



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Ristow

**SUBJECT:** SEE BELOW

**DATE:** 1/23/2023

Approved

Date

2/1/23

**COUNCIL DISTRICTS: 5 & 8**

**SUBJECT: AGREEMENT BETWEEN THE SANTA CLARA VALLEY  
TRANSPORTATION AUTHORITY AND THE CITY OF SAN JOSÉ FOR  
THE EASTRIDGE TO BART REGIONAL CONNECTOR PROJECT**

## RECOMMENDATION

- a. Adopt a resolution making certain findings as the responsible agency for purposes of and pursuant to the provisions of the California Environmental Quality Act in connection with the approval of discretionary actions by the City of San José deemed necessary for the construction and operation of the Eastridge to BART Regional Connector Project and adopting the related Mitigation Monitoring and Reporting Program.
- b. Adopt a resolution authorizing the City Manager or designee to negotiate and execute Amendment No. 1 of the Operations and Maintenance Agreement between the Santa Clara Valley Transportation Authority and the City for the Eastridge to BART Regional Connector Project.

## SUMMARY AND OUTCOME

The recommended actions acknowledge the City's support of the environmental clearance for the report findings that the Santa Clara Valley Transportation Authority (VTA) has approved, aligned the City with the provisions of CEQA, and established the Mitigation and Monitoring Program for the Eastridge to BART Regional Connector Project (Project). Executing Amendment No. 1 to the Operations and Maintenance Agreement will establish the maintenance responsibilities of VTA and the City for the transportation improvements within each party's jurisdiction and/or right-of-way resulting from the Project's construction.

## **BACKGROUND**

The Project extends light rail from the existing Alum Rock Light Rail Station to the Eastridge Transit Center with an elevated guideway primarily in the center of Capitol Expressway. The Eastridge extension will include an elevated light rail station at Story Road and an at-grade station located at the Eastridge Transit Center. When this Project is complete, VTA riders will be able to board light rail at the Eastridge Station and connect directly with BART at the Milpitas Station.

The Project has been delivered in phases. The first phase was delivered in two parts. In Phase 1A, VTA addressed pedestrian access and improved safety measures along the expressway between Quimby Road and Capitol Avenue and was completed in 2012. Phase 1B involved the reconstruction of the Eastridge Transit Center and was completed in 2015.

The light rail extension is Phase 2 and represents the final phase of the larger Capitol Expressway Transit Improvement Project. This phase will transform Capitol Expressway into a multi-modal expressway with bus rapid transit, light rail transit, and safe connections to the regional transit system. The Project is currently undergoing utility relocation with an estimated completion in mid-2023.

The Project's construction phase will be partially funded through the Metropolitan Transportation Commission's Regional Measure 3 (RM 3). In 2020, a Petition for Review of RM 3 funding was filed with the California Supreme Court. Subsequently, the California Supreme Court ordered the RM 3 petition to be deferred pending a decision in the lead case *Zolly vs. City of Oakland*. Because the RM 3 petition is unresolved, the construction phase has been delayed and is now expected to begin in late 2023. Funding sources for the construction phase in addition to RM 3 include the Low Carbon Transit Operations Program (Senate Bill 862), the 2017 Road Repair and Accountability Act (Senate Bill 1), and the 2000 VTA Measure A Program.

On May 5, 2005, August 2, 2007, and June 6, 2019, the VTA Board of Directors adopted findings, as required by CEQA, each together with a mitigation monitoring and reporting program and a statement of overriding considerations for the Final Environmental Impact Report, Final Supplemental Environmental Impact Report, and Second Final Supplemental Environmental Impact Report. As a responsible party under CEQA, the City must review and adopt VTA's CEQA findings for the Project since the CEQA findings are relevant to the City's decision to approve discretionary actions necessary to implement the Project within the City's jurisdiction.

On August 25, 2004, the City and VTA entered into the original Cooperative Agreement that defined the maintenance responsibilities for the Project, which was formerly known as the Capitol Expressway Light Rail project. Amendment No. 1 reaffirms the maintenance responsibilities in the original Cooperative Agreement and pertains to the portion of the Project located within City right-of-way on Capitol Avenue between Wilbur Avenue and Capitol Expressway.

## **ANALYSIS**

In its analysis of the Project, VTA found the following key environmental impacts under CEQA:

- **Transportation**
  - There are significant and unavoidable impacts at the intersection of Capitol Expressway/Story Road and Capitol Expressway/Ocala Avenue caused by the removal of High-Occupancy Vehicle lanes and the addition of High-Occupancy Vehicle lane traffic into the remaining mixed-flow lanes. Resolving these impacts would require the removal of existing buildings and sidewalks along Capitol Expressway.
  - There are also significant and unavoidable impacts from the Project's lane reductions on Capitol Expressway during construction, causing intersections to potentially operate at Level of Service F<sup>1</sup>. Although VTA will prepare traffic handling plans, employ traffic flaggers, and minimize peak hour delays to all users, such measures cannot guarantee that construction activities would not cause temporary significant impacts to passenger vehicles, buses, trucks, bikes, and pedestrians.
- **Noise and Vibration**
  - Noise levels from transit operation would result in 93 moderate and 59 severe noise impacts in 2043<sup>2</sup> without the proposed aerial guideway soundwalls and without the proposed open-graded asphalt concrete. However, this impact will be less-than-significant with the construction of soundwalls and the provision of open-graded asphalt pavement.
  - The Project will also exceed Federal Transit Administration nighttime (10:00PM – 7:00AM) vibration impact criteria at sensitive receivers located within 100 feet of the proposed aerial guideway. This is a significant and unavoidable impact because the use of vibration-dampening track construction materials is the only feasible mitigation measure without negatively impacting travel time and nighttime operations.
- **Air Quality and Climate Change**
  - The Project will temporarily increase construction-related emissions during grading and construction activities. This impact will be less-than-significant with the implementation of Bay Area Air Quality Management District-recommended basic control measures to reduce particulate matter emissions, such as watering exposed surfaces, covering off-site haul trucks, using wet power vacuum street sweepers, limiting vehicle speeds on unpaved roads to 15 mph, and minimizing idling times for equipment.

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<sup>1</sup> Traffic progression across the intersection is adverse with a long traffic signal cycle length.

<sup>2</sup> According to Federal Transit Administration Criteria, moderate noise impacts are likely to cause measurable community annoyance, and severe noise impacts are likely to cause a high community annoyance from noise exposure to the Project during transit operation.

The Planning, Building, and Code Enforcement Department reviewed the above analysis and conclusions for the Project, and concurrence for the analysis is reflected in the proposed CEQA resolution for this item.

The proposed amendment to the Operations and Maintenance Agreement is a standard agreement that establishes the responsibilities between VTA and the City for the maintenance of improvements. The **Attachment** depicts the area of maintenance responsibility under Amendment No. 1, for which the City will be responsible for one pedestrian-level streetlight. The estimated annual maintenance cost for one pedestrian-scale streetlight is approximately \$5,000. Other operating and maintenance costs will be the responsibility of VTA and/or the County of Santa Clara.

### ***Climate Smart San José Analysis***

The recommendations in this memorandum facilitates one or more Climate Smart San José strategies by expanding mobility choices with the extended light rail infrastructure, by developing integrated, accessible public transit that better connects the community to other regional transportation systems, and by improving regional air quality once the project is complete.

## **EVALUATION AND FOLLOW-UP**

Updates on this Project will be included in future regional transportation activities quarterly reports to the Transportation and Environmental Committee. Staff will return to City Council to obtain the approval of a cooperative agreement with the VTA for the construction phase.

## **COST SUMMARY/IMPLICATIONS**

The estimated annual maintenance cost for one pedestrian-scale streetlight is approximately \$5,000. Maintenance costs are planned to be included in the 2027-2031 Five-Year Forecast, with funding anticipated to begin 2027-2028 as part of the operating budget process for that fiscal year.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the Department of Planning, Building and Code Enforcement, and the City Manager's Budget Office.

**PUBLIC OUTREACH**

This memorandum will be posted on the City’s Council Agenda website for the February 14, 2023 City Council meeting.

**COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

**CEQA**

Santa Clara Valley Transportation Agency’s Eastridge to BART Regional Connector Project Final Environmental Impact Report, Final Supplemental Environmental Impact Report and Second Supplemental Environmental Impact Report, File No. ER22-268.

**PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in California Government Code section 53083 or 53083.1 or in the City’s Open Government Resolution.

/s/  
JOHN RISTOW  
Director of Transportation

For questions, please contact Zahir Gulzadah, Division Manager, at Zahir.Gulzadah@sanjoseca.gov or (408) 759-2129.

**ATTACHMENT: VTA/San José Maintenance Limits**

----- VTA/SAN JOSE MAINTENANCE LIMITS

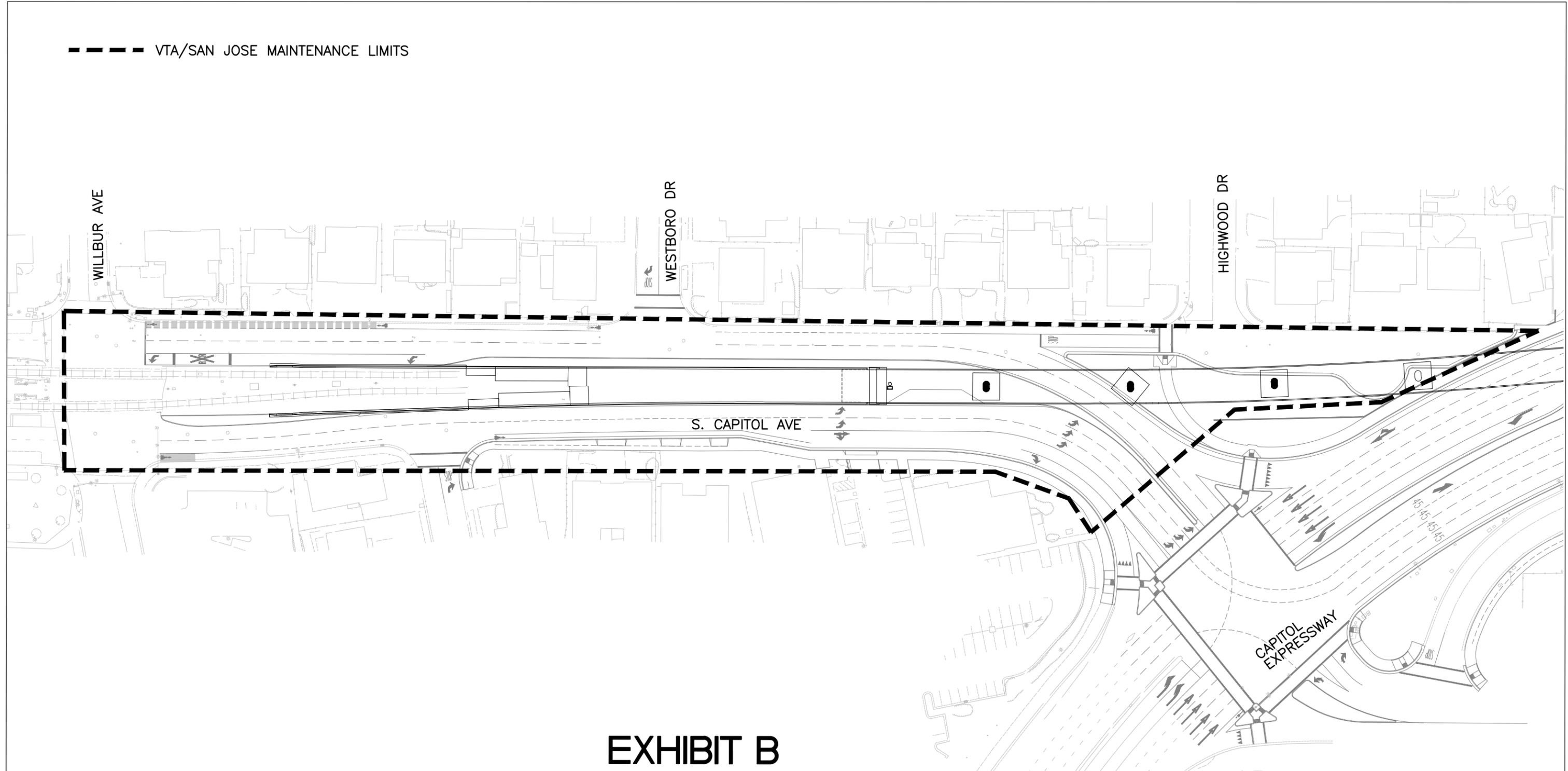


EXHIBIT B