol. 83, No. 42), and the review period concluded on April 2, 2018.

The Notice of Availability (NOA) for the Final SEIS/SEIR was translated into six languages (Spanish, Vietnamese, Korean, Chinese, Portuguese, and Tagalog) and distributed in multiple methods, including display advertisements in local newspapers, mailings to addresses located in the vicinity of the Phase II Project, news releases posted on the VTA website, and social media postings on VTA's Facebook, Twitter, LinkedIn, and Nextdoor accounts.

Copies of the Final SEIS/SEIR and supporting documents were made available online, at VTA's Building B Lobby at 3331 North First Street in San José, and at 8 public libraries. VTA distributed approximately 66,793 mailers to addresses located within 0.25-mile of the alignment and within 0.5-mile of station areas. Emails were also sent to approximately 3,816 recipients on the VTA emailing list.

Since the release of the Final SEIS/SEIR in late February 2018, a total of twenty-three (23) public comments were received on the Final. Attachment B to this ROD includes and responds to public comments received on the Final SEIS/SEIR since its circulation. VTA and FTA have considered all of the public comments in concert with the information presented in this document prior to selection of the NEPA Preferred Alternative. Public outreach will continue throughout construction of the project.

Starting in 2015, VTA re-initiated Community Working Groups (CWGs) for the Alum Rock/28th Street Station area, the Downtown San José/Diridon Station area, and the Santa Clara Station area. The CWGs allow VTA to communicate project information to community members, who can provide feedback on strategies related to successfully delivering and completing the Phase II Project. Working group members include the leaders of neighborhood and business associations, community organizations, advocacy groups, major property owners, and planning commissioners. These meetings are ongoing and will continue into construction.

Determination and Findings

Section 106 of the National Historic Preservation Act (36 CFR Part 800)

The Phase II Project would not affect the thirty-two (32) architectural historic properties eligible for listing or listed on the National Register of Historic Places (NRHP), which are located within the Area of Potential Effect (APE). Implementation of these measures during the design, construction, and post-construction phases of the Phase II Project will avoid adverse effects on historic properties during construction.

Only one known archaeological site located within the APE that is eligible for listing in the NRHP. There are locations within the APE that contains areas of potential sensitivity for unknown archaeological resources; however, it is not feasible to test all areas of potential buried site sensitivity at this time. Therefore, FTA, in coordination with VTA and in consultation with SHPO and consulting parties, has prepared a Programmatic Agreement (PA) pursuant to 36 C.F.R. 800.4(b)(2) and 800.14(b) for the phased identification, evaluation, and treatment of archaeological resources. The PA includes an Archaeological Resources Treatment Plan, which describes archaeological procedures, notification and consultation requirements, professional qualifications requirements, and procedures for the disposition of artifacts if any are discovered. (See Attachment C).

SHPO has concurred that FTA and VTA's historic resources identification efforts to date were appropriate for the Undertaking, and the development of a PA and ARTIP to address the phased archaeological identification efforts was appropriate. The implementation of PA and ARTIP are included as an attachment to this ROD.

Air Quality Conformity

The Phase II Project is included in MTC's Regional Transportation Plan (RTP) under RTP Identification Number 17-07-0012 and is described as "BART Silicon Valley Extension - San Jose (Berryessa) to Santa Clara." The Phase II Project is included in MTC's 2017 Federal Transportation Improvement Program (FTIP), which was adopted by MTC on September 28, 2016. The Phase II project was further revised through MTC's TIP amendment 2017-14, which reconciled the 2017 FTIP with the newly adopted RTP, Plan Bay Area 2040. FTA and Federal Highway Administration (FHWA) approved both FTIP Amendment 2017-14 and the new regional conformity analysis for Plan Bay Area 2040 and the 2017 FTIP on August 23, 2017. The Phase II Project's FTIP Identification Number is BRT030001 (MTC 2015b) and is described as "BART: Extend BART from Berryessa Station to San José and Santa Clara."

The 2019 FTIP is expected to be adopted later this year. The design, concept, and scope of the Phase II Project for the 2019 FTIP is consistent with the project description in the 2017 FTIP and Amended Plan Bay Area 2040. Therefore, the Phase II Project's regional conformity determination requirement is satisfied.

The Phase II Project does not meet the criteria that would classify it as a Project of Air Quality Concern (POAQC) under EPA's final rule. Accordingly, the Phase II Project is not considered to be a POAQC, and the project-level particulate matter (PM) conformity determination requirements are satisfied. Confirmation of this finding was obtained on June 23, 2016 following interagency consultation with MTC's Air Quality Conformity Task Force. The Phase II Project is included in a conforming RTP, and thus the Phase II Project is included in emission budgets

developed for the region. The Phase II Project would not result in adverse effects related to worsening existing, or contributing to new, localized PM hot spots. The Phase II Project would implement the PM control measures contained in the RTP and meet the requirements of 40 C.F.R. § 93.117.

Section 4(f) of the Department of Transportation Act of 1966 (49 USC § 303)

The Phase II Project would not result in a use of Section 4(f) protected parks, recreation areas, refuges, or historic properties. The Phase II Project would not require any permanent incorporation of land from any of the public parks and recreational facilities considered Section 4(f) properties. No construction staging and/or construction easement would be required from any of the identified Section 4(f) properties. No proximity impacts would be experienced at any of the Section 4(f) resources along the underground tunnel portions of the alignment. Permanent tunnel easements below Roosevelt Park, the Guadalupe River Park and Trail, and Theodore Lenzen Park, as well as the planned Lower Silver Creek, Coyote Creek, and Los Gatos Creek Trails, would be acquired by VTA. Although these easements would grant VTA the right to construct and operate in tunnels below Section 4(f) resources, they would not disrupt or permanently harm the purposes for which these resources were established. Accordingly, no use would result from the purchasing of tunnel easements beneath these Section 4(f) properties. Therefore, no Section 4(f) use of any public park or recreational facility would occur as a result of the Phase II Project.

No portion of an historic property would be permanently incorporated into the Phase II Project. Construction and operation of the Phase II Project would not result in adverse effects on the thirty-two (32) historic architectural properties or the one (1) known archaeological property within the APE, and none of the elements of these resources that contribute to their eligibility would be disturbed. Therefore, no Section 4(f) use of any historic property would occur as a result of the Phase II Project. FTA, in coordination with VTA and in consultation with SHPO, has prepared a PA pursuant to 36 C.F.R. 800.4(b)(2) and 800.14(b) for the phased identification and evaluation of archaeological resources in phases prior to construction and treatment of archaeological resources and burials in the event that such resources are discovered during construction activities. Applying the stipulations of the PA, any undiscovered archaeological resources that are encountered during construction would be evaluated for NRHP eligibility and, if found eligible for the NRHP, would require evaluation for use under Section 4(f) if preservation in place is warranted.

Endangered Species Act

No federally protected special-status species occur along the Phase II Project alignment because of a lack of habitat. Special status species with the potential to occur in and around Guadalupe River and Los Gatos Creek consist of special-status bats, western pond turtles, and Central California coast steelhead and Chinook salmon. However, the Phase II Project would pass underground of these creek and river crossings, and, therefore, construction and operation of the Phase II Project would not convert the habitat or adversely affect these species. Therefore, no adverse effects pursuant to the Endangered Species Act would occur.

Sections 402 and 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act

Waters of the United States (U.S.) include the three creeks and one river that cross the Phase II Project alignment—Lower Silver Creek, Coyote Creek, the Guadalupe River, and Los Gatos

Creek. The Phase II Project tunnel would be constructed underground 30-55 feet below the creek and river bottoms. The construction staging areas (CSAs) in the vicinity of Coyote Creek, Lower Silver Creek, Guadalupe River, and Los Gatos Creek would not encroach upon or affect riparian habitat or waters of the U.S. As the CSAs are restricted to existing, developed areas, there is no need for a Section 404 permit. Therefore, during construction and operations, there would be no adverse effects on waters of the United States.

The Phase II Project will comply with the Clean Water Act and National Pollution Discharge Elimination System (NPDES) standards during and following construction. The Phase II Project will be required to comply with the NPDES Construction General Permit and the Municipal Separate Storm Sewer (MS4) Permit and incorporate their requirements into construction plans (e.g., temporary erosion control plans) and specifications. This includes Best Management Practices (BMPs) to manage runoff from disturbed areas during construction, as well as implementation of post-construction requirements (e.g. source controls and treatment such as Low Impact Development) to ensure water quality goals are met for discharges into the public storm-water system.

Accordingly, a Storm Water Pollution Prevention Plan (SWPPP) will be prepared for construction activities per the Construction General Permit. The SWPPP will help identify the sources of sediment and other pollutants that affect the quality of storm-water discharges, and include BMPs to reduce or eliminate sediment and other pollutants in storm-water and non-storm-water discharges. After construction, post-construction source control and treatment features will be employed to minimize and infiltrate runoff. Where applicable, a Spill Prevention, Containment, and Counter-Measure Plan will be prepared to avoid and minimize accidental contamination of water resources. Additionally, the Newhall Maintenance Facility would be designed and operated in accordance with the Industrial General Permit for stormwater, which addresses post-construction runoff from commercial/industrial transit maintenance facilities. Therefore, no adverse effects are anticipated related to surface water bodies for the Phase II Project.

Executive Orders 11988: Floodplain Management

Along the alignment, only the area in the vicinity of the alignment crossing for the Alum Rock/28th Street Station is within the base floodplain. Ground parking, system facilities, and station entrances and roadway improvements are entirely within the floodplain of Coyote Creek/Lower Silver Creek and occupy a total of approximately 9.25 acres. The removal of structures (light industrial warehouses) would reduce/offset floodplain risk. In addition, it is anticipated that the roadway improvements would not significantly change the existing grade.

The Alum Rock/28th Street Station is located within Zone AH, with a base flood elevation of 89 feet (NAVD) and a Zone AO depth of 1 foot. Station features would have a floor elevation of 2 to 3 feet above the base flood elevation. Facilities such as traction power substations, gap breaker stations, train control and communication buildings, and vent shaft openings, would be set above the 0.2 percent annual storm event. Minimization measures at this station would include balancing pre-fill and post-fill in the floodplain to minimize the amount of fill and prevent flood storage from being lost. Balancing the pre-fill and post-fill would result in no effect because flooding would not be exacerbated as a result of the project. The flood flow pattern would be maintained as much as possible by incorporating and providing a flow-through area in the station

campus, especially in the parking areas. Storage and detention would be implemented as necessary to make up for storage lost as a result of the Phase II Project.

The area of the structures within the base floodplain is insignificant compared with the overall floodplain area for Coyote Creek/Lower Silver Creek (approximately 28,160 acres). Therefore, the Phase II Project would not significantly change the base floodplain water surface elevation at Alum Rock/28th Street Station. Although there would be fill in the floodplain as a result of the Alum Rock/28th Street Station, with the minimization measures mentioned above, the flood flow would be maintained.

The Phase II Project would be designed to withstand 10 percent annual storm events, and specific facilities would be designed to withstand 1 percent and 0.2 percent annual storm events, as required by BART Facility Standards. In addition, the design of critical facilities would comply with Executive Order 13690.

The Newhall Maintenance Facility is a critical facility and would be designed in accordance with the standards and requirements for critical facilities. The Newhall Maintenance Facility would add approximately 2.16 acres of structures, and the AIA would be 41.86 acres, within Zones D and Zone X. These areas are not considered a base floodplain. Facilities, including traction power, train control, and communications buildings, are to be set a minimum of 1 foot above the 0.2 percent water surface elevation, with an overland flood release path that ensures that no more than 1 foot of ponding can develop. The Newhall Maintenance Facility would not be located within any base floodplain. Therefore, there would be no effect on floodplains.

The Phase II Project would not expose people or structures to the risk of flooding, create floodplains, or result in an increase in the base flood elevation. The Phase II Project would result in no adverse effects related to Executive Orders 11988 and 13690 (Floodplain Management).

Executive Order 12898: Environmental Justice

Construction of the Phase II Project would have direct and indirect effects on populations within the vicinity of the alignment. The Phase II Project would have construction-period environmental effects related to air quality, socioeconomics, hazards and hazardous materials, noise and vibration, water quality, and visual quality. Environmental effects would be mitigated, where feasible, ensuring that effects on low-income and minority communities would be reduced. However, both environmental justice populations and non-environmental justice populations would experience adverse construction-related effects for air quality, noise, and transportation because such effects would continue to be adverse with mitigation. Although VTA will implement a comprehensive Construction Outreach and Management Program and other mitigation measures to minimize effects during construction, the community and businesses would experience adverse construction-related air quality, noise, and transportation effects during construction.

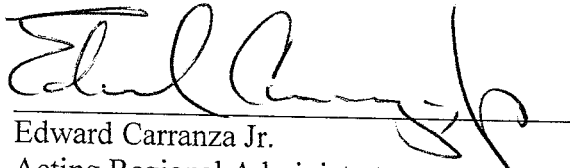
However, implementation of the Phase II Project would have a long-term beneficial effect on the community by increasing public transit service and capacity, enhancing regional connectivity, improving mobility options, and improving regional air quality by reducing auto emissions. Both environmental justice populations and non-environmental just populations would experience these long-term benefits.

In conclusion, adverse effects caused by construction would affect both environmental justice populations and non-environmental justice populations, implementation of mitigation measures

that would reduce construction-period impacts would benefit all populations, and there will be economic benefits created during construction for firms meeting disadvantage business criteria. As a result, construction of the Phase II Project would not result in a disproportionately high and adverse impacts on environmental justice populations in the study area. Accordingly, FTA has concluded, in accordance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), that environmental justice communities would not be subject to disproportionately high and adverse human health or environmental effects as a result of the Phase II Project.

MEASURES THAT MITIGATE ADVERSE EFFECTS

All practicable means to avoid or minimize environmental harm have been adopted for the Preferred Alternative. The mitigation commitments are described in the Mitigation Monitoring and Reporting Program (Attachment A of this ROD) to ensure fulfillment of all environmental and related commitments. Any change in such commitments from the description in the Final EIS will require a review in accordance with 23 CFR Parts 771.129-130 and must be approved by FTA.


Edward Carranza Jr.
Acting Regional Administrator
Federal Transit Administration, Region IX

JUN 04 2013

Date

Attachments:

- Attachment A: Mitigation Monitoring and Reporting Plan
- Attachment B: Summary of Comments and Responses on the Final SEIS/SEIR
- Attachment C: Section 106 Programmatic Agreement