TO: AC Transit Board of Directors
FROM: Michael Hursh, General Manager
SUBJECT: East Bay BRT – Changes to Locally Preferred Alternative Project Scope

RECOMMENDED ACTION(S):

Consider adopting Resolution No. 16-006 approving the changes to the Locally Preferred Alternative as described in the environmental review and authorizing General Manager to file an amended to the Notice of Determination with the County of Alameda Clerk-Recorder’s Office and the California State Clearinghouse.

EXECUTIVE SUMMARY:

This report provides information on recent changes to the definition of the East Bay Bus Rapid Transit (BRT) Project, requests that the Board formally approve the changes, and also that the Board concur with staff’s determination that no supplemental environmental document is warranted under the California Environmental Quality Act (CEQA) to complete the environmental review process.

In early 2012, the AC Transit District (District) and Federal Transit Administration (FTA) issued a combined Environmental Impact Statement (NEPA EIS)/Environmental Impact Report (CEQA EIR) for the East Bay BRT Project.

Since 2012 there have been two reviews of changes in the BRT project definition to inform the District’s and FTA’s decision-makers with respect to CEQA and NEPA. The first review covered changes to the project during the period from June 2012 through December 2013, which were documented in a March 7, 2014 letter report to FTA. In the first review, the District concluded that no supplemental environmental documentation was necessary under CEQA and FTA concurred with the District’s conclusion that the project changes did not cause new adverse environmental effects or increase the level or severity of any of the environmental effects previously identified in the Final EIS/EIR. Therefore no, additional supplemental documentation was required under NEPA.

The second review performed includes the additional changes to the BRT project identified during final design from early January 2014 to October 2015, related to the specific location of several curbside stations (Attachment 2) and the addition of the Northern Layover facility (Attachment 3). A second letter report summarizing this review has been prepared and provided to the FTA. The District’s evaluation of these latest changes concludes that they also are minor and result in no significant environmental effects that would warrant further supplemental environment documentation under CEQA (Attachment 4). The District proposes to
file with the Alameda County Clerk-Recorder’s Office an amendment to the project NOD recording this finding.

The FTA is in the process of making its determination on the significance of the latest project changes under NEPA which is expected in late February/early March 2016 prior to the start of construction.

BUDGETARY/FISCAL IMPACT:

There is an administrative cost of $100.00 required to pay the related filing fees to amend the NOD with the County and State.

BACKGROUND/RATIONALE:

Subsequent to the 2012 ROD, the BRT project advanced through detailed engineering, accompanied by continued public and stakeholder outreach. During approximately the first 18 months of detailed design, a number of BRT station locations were adjusted in response to public, business, and city officials’ requests. In accordance with the conditions of the ROD, the District notified the FTA of these changes. An evaluation of their potential effects was made in accordance with FTA environmental procedures (23 C.F.R 771.13) on supplemental environmental documentation, and submitted in a letter report to the FTA in early 2014—hereafter referred to as the 2014 Environmental Review.

The 2014 Environmental Review concluded that no new significant concerns resulted from the proposed project changes. Thus no new mitigation measures or other actions to address effects of the project were warranted. Based on these findings, the District determined that no supplemental environmental report was required under CEQA and filed an amendment to the project NOD to this effect with the Alameda County Clerk-Recorder’s Office. In a letter report to FTA summarizing the 2014 Environmental Review, the District requested that FTA make a similar finding under NEPA (23 C.F.R. 771.130) that no formal supplemental environmental review was necessary. FTA concurred with this conclusion following close consultation with the District and technical review of the 2014 Environmental Review (March 14, 2014 letter from FTA Regional Administrator Leslie Rogers to The District).

During the remaining course of completing the final design from January 2014 through October 2015, several further refinements to the project were adopted. Two noteworthy changes included:

- **Shifting the locations of five curbside platforms at four BRT stations, three in the City of Oakland and one in the City of San Leandro.** The relocated platforms involve minor relocations from the locations proposed in the EIS/EIR and will be constructed within existing public rights-of-way.

- **Addition of a new bus layover facility in Oakland near the north terminus of the BRT alignment, designated as the Northern Layover.** The facility was not identified in the
EIS/EIR. The District proposes to improve a segment of public roadway and adjacent public land (owned by the State of California and under the stewardship of Caltrans) to serve as a layover facility for up to three buses during the transition period of coming off route and going back on route.

Additional smaller changes were made and are consistent with a project of this size and are considered routine design refinements.

- Curb realignments at intersections to improve Americans with Disability Act (ADA) curb ramps.
- Traffic lane geometry and corresponding striping adjustments.
- Lighting and landscaping adjustments.
- Station canopy architectural refinements.
- Replacement parking space relocations based on input from city and neighborhood stakeholders.

Because these recent changes to the project definition were not presented in the 2012 EIS/EIR or the 2014 Environmental Review, a second post-ROD environmental reevaluation was performed in late 2015 to determine the potential environmental impacts. The 2015 Environmental Review focused on the five station platform relocations and the addition of the Northern Layover facility because these could be considered substantive project changes. The rationale for all these recent changes changes are explained in Attachments 2 and 3.

Based on the 2015 Environmental Review of recent station relocations and the Northern Layover facility, the District has concluded that the changes do not introduce new adverse impacts or increase the severity of impacts previously disclosed in the EIS/EIR or the 2014 Environmental Review.

Staff recommends the Board approve the latest project changes and concur with the findings of the 2015 Environmental Review, after which the East Bay BRT NOD will be amended through a filing with the Alameda County Clerk-Recorder’s Office. A notice of the District’s action will also be prepared and sent to the State of California Governor’s Office of Planning and Research, State Clearinghouse, in Sacramento. These actions will conclude the CEQA process for the Project. However, staff will continue to work with FTA to conclude the federal NEPA process, the last step in clearing the project to proceed with construction.

ADVANTAGES/DISADVANTAGES:

Adopting the resolution approving the proposed changes completes the environmental review process required prior to issuing Notice to Proceed on major construction.

There is no disadvantage to adopting the resolution approving the proposed changes.

ALTERNATIVES ANALYSIS:

There is no alternative to adopting the resolution for this environmental review process which is required by CEQA and NEPA statutes.
PRIOR RELEVANT BOARD ACTIONS/POLICIES:

Staff Report 12-083a – Certification of East Bay BRT Final EIR & Adoption of new LPA
Board Resolution No. 12-018 – Certifying Final EIR, selecting DOSL as LPA and authorizing to file NOD
Board Resolution No. 14-018 – Approving the Information and the Modifications in the Section 130C Report for the East Bay Bus Rapid Transit Project; and Authorizing the filing of a Notice of Determination NOD

ATTACHMENTS:

1: Resolution 16-006
2: Summary of Station Location Changes
3: BRT Northern Layover Facility
4: General Counsel’s Opinion: Next Steps Under CEQA Dated November 16, 2015

Department Head Approval: Michael Hursh, General Manager
Reviewed by: David Wilkins, Director of BRT Program
Prepared by: Denise C. Standridge, General Counsel
Prepared by: Rama Pochiraju, Sr. Project Manager
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
RESOLUTION NO. 16-006

A RESOLUTION APPROVING THE INFORMATION AND MODIFICATIONS IN THE ENVIRONMENTAL REVIEW FOR THE EAST BAY BUS RAPID TRANSIT PROJECT; AND AUTHORIZING THE FILING OF AN AMENDED NOTICE OF DETERMINATION

WHEREAS, worsening traffic congestion has resulted in delays to transit and declining system reliability in communities throughout the Berkeley-Oakland-San Leandro corridor; and

WHEREAS, the Alameda-Contra Costa Transit District (the District) undertook a Major Investment Study to address these problems; and

WHEREAS, in 2001, the District and the Cities of Berkeley, Oakland and San Leandro selected Bus Rapid Transit (BRT) as the Locally Preferred Alternative to address long-term solutions that will accommodate future growth in travel; and

WHEREAS, in 2004, the District and the cities of Berkeley, Oakland and San Leandro selected detailed alternatives for study in the Draft Environmental Impact Study/Report; and

WHEREAS, in 2007, the District released the Draft Environmental Impact Study/Report and solicited public review and comments on the impacts and findings; and

WHEREAS, in April and May 2010, the cities of Berkeley, Oakland and San Leandro advised the District of their recommended individual Locally Preferred Alternatives selected through their city processes; and

WHEREAS, the Board of Directors selected two alternatives to be considered in the Final Environmental Impact Statement/Report: 1) the Full Alternative with a build investment that runs from downtown Berkeley through downtown Oakland to the San Leandro BART station; and 2) the Downtown Oakland-San Leandro Alternative (DOSL) with a build investment from Downtown Oakland to the San Leandro BART stations; and

WHEREAS, the Final Environmental Statement/Environmental Impact Report (FEIS/R) was prepared consistent with requirements of the National Environmental Policy Act and the California Environmental Quality Act and their implementing regulations; and

WHEREAS, on February 3, 2012, the District released the Final Environmental Impact Study/Report and conducted seven associated public outreach meetings within the affected cities; and

WHEREAS, on April 25, 2012, the Board of Directors held public hearings at 2:30 p.m. and 5:00 p.m. at the Alameda-Contra Costa Transit General Offices located 1600 Franklin Street Final Environmental Impact Report for the East Bay Bus Rapid Transit Project and selection of a Locally Preferred Alternative for the Project; and
WHEREAS, on April 25, 2012, the Board of Directors adopted Resolution No. 12-018 certifying the Final Environmental Impact Report for the East Bay Bus Rapid Transit Project; selecting the Downtown Oakland-San Leandro (DOSL) alternative as the Locally Preferred Alternative for the Project; and

WHEREAS, on April 23, 2014, the Board of Directors adopted Resolution No. 14-018 approving the changes to the Locally Preferred Alternative for the East Bay Bus Rapid Transit Project as described in the Environmental Re-evaluation (Section 130(c)) Report for the East Bay Bus Rapid Transit Project.

NOW THEREFORE, the Board of Directors of the Alameda-Contra Costa Transit District does resolve as follows:

Section 1. The Board has received, reviewed and considered the information contained in the General Counsel’s Opinion dated November 16, 2015 regarding “East Bay Rapid Transit-Next Steps under CEQA”.

The Board has received, reviewed and considered the information contained in Staff Report 12-083c regarding station location changes after publication of FEIS/R, certification of the Final Environmental Impact Report, and Federal Transit Administration issuance of the Record of Decision (ROD).

Section 2. Staff Report 12-083c and the 2015 Environmental Review describing the latest project modifications are hereby approved and incorporated into the record by reference.

Section 3. The General Manager, or his designee, is authorized to file an amended Notice of Determination with the Alameda County Clerk and the Governor’s Office of Planning and Research, State Clearinghouse, and pay related filing fees for the above actions taken under this Resolution.

Section 4. This resolution shall become effective immediately upon passage by four affirmative votes of the Board of Directors.

PASSED AND ADOPTED this 27th day of January 2016.
Linda A. Nemeroff, District Secretary

I, Linda A. Nemeroff, District Secretary for the Alameda-Contra Costa Transit District, do hereby certify that the foregoing Resolution was passed and adopted at a regular meeting of the Board of Directors held on the 27th day of January, 2016, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Linda A. Nemeroff, District Secretary

Approved as to Form and Content:

Denise C. Standridge, General Counsel
In the following table an assessment is provided of the environmental effects of the latest shifts in BRT stations. Since issuance of the federal Record of Decision on the East Bay Bus Rapid Transit Project Environmental Impact Statement (FEIS), a number of refinements have been made to the project definition. An evaluation of the first set of changes, primarily in station locations, was documented in a similar table as this, submitted to FTA in March 2014, when project design was approximately 40% complete. Subsequently, as design has progressed to 100%, several additional changes to the project definition were made, again primarily in the locations of BRT stations. The findings of the 2015 assessment are presented for five side platforms. Graphics showing the FEIS proposed locations and 2015 final locations of these stations are included at the end of Table II-1.

### TABLE II-1: IMPACTS ASSESSMENT FOR PROPOSED BRT STATION CHANGES POST 2012 RECORD OF DECISION (ROD) AND 2014 ENVIRONMENTAL REVIEW

<table>
<thead>
<tr>
<th>Proposed Station/Location*</th>
<th>Change from 2012 FEIS Location</th>
<th>Change from 2014 Environmental Review Location</th>
<th>Reason for Relocation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>City of Oakland Stations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) 11th Street @ Alice Street (Southbound)</td>
<td>200'-250' south</td>
<td>50'-75' south</td>
<td>This curb extension platform on 11th Street in Downtown Oakland was immediately farside of Harrison Street in Final Environmental Impact Statement (FEIS). A shift south, to approximately mid-block, was proposed to mitigate access impacts to the adjacent Lincoln Recreation Center in the 2014 Environmental Review. In the 2015 final design plans the station location proposed in 2014 has been shifted an additional 50 to 75 feet farther south along the 11th Street curb to nearside of Alice Street in response to community concerns about bus bunching in front of the recreational facility.</td>
</tr>
<tr>
<td>b) E. 12th Street @ 7h Avenue (Southbound)</td>
<td>525'-550' south</td>
<td>Not Applicable*</td>
<td>The extension platform was immediately farside of 5th Avenue in the FEIS. Relocation to nearside of 7th Avenue is proposed in final design plans to mitigate access and circulation issues at the 5th Avenue location.</td>
</tr>
<tr>
<td>c) E. 12th Street @ 11th Avenue (Southbound)</td>
<td>350'-375' south</td>
<td>500-525' south</td>
<td>The curb extension platform was on East 12th Street immediately farside of 10th Avenue in the FEIS and then shifted in the 2014 Environmental Review to nearside of 10th in 40% design to avoid impacts to residential driveways. At the request of city and local business, the final design location is shifted to farside of 11th Avenue in response to objections of local businesses to a station at 10th Avenue, including obstruction of driveway access.</td>
</tr>
<tr>
<td><strong>City of San Leandro Stations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) E. 14th Street @ Georgia Way (Southbound)</td>
<td>35'-50' north</td>
<td>Not applicable*</td>
<td>The FEIS location for this southbound curb extension platform was farside of the Georgia Way pedestrian crossing. (Georgia Way is a T-intersection, with no through access on the southbound curb of E. 14th Street.) The final design plans propose locating the station platform farther to the north, opposite Georgia Way. This is a minor shift that avoids placing the station in front of certain retail businesses and affecting parking and access.</td>
</tr>
<tr>
<td>e) E. 14th Street @ Euclid Avenue (Northbound)</td>
<td>125'-150' south</td>
<td>450'-475' south</td>
<td>The FEIS location was farside of Euclid Avenue, which was shifted north to be to farside of Georgia Way in the Environmental Review. The final design location of this curb extension platform is nearside of Euclid Avenue (i.e., south of the FEIS location) to avoid impacts on business access and parking at the other locations.</td>
</tr>
</tbody>
</table>

*There was no change in the station platform location proposed prior to 2015.

Northbound indicates towards Downtown Oakland and the north terminus near the 19th Street BART station. Southbound indicates towards the south terminus at San Leandro BART. Nearside indicates before the cross street and farside after the cross street.
<table>
<thead>
<tr>
<th>Environmental Resource</th>
<th>FEIS Section</th>
<th>Impacts Change from FEIS? (Y/N)</th>
<th>Potential Impacts of Change</th>
<th>Mitigation Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicular Traffic</td>
<td>3.2</td>
<td></td>
<td>Roadway capacity would not be affected by the proposed changes compared to the project evaluated in the FEIS issued in February 2012 and the 2014 Environmental Review of project changes post ROD submitted to FTA in March 2014.</td>
<td>The station shifts considered in this table will not affect the extent of BRT lanes and do not change the configuration of through traffic lanes or left turn lanes along the BRT alignment, which are the main project features that influence roadway capacity. The relocation of the northbound curb extension station on E.14 Street nearside of Euclid Avenue in San Leandro will require right turns off the main arterial to the cross street to be made from the through traffic lane, rather than closer to the curb. However, there are two through traffic lanes northbound at this location and right-turning traffic is light and not expected to impede flows in the through lane. At the other locations where the BRT station platform has been shifted, there will be no substantial effect on turn movements relative to the conditions evaluated in the FEIS and/or 2014 Environmental Review.</td>
</tr>
<tr>
<td>• Roadway Volumes</td>
<td>3.2.3-7 &amp; 3.2.9</td>
<td>N</td>
<td>The relocated stations do not substantially change through and turn lane geometry at adjacent intersections except for northbound right turns at E. 14th Street and Euclid Avenue. This minor change is not anticipated to affect overall intersection performance. As noted above, roadway volumes and capacities are not significantly affected by the shifts in platform locations, and therefore traffic conditions for intersection level of service analysis do not differ from those assumed when preparing the FEIS. The findings of the FEISR and 2014 Environmental Review relative to intersection conditions remain valid. Mitigation measures incorporated into the project to address level of service impacts from the project are retained. Aside from these minor changes, intersection configurations in the side-running segments are essentially unchanged from the LPA of the ROD. No adverse effects on intersection level of service have been identified as a result of the post-ROD project refinements.</td>
<td>No change in traffic operations mitigation approved for the LPA and documented in the ROD is warranted with the relocation of the five curbside station platforms.</td>
</tr>
<tr>
<td>• Intersection Level of Service (LOS)</td>
<td>3.2.3-7 &amp; 3.2.9</td>
<td>N</td>
<td>The curbside station relocations considered in this addendum at 11th Street and Alice Street (southbound), E. 12th Street and 7th Avenue and 11th Avenue, and at E. 14th Street at Euclid Avenue are proposed to avoid possible access impacts to nearby businesses as well as, in some instances, to address other community concerns. The platform relocations should result in reduced impacts to neighborhoods. Overall, therefore, the most recent project changes to the LPA are designed to improve access.</td>
<td>No change in traffic LOS or the mitigation measures approved for the LPA and documented in the ROD will occur with the relocation of the five side platform stations. No new mitigation of impacts is warranted.</td>
</tr>
<tr>
<td>• Neighborhood Traffic Effects</td>
<td>3.2.8</td>
<td>N</td>
<td>No significant change will occur with respect to bicycle facilities. The location and extent of Class II bike lanes will be substantially the same as described in the ROD and 2014 Environmental Review except that the limits of bike lanes will change in the vicinity of the E. 12th Street at 7th Avenue and E.12th Street at 11th Avenue stations. At these new BRT platform locations, both serving the southbound direction, the Type II bike lane will be dropped through the station area. The lane resumes after the station. Bikes, buses and right-turning autos will share the BRT lane at 7th Avenue and bikes and buses will share the BRT lane at 11th Avenue. It should be noted that the Class II bike lane on E. 12th can be extended in those areas where platforms were previously proposed. This includes extending the lane for approximately 100 feet farside of 5th Avenue (the station there shifts to be nearside of 7th Avenue) and for approximately 100 feet farside of 10th Avenue (the station shifts to be farside of 11th Avenue). Thus the overall extent of Type II bike lines is very close to the same as in the FEIS. In general, pedestrian access within the corridor is not significantly affected by the proposed relocations of side stations. All crosswalks at BRT stations will be signalized and well-demarcated.</td>
<td>No additional mitigation measures are warranted.</td>
</tr>
<tr>
<td>Non-Motorized Transportation</td>
<td>3.3</td>
<td>N</td>
<td>No significant change will occur with respect to bicycle facilities. The location and extent of Class II bike lanes will be substantially the same as described in the ROD and 2014 Environmental Review except that the limits of bike lanes will change in the vicinity of the E. 12th Street at 7th Avenue and E.12th Street at 11th Avenue stations. At these new BRT platform locations, both serving the southbound direction, the Type II bike lane will be dropped through the station area. The lane resumes after the station. Bikes, buses and right-turning autos will share the BRT lane at 7th Avenue and bikes and buses will share the BRT lane at 11th Avenue. It should be noted that the Class II bike lane on E. 12th can be extended in those areas where platforms were previously proposed. This includes extending the lane for approximately 100 feet farside of 5th Avenue (the station there shifts to be nearside of 7th Avenue) and for approximately 100 feet farside of 10th Avenue (the station shifts to be farside of 11th Avenue). Thus the overall extent of Type II bike lines is very close to the same as in the FEIS. In general, pedestrian access within the corridor is not significantly affected by the proposed relocations of side stations. All crosswalks at BRT stations will be signalized and well-demarcated.</td>
<td>Because the proposed changes do not substantially affect bicycle and pedestrian access, no additional mitigation is warranted.</td>
</tr>
</tbody>
</table>
The proposed relocation of the 5 curb extension platforms will increase the number of displaced parking spaces as estimated in the table below. The displacements result from constructing stations in areas now dedicated to curb parking. Some parking can be replaced by striping spaces in the areas from which the stations have been moved. However, the impact is still a loss of 12 total spaces, five more than would have been displaced if retaining the station locations proposed in the FEIS.

In accordance with the mitigation commitments described in the FEIS and formally adopted in the ROD, AC Transit will replace parking lost at least to the point where the projected parking occupancy levels post BRT do not typically exceed 85% of available spaces along the BRT arterial in the vicinity of the BRT station. This is done by striping/signing spaces on cross streets near the BRT station and areas of significant parking displacement. At least seven spaces will be replaced in this manner. The result is parking displacement due to station relocations will not adversely diminish supply. Furthermore, the City of Oakland and City of San Leandro have coordinated closely on the proposed station relocations and are aware of the parking and other potential impacts. Both cities are willing to accept parking loss as a tradeoff in relocating the five stations.

Revised LPA Parking Summary:

<table>
<thead>
<tr>
<th>Station</th>
<th>Direction</th>
<th>Roadway Segment</th>
<th>Parking Supply</th>
<th>New Displacements (Post ROD)</th>
<th>FEIS Displacements*</th>
<th>Net Change from LPA/FEIS</th>
<th>Spaces Mitigated</th>
<th>Estimated Occupancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) 11th St@ Alice St (formerly Harrison St)*</td>
<td>SB</td>
<td>Harrison - Alice St</td>
<td>19</td>
<td>3</td>
<td>4</td>
<td>-1</td>
<td>3</td>
<td>85%</td>
</tr>
<tr>
<td>b) E.12th St @ 7th Ave (formerly 5th Ave)</td>
<td>SB</td>
<td>6th - 7th Ave</td>
<td>12</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>4</td>
<td>85%</td>
</tr>
<tr>
<td>c) E.12th St @ 11th Ave (formerly 10th Ave)</td>
<td>SB</td>
<td>11th - 12th Ave</td>
<td>15</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>&lt;85%</td>
</tr>
<tr>
<td>d) E.14th St @ Georgia Way (formerly south of Georgia Way)*</td>
<td>SB</td>
<td>Georgia - Euclid Ave</td>
<td>7</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>85%</td>
</tr>
<tr>
<td>e) E.14th St @ Eucd Ave (formerly Georgia Way)</td>
<td>NB</td>
<td>Euclid - Dutton Ave</td>
<td>5</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>85%</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>58</td>
<td>12</td>
<td>7</td>
<td>5</td>
<td>7</td>
<td>&lt;85% est.</td>
</tr>
</tbody>
</table>

* Metered spaces displaced in this segment. Other segments do not include metered parking spaces.

Note: If Net Change from LPA/FEIS is negative, this indicates fewer spaces are displace in post ROD project compared to the LPA of the ROD.

Land Use 4.1 N The East Bay BRT project is consistent with local and regional land use planning goals and policies. BRT serves existing and proposed land uses in the vicinity of stations. The proposed relocations to curb extension BRT stations in three of five cases involve moving the platform less than ½ block and in two cases shift the platform about two blocks compared to the locations shown in the FEIS. Station shifts will not adversely impact existing land uses and in some locations will remove access constraints (e.g., partial or entire driveway obstruction) associated with the LPA described in the ROD.

Growth Inducement 4.2 N The BRT project is aimed at improving transit in a highly urbanized and well developed corridor. It will not contribute to inducing growth beyond that already contemplated and anticipated in city land use plans and zoning. The proposed station platform relocations will not by themselves, individually or cumulatively, induce new growth compared to the LPA defined in the ROD.

Farmlands/Ag Lands 4.3 N Not applicable as no lands are affected.

Parking impacts above certain thresholds are mitigated by providing replacement parking. All metered spaces displaced are replaced by new metered spaces on a 1:1 basis. Non-metered spaces displaced along the BRT alignment are replaced if demand post BRT implementation is projected to exceed 85% of remaining supply (including in the supply numbers any replaced metered parking).

As shown in the table, parking will be replaced to address the additional parking loss associated with the shifting of the five curb extension stations in side running segments of the BRT alignment. No new unmitigated parking impacts will result from the changes.

<p>| Table II, Page 3 | 10 of 33 |</p>
<table>
<thead>
<tr>
<th>Community Impacts</th>
<th>4.4</th>
<th>N</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>●Community Cohesion</td>
<td>4.4.1</td>
<td>N</td>
<td>The proposed changes to side station locations are generally neutral with respect to community cohesion. The relocated stations will be served by improved pedestrian facilities, including intersection crosswalks. The improvements to the pedestrian environment are anticipated to benefit community cohesion. Stations also will provide a focal point for the immediate neighborhood.</td>
<td>No mitigation of effects from the station relocations is warranted.</td>
</tr>
<tr>
<td>●Public Services and Community Facilities</td>
<td>4.4.2</td>
<td>N</td>
<td>No adverse effects from shifting the locations of the five curb extension stations have been identified. Because no intersections are closed to cross-traffic in the side-running segments, there is no impact to emergency vehicle access along those segments of the corridor.</td>
<td>No mitigation of effects of the proposed station relocations is warranted.</td>
</tr>
<tr>
<td>●Right-of-Way and Relocations</td>
<td>4.4.3</td>
<td>N</td>
<td>No additional right-of-way is required to construct and operate the proposed changes to the LPA of the ROD and 2014 Environmental Review. All BRT facilities supporting the relocated stations are within existing public right-of-way.</td>
<td>No mitigation is warranted.</td>
</tr>
<tr>
<td>●Economic and Business Impacts</td>
<td>4.4.4</td>
<td>N</td>
<td>Overall, the project will generate economic benefits from improved transit access and transit facilities. The relocation of the five curb extension station platforms would not materially change this conclusion. Station relocations in most instances are proposed to respond to business concerns about obstructing driveway access and street views of storefronts and/or displacing street parking. AC Transit in most cases does not perceive such concerns to be significant but is proposing the station shifts to be a good neighbor to objecting businesses. The relocated stations and surrounding areas will incorporate the same types of improvements for autos, pedestrians and, in some cases, bicycles as were proposed at the original station locations (e.g., traffic signals, street lighting, ADA ramps, well demarcated crosswalks). These transportation infrastructure improvements will enhance the character of surrounding local business districts and, it is hoped, improve economic conditions in general.</td>
<td>No specific additional mitigation with respect to local economic and business impacts is warranted.</td>
</tr>
<tr>
<td>●Section 4(f)</td>
<td>4.4.5</td>
<td>N</td>
<td>No impacts to parks or other publicly owned recreation areas or to historic properties regardless of ownership are associated with the relocated side stations.</td>
<td>No 4(f) resources are affected; therefore no mitigation is warranted.</td>
</tr>
<tr>
<td>Utilities</td>
<td>4.5</td>
<td>N</td>
<td>The project requires relocations of various below and above ground utilities. In the vicinity of the relocated curb-extension stations there will be utility relocations but not to any increased extent compared to the utility relocations proposed in the vicinity of the original station locations. The cost and time involved for utility relocations and the disruptions of service to utility customers are not significantly changed as a consequence of relocating the BRT stations.</td>
<td>Utilities will be modified/relocated to maintain services during (and after) project construction. No new mitigation measures are recommended.</td>
</tr>
<tr>
<td>Visual/Aesthetics</td>
<td>4.6</td>
<td>N</td>
<td>The visual/aesthetics impacts analysis of the FEIS concluded that the revised LPA in the ROD &quot;would not result in a substantial change to the visual character of the corridor as a whole&quot; or significantly adversely affect areas where stations are planned. This conclusion is equally applicable to the relocated side platform stations. The other visual/aesthetic resource given consideration in the FEIS is the roadway median and changes to existing landscaping/hardscaping. The relocated stations are entirely within the side-running segments of the project, which are along arterials without landscaped medians. Landscaping along the sidewalks in the vicinity of the relocated stations will be affected at 4 of the five locations but the effects are minor, mainly tree removal/relocation. No station site includes more than small tree pits in the sidewalk at this time. In general, removal of existing landscaped areas will be offset by the addition of new landscaped areas elsewhere.</td>
<td>No mitigation of visual/aesthetics impacts is warranted.</td>
</tr>
<tr>
<td>Trees</td>
<td></td>
<td>N</td>
<td>The relocation of side stations results in two tree removals in the City of Oakland and four tree removals in San Leandro. Except for two trees in San Leandro at the BRT station nearside of Euclid Avenue and one tree at Georgia Way, tree diameters are under five inches. Trees removed in the BRT corridor will be replaced 1:1 or on a greater basis in the vicinity of where the trees are removed.</td>
<td>The affected trees will be replaced at a ratio of at least 1:1 to comply with project mitigation commitments in the ROD.</td>
</tr>
</tbody>
</table>

Table II, Page 4
<table>
<thead>
<tr>
<th>Cultural Resources</th>
<th>4.7</th>
<th>N</th>
<th>AC Transit has committed to monitor construction activities that could affect archaeological sites.</th>
</tr>
</thead>
<tbody>
<tr>
<td>● Archaeological</td>
<td>4.7.2</td>
<td>N</td>
<td>No culturally significant archaeological resources were identified that will be affected by the shifted locations of the five curb extension stations. However, it is acknowledged that resources could be buried and only discovered during construction.</td>
</tr>
<tr>
<td>● Historic Resources</td>
<td>4.7.3</td>
<td>N</td>
<td>During preparation of the FEIS, evaluation was made of whether potentially historic structures would be subject to direct or indirect effects of the project. To support the 2014 and the current 2015 environmental reviews, AC Transit expanded the Area of Potential Effect (APE) for historic resources to include any areas where new or relocated stations and other major project improvements are proposed and which were not covered in previous evaluations. This included the relocated side platform stations covered by this addendum. For the current 2015 evaluation, 6 parcels, or properties with existing historic-era (i.e., pre-1970) structures, were examined by performing field reviews and records searches. Additional outreach to agencies with possible interests related to historic architecture and the East Bay BRT Project was performed during December 2015. Letters were sent to 8 organizations in the cities of Oakland and San Leandro and in Alameda County advising them again of the project and soliciting comments. (No project-specific comments were received.) The findings were documented in a Fourth Addendum to the Historic Properties Inventory and Evaluation Report (HPIER) and Fourth Addendum Finding of Effect Report (FOE), submitted to FTA and then transmitted to the State Historic Preservation Office. The SHPO concurred with the finding that the latest station relocations, including related site improvements, would not adversely affect any historic resources in the vicinity of the stations; The letter of concurrence from the SHPO is dated TBD.</td>
</tr>
<tr>
<td>● Section 4(f)</td>
<td>N</td>
<td>No Section 4(f) resources are affected by the project; therefore, no 4(f) evaluation was performed for either the FEIS or the environmental reviews of 2014 and 2015.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Hydrology and Floodplains</td>
<td>4.8</td>
<td>N</td>
<td>The project approved in the ROD is mostly confined to already paved areas. This does not change significantly with the latest station relocations and related improvements, which are confined to the public right-of-way, including the sidewalk and street. Hydrologic conditions along the project alignment are not measurably affected by the station relocations. The relocated side platform stations are not in a floodplain and therefore there is no effect on this resource.</td>
</tr>
<tr>
<td>Water Quality &amp; Storm Water Run-off</td>
<td>4.9</td>
<td>N</td>
<td>Impervious area will not increase significantly and no materials will be introduced that will adversely affect the quality of storm water run-off. The project changes discussed in this review are simply relocations of five curb extension stations to different locations, from less than ½ block to at most 2 blocks from their FEIS locations. There will be no substantial increase in impervious area as a result of the station shifts. During construction, when there is the potential for temporary impacts to water quality when existing pavement is removed and new facilities are constructed, best practice measures to avoid degradation of water quality will be employed. The commitments identified in the FEIS and ROD to avoid run-off impacts will be maintained. See also the Construction impacts summary.</td>
</tr>
<tr>
<td>Geology/Soils/Seismic/Topography</td>
<td>4.10</td>
<td>N</td>
<td>The geologic setting and soil conditions surrounding the relocated curb extension stations are not significantly different from those assessed in the FEIS. There are no known geologic hazard impacts that cannot be fully addressed by proper design of BRT facilities.</td>
</tr>
</tbody>
</table>

Table II, Page 5
<table>
<thead>
<tr>
<th>Hazardous Waste/ Materials</th>
<th>4.11</th>
<th>N</th>
<th>A review of records of actual or potential hazardous waste sites in the vicinity of the relocated five stations determined that none of the 11 environmental risk sites on the alignment for the ROD-approved project will be affected. The closest risk site to a station is in San Leandro where an inactive potentially leaking underground storage site (LUST) is approximately 100 to 150 feet to the south of the southbound curb extension platform at Georgia Way. It is highly unlikely the station site would be contaminated by drifting material from the site. However, as for all construction activity, site conditions will be monitored when subsurface soils are disturbed in older commercial/industrial areas.</th>
<th>Although no major hazmat sites and risks have been identified in the areas proposed for station construction, steps will nonetheless be undertaken to avoid unanticipated adverse impacts, including (1) field observations during construction and (2) sampling of any materials suspected to be contaminated. These measures are the same as applied to the LPA in the ROD.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality</td>
<td>4.12</td>
<td>N</td>
<td>The project as described in the 2012 FEIS and 2014 Environmental Review benefits air quality. The relocation of curb extension stations that are the subject of this 2015 evaluation will not change project effects on air quality. The same reduction in single auto vehicle miles of travel identified in the FEIS, which results when people shift modes to travel by high-capacity transit, will occur. The mode shift is projected to produce a net overall decrease in vehicle emissions.</td>
<td>The project should result in air quality benefits. No mitigation of long-term air quality impacts is warranted.</td>
</tr>
<tr>
<td>Noise and Vibration</td>
<td>4.13</td>
<td>N</td>
<td>Noise and vibration studies performed for the FEIS did not identify any significant impacts from the project. In fact, noise levels from traffic often decrease due to the reduced roadway volumes (produced by one less mixed-flow traffic lane in each direction and resulting lower average vehicle travel speeds compared to the No-Build condition). This conclusion holds for the latest relocation of curb extension stations post ROD.</td>
<td>The relatively minor change in station locations will not affect project related noise or vibration impacts relative to the original project. No mitigation of impacts is warranted.</td>
</tr>
<tr>
<td>Greenhouse Gas Emissions</td>
<td>4.14</td>
<td>N</td>
<td>Because overall VMT in the study area will decrease post implementation of the BRT project, total CO2 emissions will also decrease relative to the No-Build condition. This relationship is unaffected by the relocation of curb extension stations described in this report as VMT decreases should be the same as estimated for the BRT project documented in the FEIS and ROD. (Other greenhouse gas emissions are not emissions of concern or do not change measurably post East Bay BRT Project improvements.) There will be no adverse cumulative impact on global climate change.</td>
<td>Greenhouse gas emissions, as documented for the LPA, will still be reduced relative to the No Build condition. No mitigation of emissions is warranted, therefore.</td>
</tr>
<tr>
<td>Energy</td>
<td>4.15</td>
<td>N</td>
<td>The energy impacts of the project—decreased fuel (mainly gasoline) consumption due to reduced auto VMT but increased fuel (mainly diesel) consumption by buses—essentially offset each other. The relocation of stations does not alter this relationship and therefore has minimal effect on transportation energy use. Energy use from station lighting and signage and other equipment will remain the same since stations (and bus stops) are not increasing, only being relocated to different locations.</td>
<td>No adverse or beneficial impacts are associated with the relocated side stations. No mitigation of adverse impacts is warranted.</td>
</tr>
<tr>
<td>Biological Environment</td>
<td>4.16</td>
<td>N</td>
<td>Water resources/wetland, Plants, Animals: The station relocations do not affect biological resources. The trees removed (6) do not provide important habitat for birds or other animals, and the trees will be replaced.</td>
<td>No mitigations other than as identified in the FEIS and ROD are warranted.</td>
</tr>
<tr>
<td>Construction</td>
<td>4.17</td>
<td>Y</td>
<td>Construction impacts will be very similar to those identified for the ROD-approved project. The only change is the locations of more extensive construction required to install the five BRT stations. The new locations are proximate to the locations described in the FEIS, that is, within the same block in three cases and within two block in two cases. All of the five station locations are along the same BRT arterial as before, and all would be covered by the construction staging/traffic control plans developed for the East Bay BRT Project and reviewed with corridor cities. No sensitive land uses (e.g., sensitive to construction noise, vibration, or construction equipment emissions) have been identified in the immediate vicinity of the relocated stations. The same mitigation measures recorded in the ROD will apply to construction activity associated with the relocated stations. The cumulative effect of the most recent station relocations, including other project refinements post ROD, is not markedly different from the construction effects described in the FEIS.</td>
<td>Construction mitigation measures apply to all project improvements and do not change as a result of post-ROD project refinements.</td>
</tr>
</tbody>
</table>

Table II, Page 6
| Environmental Justice | 4.18 | N | The FEIS determined that the East Bay BRT project would not have a disproportionately high and adverse effect on minority and low-income populations. The current environmental review has concluded that the project redesign reflected in the latest station shifts, when incorporating the same mitigation measures committed to in the ROD, will reduce long and short term impacts to acceptable levels. No impacts worsen compared to their levels disclosed in the FEIS. The benefits in access and increased mobility for area residents resulting from the station shifts are anticipated to more than offset the temporary access disruptions from construction and the long-term reduction in roadway capacity and changes in parking supply. | No mitigation to avoid environmental justice impacts is warranted. The East Bay BRT Project is expected to be beneficial in the long term to populations of concern for environmental justice. |
Table II-1: Harrison Street Station- Relocation of Southbound Curb Extension Platform: Comparison of FEIS Location and 2015 Final Location

- Northbound Platform Location on 12th Street Was Relocated to Nearside of Webster in 2014 Environmental Review: No Further Change
- Southbound Platform on 11th Street Farside of Harrison Street in FEIS to Shift to Nearside of Alice Street; Proposed 2014 Location Abandoned

Figure II-1: Harrison Street Station- Relocation of Southbound Curb Extension Platform: Comparison of FEIS Location and 2015 Final Location

LEGEND:
- FINAL 2015: Final Station Location (2015)
- 2014: Station Location Proposed in 2014 Reevaluation
- FEIS/R Station Location
- BRT Lanes

Table II, Page 8
Figure II-2: 5th Avenue Station – Relocation of Southbound Curb Extension Platform: Comparison of FEIS Location and 2015 Final Location

- No Change in Northbound Platform Location from FEIS Location
- Southbound Platform on E. 12 Street at 5th Avenue in FEIS to Shift Just Under Two Blocks South to Neaside of 7th Avenue

Table II, Page 9
Figure II-3: Avenue Station – Relocation of Southbound Curb Extension Platform: Comparison of FEIS Location and 2015 Final Location

- Northbound Platform on International Boulevard Was Relocated to Nearside of 10th Avenue in 2014; No Further Change
- Southbound Platform on E. 12 Street Shifts One Block South of FEIS Location to Farside of 11th Avenue; 2014 Proposed Location Abandoned
Figure II-4: Georgia Way Station – Relocation of Both Southbound and Northbound Curb Extension Platforms: Comparison of FEIS Locations and 2015 Final Locations.

- Location for Northbound Platform Proposed in 2014 Environmental Review Abandoned; Northbound Platform Shifted from Farside to Nearside of Euclid Avenue
- Southbound Platform Shifted Less than 100 Feet North from FEIS Location
In the following table an assessment is provided of the environmental effects of developing a bus layover facility near the northern terminus of the East Bay BRT Project. The BRT line terminates at a curbside station on Broadway at 20th Street in Downtown Oakland. Northbound BRT buses upon reaching this station in Oakland and prior to beginning the southbound return, will travel approximately 7 city blocks to an on-street parking facility along Northgate Avenue next to the I-980 freeway where there will be a rest station for bus operators.

An aerial view of the Northern Layover site is provided in Figure III-1 and a street view in Figure III-2. Figure III-1 shows the outline of the areas proposed for improvements by AC Transit for bus parking and an operator rest area. The limit of the area of potential effect (APE) for cultural resource studies is shown in red.

<table>
<thead>
<tr>
<th>Proposed Location</th>
<th>Change from FEIS/R</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Northgate Avenue between Sycamore Street and 24th Street, Oakland CA.</td>
<td>New facility not previously included in FEIS/R</td>
<td>The Northern Layover provides on-street short-term space for 3 buses to “lay over” for 5 to 15 minutes while operators are able to use a restroom or simply relax between completing their northbound and beginning their southbound revenue trips on the East Bay BRT line connecting Downtown Oakland with Downtown San Leandro. The facility is located along the west curb of Northgate Avenue in central Oakland, between Sycamore Street and 24th Street. Improvements will be made to a portion of Northgate Avenue and extend into the adjacent property, which is owned by the State of California and the responsibility of Caltrans. The improvements on the Caltrans property will include paved areas for siting a structure with space for an operators’ restroom and general rest area. Utility connection will be made to existing electrical, sewer and water lines along Northgate Avenue. The existing sidewalk along the west curb of Northgate will be relocated onto the Caltrans property to the west of the bus parking and operator rest facility. AC Transit is entering into an agreement to lease the Caltrans property, which is partially under the northbound lanes of the elevated I-980 freeway. The property is vacant except at the north end where there are columns supporting the freeway structure. That area is not proposed to be disturbed by construction of the Northern Layover. BART urban passenger rail tracks are adjacent the Caltrans property on the west. At the south end, the four tracks emerge from the subway segment through Downtown Oakland after crossing under Northgate Avenue. The tracks then cross at-grade under the elevated I-980 northbound lanes and transition to an elevated segment on embankment. At the north end, BART crosses over Sycamore Street on a railroad bridge. To the east of the layover facility, after crossing the four traffic lanes, are older residential and commercial land uses, including surface parking for multi-unit residential. There is a church on 25th Street between Northgate and Telegraph avenues. Layover of buses is necessary to allow bus operators contractually specified rest, or break, time between revenue vehicle trips. Operators generally remain with the same buses during the course of their work shifts. A facility at the proposed location avoids having to park buses in Downtown Oakland at the BRT line terminus, which would likely displace curb parking and potentially adversely affect visual, noise and other characteristics of downtown commercial and residential neighborhoods. It should be noted that a bus and operator layover facility is also required at the south end of BRT line. This is provided at the line terminus, the existing San Leandro BART station. No new parking and rest facilities are required for the East Bay BRT Project at that location.</td>
</tr>
<tr>
<td>Environmental Resource</td>
<td>FEIS/R Section</td>
<td>Potential Impacts of Change</td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td><strong>Vehicular Traffic</strong></td>
<td>3.2</td>
<td>Roadway capacity in the vicinity of the Northern Layover should not be measurably affected by implementation of the facility. The BRT service is proposed to operate every 5 minutes during peak (commute) and base (midday and early evening) periods and less frequently at others. Therefore 12 buses per hour will arrive at the East Bay BRT line terminus in Downtown Oakland, and these buses will then proceed to the Northern Layover. This would add 12 bus trips per hour along roadways leading to and from the facility. These roadways are existing major arterials and include Broadway, Grand Avenue, Telegraph Avenue, Sycamore Street, and Northgate Avenue. MLK Jr. Boulevard is west of Northgate Avenue and an alternate route to Telegraph Avenue. Buses would use general purpose, that is, mixed-flow, traffic lanes and not require special facilities. No existing traffic lanes will be dedicated to transit use. The traffic lanes on Northgate Avenue, two northbound and two southbound, will be retained. Buses will park between the curb and the northbound traffic lane, which is currently a parallel parking lane. Buses will not block arterial traffic flow. In the event some of the urban arterials leading to and from the Northern Layover experience congestion—and BRT buses would be likely to either experience delays and/or possibly add to the congestion—alternate routes to the layover facility can be taken. Only Northgate Avenue itself, between Sycamore and 24th streets, is a roadway segment buses must always use; traffic levels are consistently light on this arterial as it does not serve major activity centers in central Oakland. Should alternate routes to and from the facility be required under special circumstances, local residential streets will be avoided.</td>
</tr>
<tr>
<td><strong>Roadway Volumes</strong></td>
<td>3.2.3-7 &amp; 3.2.9</td>
<td>The small increase in bus volumes through intersections along connecting roadways to the Northern Layover facility will not deteriorate intersection LOS significantly. No changes to intersection geometry/striping or signal timing are proposed along the route buses will follow.</td>
</tr>
<tr>
<td><strong>Intersection Level of Service (LOS)</strong></td>
<td>3.2.3-7 &amp; 3.2.9</td>
<td>Buses proceeding to and from the Northern Layover will not substantially affect local access or traffic circulation. <strong>No changes to street layouts or restrictions on traffic movements will occur.</strong> Buses will operate in the same traffic lanes as other vehicles. Along two arterials likely to be used by buses using the Northern Layover, AC Transit currently operates bus service, including Broadway (Route 51A @ 10 minute peak and 12 minute off-peak frequencies) and Telegraph Avenue (Route 1R @ 12 minute peak and off-peak frequencies and Route 1 @ 15 minute peak and 20 minute off peak frequencies.). Other arterials providing a pathway to the facility, such as Grand Avenue, Sycamore Street, and Northgate Avenue, do not have existing bus service, but they are 4-lane arterials with divided medians in segments and designed to handle large vehicles.</td>
</tr>
<tr>
<td><strong>Neighborhood Traffic Effects</strong></td>
<td>3.2.8</td>
<td>No changes will be made to pedestrian or bicycle facilities along the route to the Northern Layover or at the facility itself with one exception. The existing sidewalk along the west curb of Northgate Avenue will be realigned to the west of the bus parking and operator rest facilities. This is a minor change in pedestrian pathways through the area. The existing sidewalk is seldom traveled. It is next to the fenced Caltrans property and the noisy freeway and BART rail environment. The new facilities constructed by AC Transit will be an improvement to existing conditions although even after the layover facility is open, it is unlikely pedestrians will be inclined to use the westside sidewalk. This would be attributable to the overall unfavorable pedestrian environment on that side of Northgate Avenue. Pedestrians are more likely to use the existing sidewalk on the east side of Northgate Avenue because it serves adjacent residential and commercial land uses. The eastside sidewalk is unaffected by the project.</td>
</tr>
<tr>
<td><strong>Non-Motorized Transportation</strong></td>
<td>3.3</td>
<td><strong>No changes will be made to pedestrian or bicycle facilities along the route to the Northern Layover or at the facility itself with one exception.</strong> The existing sidewalk along the west curb of Northgate Avenue will be realigned to the west of the bus parking and operator rest facilities. This is a minor change in pedestrian pathways through the area. The existing sidewalk is seldom traveled. It is next to the fenced Caltrans property and the noisy freeway and BART rail environment. The new facilities constructed by AC Transit will be an improvement to existing conditions although even after the layover facility is open, it is unlikely pedestrians will be inclined to use the westside sidewalk. This would be attributable to the overall unfavorable pedestrian environment on that side of Northgate Avenue. Pedestrians are more likely to use the existing sidewalk on the east side of Northgate Avenue because it serves adjacent residential and commercial land uses. The eastside sidewalk is unaffected by the project.</td>
</tr>
</tbody>
</table>

Table III, Page 2
| **Parking** | 3.4 | The construction of bus parking along the west curb of Northgate Avenue will eliminate parking for approximately 300 to 350 feet along the west curb or Northgate Avenue. This would be the equivalent of 14 to 16 spaces. The area allows parking without restriction except during early a.m. hours on the days designated for street cleaning. Parking demand is light where bus parking is proposed, two to three vehicles at times. To the south, across from a multistory residential tower, curb parking is more heavily used as overflow from the tower’s surface parking lot. (This is apparent when looking at Figure III-1) This parking is unaffected by the project.

Because of the ready availability of parking in the area, no parking shortfall will result from the proposed improvements and no replacement of displaced curbside is proposed. |

| **Land Use** | 4.1 | The construction of a bus layover facility along Northgate Avenue will not adversely affect adjacent and nearby land uses. The specific land areas on which the facility will be built are dedicated to transportation uses—existing public street right-of-way and State of California transportation right-of-way for a freeway. BART urban rail and the I-980 traffic lanes are to the west of the site. North and south are extensions of Northgate Avenue and the freeway.

To the east, across Northgate Avenue, which is four lanes with a center raised concrete median, land uses include residential, limited commercial, and religious. Immediately east are residential units and on 24th Street between Northgate Avenue and Telegraph Avenue, approximately mid-block, is the Church of Christ. Adjoining Northgate Avenue to the south is the Northgate Terrace residential structure. The address is 550 24th Street. Parking lot access to the 10-story building is from 25th Street. Northgate Terrace is an affordable housing rental community with 155 units and a maximum occupancy of 163 residents. It is owned by Graphic Communication Retirement Center of Oakland, listed at the same address, and managed by the Christian Church Homes of Northern California, headquartered in Oakland. Rents are generally subsidized.

BRT buses will layover at least 250 feet northwest from the Northgate Terrace and will not affect activities there or at other uses along Northgate Avenue or the cross streets of 24th Street, 25th Street, and Sycamore Street. No mitigation measures are warranted since the facility will have no effect on population or employment growth. |

| **Growth Inducement** | 4.2 | The Northern Layover facility will not affect growth patterns in the area. It is not a revenue facility that would attract users or change mobility patterns of area residents or alter local access. The facility will have no permanent employees. |

| **Farmlands/Ag Lands** | 4.3 | Not applicable as no agricultural lands are affected. |

| **Community Impacts** | 4.4 | The proposed Northern Layover will not affect community cohesion. All residential and commercial activity is to the east of Northgate Avenue. The improvements for the facility are limited to the west side of Northgate Avenue and are physically separated from developed land uses. Pedestrian pathways through the area will be maintained. |

| **Community Cohesion** | 4.4.1 | No mitigation of effects to the nearby residential and commercial neighborhoods is warranted. |

| **Public Services and Community Facilities** | 4.4.2 | There are no public institutions immediately adjacent the layover site; see the discussion of Land Use for community facilities, including a church and a retirement home, that are on the east side of Northgate Avenue, between Northgate Avenue and Telegraph Avenue. The construction and operation of the Northern Layover will not affect these community facilities. |

| **Right-of-Way and Relocations** | 4.4.3 | Besides the public street right-of-way owned by the City of Oakland, right-of-way owned by the State of California (Caltrans) is required to develop the facility. The Caltrans parcel is vacant except for the columns and footings supporting the elevated I-980 freeway; therefore no existing uses are displaced and relocation of existing uses is not necessary. No other future uses for the Caltrans parcel have been proposed. AC Transit is entering into a lease of the Caltrans parcel. The layover facility could be a temporary use of the site if the East Bay BRT Project is extended north of Downtown Oakland at some point. There is currently no plan approved for such an extension although the District continues to study BRT and upgraded Rapid services in corridors between Oakland and Berkeley as well as elsewhere in the District’s service area. The Northern Facility will be constructed with local funds only and maintaining long-term control of the site for its useful life, as required by FTA. |

| **Table III, Page 3** |  | In the FEIS, parking impacts above certain thresholds are mitigated by providing replacement parking. Occupancy/demand for parking in the area of the Northern Layover does not exceed these thresholds and therefore no mitigation measures are warranted. |

None |
<table>
<thead>
<tr>
<th>Section 4(f)</th>
<th>4.4.5</th>
<th>There will be no impacts to parks or other publicly owned recreation areas or to historic properties from construction and operation of the Northern Layover facility. All improvements are being made within existing public rights of way already dedicated to public transportation uses.</th>
<th>No 4(f) resources are affected; therefore no mitigation is warranted.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utilities</strong></td>
<td>4.5</td>
<td>The layover facility requires connections to existing electrical, water, and sewer facilities along Northgate Avenue and possibly minor relocation of those utilities located underground. Service interruptions to nearby land uses will be avoided when construction occurs. The Northern Layover will include a restroom and water service and possibly other limited amenities for bus operators. The level of usage will be small and not impact the capacity of existing utilities.</td>
<td>Utilities will be modified/relocated to maintain services during (and after) facility construction. No new mitigation measures are recommended.</td>
</tr>
<tr>
<td><strong>Visual/Aesthetics</strong></td>
<td>4.6</td>
<td>The existing visual character of the site for the Northern Layover is poor. Construction and operation of the Northern Layover will not significantly worsen or improve visual perspectives. Although the Northern Layover will improve a portion of the Caltrans property, which is not well maintained currently, once the Northern Layover becomes operational, there will be articulated buses parking along the west curb where autos sometime park currently. The facility's backdrop to the west (for example, from the residential and other uses east of Northgate Avenue) is the elevated I-980 freeway and the 4-track BART alignment. Views from the north and south toward the facility would include these same structures and the 4-lane Northgate Avenue in normal sightlines. Views towards the layover facility from developed neighborhoods west of Northgate Avenue are blocked by the freeway and BART tracks, making the layover facility invisible or barely visible from ground level. Some BART train riders would be able to see the site.</td>
<td>No mitigation of visual/aesthetics impacts is warranted. The transportation purpose of the facility is consistent with existing uses. Visual/aesthetic features of the area not substantially altered by the Northern Layover facility</td>
</tr>
<tr>
<td><strong>Trees</strong></td>
<td>4.7</td>
<td>There are two larger eucalyptus trees of varying diameters (the trees have multiple trunks at or just above ground level) and one medium height redwood tree on the site and potentially within the area of proposed improvements. No trees will be removed for construction of the layover facility unless determined to be diseased or otherwise in poor condition and thereby presenting a hazard for individuals using the rest facility or walking by along the relocated sidewalk. Trimming of trees is expected since they have not been well maintained.</td>
<td>If trees must be removed, they will be replaced 1:1 to comply with East Bay BRT Project mitigation commitments in the ROD.</td>
</tr>
<tr>
<td><strong>Cultural Resources</strong></td>
<td>4.7.2</td>
<td>An evaluation of possible archaeologic resources in the area of proposed improvements for the Northern Layover was performed in October and November 2015. An expanded archaeological Area of Potential Effect (APE) was designated to include the limits of potential ground disturbance. The evaluation included records searches and field surveys of the area within and around (up to one-eighth mile for records searches) the APE. Targeted outreach to Native American communities was performed during December 2015 to determine whether they had information about the site of the proposed facility or wished to comment on the proposed action. A letter was sent under the FTA Regional Administrator’s signature to 9 organizations. As of the date of this report, no facility specific responses were received. The archaeological technical studies and outreach did not identify any culturally significant archaeological resources; the conclusion was no resources are likely to be affected by construction of the facility. The evaluation noted, however, that if previously unidentified cultural materials are unearthed during construction, the mitigation measures committed to in the FEIS and ROD be adhered to. Construction would be halted and a qualified archaeologist would be brought in to assess the significance of the find. Findings of the archaeological evaluation are documented in the Third Addendum Archaeological Survey Report (ASR) for the East Bay BRT Project; provided FTA and submitted by FTA to SHPO for review.</td>
<td>AC Transit has committed to monitor construction activities that could affect archaeological sites.</td>
</tr>
</tbody>
</table>
### Historic Resources

4.7.3 An evaluation of potentially historically significant structures in the vicinity of the Northern Layover was conducted during September and October 2015. The architectural APE for the East Bay BRT Project was revised to include the area of the Northern Layover. As has been the convention for historic properties studies throughout the course of East Bay BRT Project planning and design, the APE was revised to include the land parcels on which, or next to which, major facility improvements are proposed. For the Northern Layover, this includes the Caltrans property under I-980. **No structures were found to exist within the limits of the revised APE.** Therefore, the construction of the Layover Facility was determined to have no significant effect on potentially historic properties. **The findings of the historic properties investigations for the Northern Layover facility were documented in the Fourth Addendum HPIER and Fourth Addendum FOE, presented to FTA for submittal to SHPO in Sacramento.** The SHPO reviewed the findings and concurred that the Northern Layover would not have an adverse effect on culturally significant resources. The concurrence letter is dated _______.

### Section 4(f)

No Section 4(f) resources are affected by the East Bay BRT Project, including the Northern Layover facility, therefore, no 4(f) evaluation was performed for either the FEIS/R or the environmental reevaluations of 2014 and 2015. Not applicable.

### Hydrology and Floodplains

4.8 The area proposed for improvements is not in floodplain. The facility will not affect ground or surface water conditions in the area. There will be a small to moderate increase in impervious surface area at the site but below thresholds requiring special treatment facilities (see 4.9). No activity is proposed on site that will generate water use (e.g., vehicle or equipment washing) that could potentially affect the movement, distribution, and quality of water at the site with the exception of water use in the operator rest facility. That water will be captured, discharged into the existing sanitary sewer system and treated before it returns to the natural environment. No mitigation to reduce the impact of runoff on water resources is necessary.

### Water Quality & Storm Water Run-off

4.9 New development or redevelopment projects that increase the extent of impervious surface above certain thresholds, thereby significantly increasing the level of storm water runoff, are subject to various permanent control measures to reduce the long-term impact of development on storm water quality, including run-off into creek channels. The measures have been established in accordance with federal (Clean Water Act and related) and state law and. In California, the Regional Water Quality Control Boards, in coordination with cities and counties, have prepared technical guidance for project sponsors to follow and ensure compliance with clean water regulations. In Alameda County, developments must comply with what is referred to as C.3 Stormwater Technical Guidance (“Provision C.3”). In addition there may be municipal codes and policies that developers must also adhere to.

For a facility of this type, which would be similar to an uncovered parking lot not part of another development project, an increase in impervious surface of 10,000 square feet would trigger requirements for implementation of storm water control measures/low impact development practices. The Northern Layover is not expected to exceed this threshold. The increase in impervious area is estimated to be closer to 5,000 square feet. As such, storm water will be captured by the existing storm drain system along Northgate Avenue and Sycamore Street. This system has the capacity to accommodate the small to moderate increase in run-off from the layover facility. The facility will be required to install on street drains storm drain traps that will capture debris (paper/litter, large leaves, other) before they enter the storm sewer.

During construction, when there is the potential for temporary impacts to water quality while existing pavement is removed and new facilities are constructed, best practice measures to avoid degradation of water quality will be employed. The commitments identified in the FEIS and ROD to avoid run-off impacts will be maintained. See also the Construction impacts summary.

### Geology/ Soils/ Seismic/ Topography

4.10 The geologic setting and soil conditions in the area do not present special issues for construction and operation of the Northern Layover facility. The unpaved Caltrans property on which some improvements will be made (essentially paving and a foundation for the rest facility) has been disturbed at various times for construction of the freeway, BART tracks, and local arterials. Columns and foundations for the elevated freeway and BART tracks on embankment are adequately supported by existing ground conditions. It is expected no special ground stabilization or related measures will be necessary for the construction of the Northern Layover. No specific mitigation measures are warranted at this time.
| Hazardous Waste/ Materials | 4.11 | A review of records of actual and potential hazardous waste sites in the vicinity of Northern Layover found no environmental risk sites—that is, areas of potential ground or underground contamination by hazardous materials. The search covered areas up to ___ mile of the layover facility itself in order to identify any risk sites from which contaminants could drift (for example with ground water flow) towards the facility. Although no major hazardous materials sites and risks have been identified in the immediate area of proposed construction, steps are to be undertaken to avoid unanticipated adverse impacts, including (1) field observations during construction and (2) sampling of any materials suspected to be contaminated. |
| Air Quality | 4.12 | The Northern Layover will result in an increase in bus diesel engine emissions at the facility site and along the arterial routes buses will follow to and from the site. The increase is expected to be small and not significantly affect air quality. At the layover site itself, buses will not remain idling while parked. Hybrid diesel-electric buses can brake and start-up in electric mode, with the diesel engine shut down—or at least operating at very low revolutions per minute. This will help to reduce emissions from the internal combustion engine, particularly when accelerating from the site. Acceleration is a major source of fuel use and emissions for standard diesel-only buses. The East Bay BRT Project is projected to produce a net overall decrease in vehicle emissions. The East Bay BRT Project should result in air quality benefits. The Northern Layover facility does not affect this conclusion. No mitigation of long-term air quality impacts is warranted. |
| Noise and Vibration | 4.13 | BRT buses traveling to and from the Northern Layover will follow existing major arterials. The noise level increase from an additional 12 buses per hour will not be significant. The buses are rubber tired and will not generate vibration impacts on structures along the routes to and from the Northern Layover facility. These conclusions are based on the findings of the noise analysis conducted during the FEIS. At the facility itself, there is the potential for increased noise when buses stop to park and start up to leave the facility and return to revenue service. The starting of a large diesel engine can be a major source of noise. However, as noted in 4.12, East Bay BRT buses will be hybrid diesel-electric propelled, and the diesel engine can be shut off or be at low revolutions per minute during braking and start-up, thus substantially reducing noise levels. Also, the site is already in a noisy environment from auto traffic on the freeway and BART trains passing by every 2.5 to 3 minutes during peak periods. Bus activity will not substantially alter conditions. The site was selected to avoid undesirable effects on Downtown and central Oakland neighborhoods. There are nevertheless residential and commercial neighborhoods on the east side of Northgate Avenue. The layover will be 250 to 300 feet from the most noise-sensitive land uses, which include the Northgate Terrace retirement complex. For these reasons, noise and vibration impacts form the Northern Layover facility have been determined to be less than significant. The addition of the Northern Layover facility will not affect East Bay BRT Project related noise or vibration impacts relative to the original project. No mitigation of impacts is warranted. |
| Greenhouse Gas Emissions | 4.14 | Buses proceeding the several blocks to and from the Northern Layover will increase overall VMT for the East Bay BRT Project compared to the alternative evaluated in the FEIS, which did not specifically include this additional mileage when comparing VMT in the study area with and without the East Bay BRT Project. (The analysis included a conservative allowance for BRT buses operating out of service, including when proceeding to and from the line termini from the AC Transit operating divisions. Layover locations between revenue vehicle trips were assumed to be at or near the line termini, however.) The overall increase in bus VMT is not substantial and does not alter the finding that total vehicle VMT (autos/trucks and buses) with the East Bay BRT Project will decrease compared to total VMT without the project. This results from auto drivers shifting to transit when it becomes faster and more convenient. Each BRT vehicle trip will carry several formerly auto drivers, generating a net reduction in total vehicle VMT. GHG emissions are reduced in direct proportion to the reduction in total VMT. Greenhouse gas emissions, as documented for the LPA, will still be reduced relative to the No Build condition. No mitigation of emissions is warranted, therefore. |
| Energy | 4.15 | Analysis performed for the FEIS concluded that the energy impacts of the East Bay BRT Project are essentially neutral. Reduced auto VMT reduces gasoline use and increased bus VMT increases diesel use. Buses are less fuel efficient than autos so despite the overall decrease in total vehicle VMT, it was not clear that the decrease in total VMT translates into total energy savings. Also, the BRT project will construct stations with passenger amenities, including electrically powered lighting and communications and security systems, which will add to energy needs. No adverse or beneficial impacts are associated with adding the Northern Layover to the scope of the East Bay BRT Project. |
The small increase in bus VMT resulting from buses proceeding to and from the Northern Layover and electric power use at the Northern Layover itself (for lighting and operation of the operator rest facility) will add to the total energy consumption of the East Bay BRT Project. However, this change in energy use is not substantial compared to the energy consumption estimates used in the analysis for the FEIS. Even if total energy use would be higher than under the no project condition, the difference would be marginal. The impact would not be deemed significant.

AC Transit is pursuing and will continue to pursue measures to reduce the energy footprint of the East Bay BRT Project and of the District’s operations. The hybrid BRT buses are more fuel efficient than the other similarly sized buses in its fleet. Lighting at stations and bus facilities will be energy efficient.

### Biological Environment

**Water resources/wetland; Plants; Animals:** The Northern Layover will not affect biological resources. **The unpaved area disturbed does not provide important habitat for animals or plants.** The on-site trees do not provide attractive nesting sites for birds. As noted previously, the trees will not be removed unless found to be diseased or otherwise in poor condition. If approved by the Caltrans and the City of Oakland, trees would be replaced should they need to be removed.

No mitigations other than as identified in the FEIS and ROD are warranted.

### Construction

The same mitigation measures recorded in the ROD will apply to construction activity associated with the Northern Layover facility. The level and extent of construction activity is expected to be low and include realignment and reconstruction of the west curb of Northgate Avenue and limited clearing and paving of a portion of the vacant Caltrans property along the west curb.

Construction mitigation measures apply to all project improvements and do not change as a result of post-ROD project refinements.

### Environmental Justice

**AC Transit has been careful to locate the layover facility in an area where it will have minor effects on nearby communities.** The inhabitants of the residential areas east of Northgate Avenue, including residents of the Northgate Terrace, are predominantly lower income but should not be inconvenienced by noise, emissions or other effects of the operation of the layover facility. Construction will occur during the normal business day and AC Transit will notify nearby residents and businesses of the construction program, including the schedule of activities.

No mitigation to avoid environmental justice impacts is warranted.
Figure III-1: Northern Layover Facility at Northgate Avenue and Sycamore Street, Oakland, CA
(Red line indicates the approximate area of potential effect for cultural resource and hazardous materials impacts assessments.)
Figure III-2: Northern Layover Street View

(Looking South)
To: Michael Hursh, General Manager  
David Wilkins, Director, BRT Project

From: James Arcellana, Attorney II

Date: November 16, 2015

Re: East Bay Bus Rapid Transit – Next Steps Under CEQA

INTRODUCTION

In October of 2015, AC Transit General Counsel Denise Standridge asked me to work with Ramakrishna Pochiraju in order to review proposed changes to the East Bay Bus Rapid Transit (BRT) project with regards to the California Environmental Quality Act (CEQA). There are two primary changes being proposed. Specifically, BRT will be changing the location of five curbside platforms at four BRT station locations (each curbside station has two platforms), three in Oakland and one in San Leandro, and will be adding a bus layover in Oakland near the northern end of the BRT route (the Northern Layover). In addition, the District will be doing design refinements in the form of curb realignments to improve Americans with Disability Act curb ramps, traffic lane geometric and corresponding striping adjustments, lighting and landscaping adjustments, station canopy architectural refinements and replacement parking space relocations.

The BRT project itself consists of 34 stations over a 9.5 mile route from 20th and Broadway in Oakland to the vicinity of the San Leandro BART station. As a consequence of community concerns, the BRT platform relocations have been made to avoid limitations on driveway access and lines of sight that could affect adjacent businesses. The District was not made aware of issues with these station locations until after the original Environmental Review and as such they are being addressed now. The Northern Layover is being added in order to address concerns about bus parking during operator breaks between arriving at and departing from BRT’s northern terminus located at Broadway and 20th Street in Oakland. Since that location is a busy intersection, the Northern Layover would provide bus parking and bathroom facilities for operators in a location that does not disrupt local traffic flow or reduce parking in the downtown area.

ISSUES

This office has reviewed the various reports issued concerning these changes and undertook appropriate research to answer the following questions:

1) Given the changes to the BRT project, what, if anything, is required under CEQA?

2) What Board action, if any, is required?
ANSWERS

1) There is no requirement that a subsequent environmental impact report (EIR) or supplement to the final EIR be created. However, it is advised that this memorandum detailing the changes and their lack of impact on the environment be kept in the BRT files.

2) The Board should adopt a resolution receiving and approving the staff report and 2015 130c Environmental Review Report.

DISCUSSION

Under CEQA once a project has been approved, the lead agency’s role in project approval is completed, unless further discretionary approval on that project is required. Once discretionary project approval is complete, no agency has jurisdiction to require a further EIR, a subsequent EIR under Public Resources Code section 21166 or a supplemental EIR. (14 Cal. Code Reg. section 15162(c); Melon v. City of Madera (2010) 183 Cal.App. 4th 41.) Information appearing after an approval does not require reopening of that approval. (Fort Mojave Indian Tribe v. California Department of Health Services (1995) 38 Cal.App. 4th 1437.)

Discretionary decisions for BRT have been obtained and the necessary environmental procedures have been completed and certified and the statutory time period for challenging the approved EIR passed without any challenges being filed. CEQA’s goal of creating an informational document for the decision makers so they know the significant environmental consequences of the proposed Project and what measures, if any, exist to mitigate them, has been completed. (Pub.Res. Code section 21061; Save Round Valley Alliance v. County of Inyo (2007) 157 Cal.App. 4th 1597.)

Since BRT was approved the District has taken steps to implement the Project, which include undertaking engineering of the project; continuing dialogue with the cities of Oakland and San Leandro regarding implementation of mitigation measure associated with the project; holding meetings with businesses, neighborhoods and community groups in the Project area; and conducting meetings with public safety agencies and utilities to further assess and address their needs. As a result of these implementation efforts, some changes have been proposed in the Project to address design issues, some of which were anticipated to occur during design and others that could not have been known at the time of approval, as well as to address mitigation issues associated with the project. These post-Record of Decision (ROD)/Notice of Determination (NOD) changes include:

- The shifting of five BRT station platforms to avoid limitations on driveway access and lines of sight that could affect adjacent businesses and to respond to specific community concerns about their placement.

- Adding a bus layover facility that will provide parking for three busses and restrooms for their operators as they take a break between runs. The Northern Layover is being created in order to
avoid negative repercussions of using the northern terminus of the BRT route, which is located at a heavily used intersection in downtown Oakland.

- Improvements to crosswalks and pedestrian facilities to comply with Americans with Disabilities Act.
- Additional minor alterations such as traffic lane geometric and corresponding striping adjustments, lighting and landscaping adjustments, station canopy architectural refinements and replacement parking space relocations.

Due to these changes to the Project, the question arises whether the District needs to undertake any further environmental reviews. To the extent any of the changes are ministerial or result in a change in condition of approval that may be treated as being within the District’s authority to interpret its own enactments, then no further environmental review is required. (Kosta & Zischke, Practice Under Cal. Environmental Quality Act (Cont.Ed.Bar. 2011 Update) Sec. 19.32, p. 903.) Given the language in the conditions of approval and in the mitigation measures, the changes in the fourth bullet could be argued to be within this exemption. Additionally, the District has conducted a 130c Report to assess the potential environmental impacts of the changes and has concluded that these changes, along with the changes in bullets one through three, do not have any significant environmental impacts or else do not increase the severity of the environmental impacts previously identified and addressed in the final EIR.

**SUBSEQUENT EIR**

If none of the changes listed above are exempt from CEQA, then the District, as the CEQA Lead Agency, would be required to consider whether further CEQA review is required by Cal. Pub. Res. Code section 21166. Under CCR sections 15162 and 15163m a determination whether or not to prepare a subsequent or supplemental impact report would have to be made based on substantial evidence in the whole record. “Substantial evidence” has been determined to be “relevant evidence that a reasonable mind might accept as adequate to support a conclusion, or evidence of ponderable legal significance that is reasonable, credible and solid.” *(Bowman v. City of Petaluma* (1986) 185 Cal.App. 3d 1065.)

In order for a subsequent EIR to be required, CCR section 15162 requires the following factors to be considered:

1. Substantial changes are proposed in the project which require major revisions of the previous EIR due to new significant environmental effects or substantial increase in the severity of previously identified significant effects;

2. Substantial changes to the circumstances under which the project is undertaken will require major revisions of the previous EIR due to new significant environmental effects or substantial increase in severity of previously identified significant effects; or

3. New information of substantial importance, which was unknown or with reasonable diligence could not have been known at the time of certification of the EIR that shows:
a. There will be one or more significant effects not previously discussed;
b. Previous significant effects will be substantially more severe;
c. Mitigation measures or alternatives previously thought to be unfeasible would be feasible and would substantially reduce one or more significant effects, but the project proponents declined to adopt either of them;
d. Considerably different mitigation measures or alternatives from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents declined to adopt either of them.

The provisions of sections 21166 and 15162 are not applicable to the proposed revisions identified and discussed in the Section 130c Report because none of the conditions required in subsections 1, 2 and 3 are applicable to the proposed modifications. There is no evidence that the proposed modifications are “substantial changes” because they do not present any “new significant environmental effects or a substantial increase in the severity of previously identified significant effects”, as contemplated in subsection 1 above.

There are no substantial changes to the circumstances under which the Project was undertaken by the implementation of the proposed changes, per subsection 2. As shown in the 130c Report, some changes could improve the Project’s impacts and none create any new significant environmental effects or substantially increase the severity of the environmental effects contained in the EIR.

Finally, although there is some new information about the Project which has been obtained during the completion of final design as well as from meetings with businesses, neighborhoods and the cities to refine the Project and its mitigation measures, none of this information rises to the level set forth in subsection 3.

Section 21166 was intended to provide a balance against the burdens created by the environmental review process and to accord a reasonable measure of finality and certainty to the results achieved. The Appellate Court in Bowman v. City of Petaluma (1986) 185 Cal.App. 3d 1065, 1074, opined that “this purpose appears not only from its prohibitory language (‘no subsequent or supplemental environmental impact report…unless…’) but also from legislative context and history. Chapter 6 of CEQA, in which section 2166 appears, is entitled ‘Limitations.’ [The court then cites to ‘similar procedural limits and protections that appear in that chapter and throughout the act.’] These statutes effectuate the Legislature’s expressed concern for balancing environmental considerations against the social and economic burdens of compliance.” The court went on to determine the test to be applied in reviewing the City of Petaluma’s failure to prepare a subsequent EIR to be “whether the record as a whole contains substantial evidence to support a determination that the changes in the project were not so ‘substantial’ as to require ‘major modifications to the EIR’” Id. at 1075.

SUPPLEMENT TO AN EIR

The pertinent provision of CCR section 15163, for purposes of this opinion, is set forth in subsection (a).
“A Lead or Responsible Agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

(1) Any of the conditions described in Section 15162 would require the preparation for a subsequent EIR, and

(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.”

For the reasons discussed above under the “SUBSEQUENT EIR” section, since the conditions precedent to support the application of Section 15162 do not exist, there is no need to consider a supplement to the final EIR for the Project.

ADDENDUM TO AN EIR

It is the opinion of this Office that the modifications described in the 130c Report should be brought to the attention of the AC Transit Board of Directors for their information and concurrence as an agenda item in open session. One way of doing this is to treat the modifications as an addendum under 40 CCR section 15164. Since there is no justification for a subsequent or supplemental EIR, the preparation of an addendum represents a logical alternative for recognizing and authorizing the changes, with the understanding that the decision to approve the BRT has been made and not all provisions of CCR section 15164 are applicable.

There is no form required for an addendum under CEQA or its guidelines. The courts have sustained reliance on a staff report or contents of a resolution to support an agency’s decision as to whether any further environmental action is required due to project modifications. (See, Abatti v. Imperial Irrig. Dist. (2012) 205 Cal.App. 4th 650,654; River ValleyPreservation Project v. Metropolitan Transit Dev. Bd. (1995) 37 Cal.App. 4th, 177.) However, the record should reflect that the Board: (1) considered whether further environmental review was needed, (2) it determined whether any of the events triggering further environmental review occurred, and (3) its decision was based on a review of the appropriate facts.

The above requirements can be accomplished by placing on an upcoming agenda the consideration of a resolution adopting an addendum, setting forth the justification for this procedure and incorporating by reference a staff report explaining the modifications, providing the basis for the recommendation that a subsequent or supplemental EIR is not required and attaching the Report as substantial evidence that the proposed modifications to the Project do not meet the criterion for adopting either a subsequent or supplemental EIR.

CONCLUSION

Although all discretionary approvals for the Project have been obtained, the EIR certified and the NOD filed, some changes to the Project have been identified that should be considered under CEQA. (Similarly under the National Environmental Protection Act, a ROD has been issued on the Environmental Impact Statement. The Federal Transit Administration is making its independent determination whether further
(action is required under NEPA.) Some of the changes (e.g., the movement of some stations) were recognized as further refinements to the Project or the implementation of conditions of approval. Nonetheless, a 130c Report has been prepared that considered the proposed modifications and whether they create new environmental impacts or increase severity of impacts previously analyzed. The 130c Report’s analysis did not find either the creation of new environmental impacts or an increase in the severity of the identified impacts. However, it would be the best practice to include the 130c Report in the record of the project by having the District adopt a resolution whereby it considers the information in the Report and approves the modifications.

cc: Denise Standridge, General Counsel