



Tri-Valley ▲ San Joaquin Valley
REGIONAL RAIL AUTHORITY

Board of Directors

Meeting Packet

March 10, 2021

TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY

AGENDA – BOARD OF DIRECTORS
March 10, 2021 at 2:00 p.m. via teleconference

CORONAVIRUS DISEASE (COVID-19) ADVISORY AND MEETING PROCEDURE

On March 16, 2020, the Health Officer of Alameda County issued an Order that has been continued through May 31, 2020, that directed that all individuals living in the county to shelter at their place of residence except that they may leave to provide or receive certain essential services or engage in certain essential activities and work for essential businesses and governmental services.

Under the Governor’s Executive Order N-29-20, this meeting may utilize teleconferencing. As a precaution to protect the health and safety of staff, officials, and the general public. Councilmembers will not be physically in attendance, but will be available via video conference.

The regular meeting facilities for the meetings of the Board of Directors are currently closed to the public and will remain closed for the duration of the shelter-in-place order. Consequently, there will be no physical location for members of the public to participate in the meeting. We encourage members of the public to shelter in place and access the meeting online using the instructions listed on the agenda. Online attendees will have the opportunity to speak during Public Comment.

If you are would like to submit public comment via email, please do so by 11:00 a.m. on Wednesday, March 10, 2021 to comments@valleylinkrail.com. Please include “Public Comment March 10, 2021” and the agenda item in the subject line. In the body of the email please include your full name. Public comments submitted will be read during Public Comment and will be subject to the regular three-minute time restriction.

This Board of Directors meeting will be conducted on the web-video communication platform Zoom. To view and/or participate in this meeting, members of the public will need to either download Zoom from the website zoom.us. It is recommended that anyone wishing to participate in the meeting complete the download process before the start of the meeting. To listen without viewing, members of the public may also join the meeting by calling in via telephone. A live stream will also be available on our YouTube channel without the ability to make public comment. All public comments will be subject to the regular three-minute time restriction.

There will be zero tolerance for any person addressing the Board making profane, offensive and disruptive remarks, or engaging in loud, boisterous, or other disorderly conduct, that disrupts the orderly conduct of the public meeting.

TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY

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March 10, 2021 at 2:00 p.m. via teleconference

How to listen and view meeting online:

- From a PC, Mac, iPad, iPhone or Android device click the link below:
<https://zoom.us/j/93548110883>
Password: **ValleyLink**
- To supplement a PC, Mac, tablet or device without audio, please also join by phone:
Dial: 1 (669) 900-6833
Webinar ID: 935-4811-0883
Password: **898381**

To comment by video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on the Agenda item. You will then be unmuted when it is your turn to make your comment for up to 3 minutes. After the allotted time, you will be muted.

- Livestream online at: [Valley Link Rail YouTube Channel](#)

No option to make Public Comment on YouTube live stream.

How to listen via telephone to the meeting:

- For audio access to the meeting by telephone, use the dial-in information below:
Dial: 1 (669) 900-6833
Webinar ID: 935-4811-0883
Password: **898381**

*Please note to submit public comment via telephone dial *9 on your dial pad. The meeting’s host will be informed that you would like to speak. If you are chosen, you will be notified that your request has been approved and you will be allowed to speak. You will then be unmuted when it is your turn to make your comment for up to 3 minutes. After the allotted time, you will be muted.*

To submit written comments:

- Send public comments prior to the meeting by email, to comments@valleylinkrail.com

If you are submitting public comment via email, please do so by 11:00 a.m. on Wednesday, March 10, 2021 to comments@valleylinkrail.com

Please include “Public Comment March 10, 2021” and the agenda item to which your comment applies in the subject line. In the body of the email please include your full name. A list of the public comments submitted will be read during Public Comment and letters will be posted on the Authority’s website along with other meeting material.

TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY

AGENDA – BOARD OF DIRECTORS
March 10, 2021 at 2:00 p.m. via teleconference

1. Call to Order and Pledge of Allegiance
2. Roll Call of Members
3. Public Comments:
Members of the public may address the Board on any issues not listed on the agenda that are within the purview of the Authority. Comments on matters that are listed on the agenda may be made at the time the Board is considering each item. Time limits on public comments may be established by the Chair.
4. Consent Agenda – **ACTION**
Recommend approval of all items on Consent Agenda as follows:
 - a. Minutes of February 10, 2021 Board of Directors Meeting.
 - b. Treasurer’s Reports for January 2021.
5. Executive Directors Report – **INFORMATION**
6. Consideration of Authorizing the Filing of Applications with the USDOT, FTA, and Execution of Certifications, Assurances and Grant Agreements Required to Receive Federal Financial Assistance – **ACTION**
7. Consideration to Approve and Adopt a Drug & Alcohol-Free Workplace Policy for Tri-Valley – San Joaquin Valley Regional Rail Authority Full-Time and Part-Time Employees and Contractors in Safety-Sensitive Positions – **ACTION**
8. Approve and Authorize Submittal of 2021 Title VI Program – **ACTION**
 - a. Updated Equity Statement
 - b. Public Participation Plan
 - c. Language Assistance Plan for Individuals with Limited English Proficiency
 - d. Approve and Authorize Submittal of 2021 Title VI Program
9. Presentations on Upcoming Actions on Federal Grantee Requirements – **INFORMATION**
 - a. Disadvantaged Business Enterprise (DBE) Program
 - b. Equal Employment Opportunity (EEO) Program
 - c. Transit Asset Management (TAM) Plan
 - d. Public Transportation Agency Safety Plan (PTASP)
 - e. Cyber Security Policy
 - f. Rail Safety Training and Oversight

TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY

AGENDA – BOARD OF DIRECTORS
March 10, 2021 at 2:00 p.m. via teleconference

10. Employment Agreement with Deputy Executive Director/Program Manager - **ACTION**
11. Directors' Discussion
Comments, Questions and Agenda Requests
12. Adjourn to **CLOSED SESSION** pursuant to Government Code Section 54957(b):
 - a. PUBLIC EMPLOYEE APPOINTMENT
Title: Deputy Executive Director/Program Manager
13. Reconvene to **OPEN SESSION**
14. Next Meeting Details: April 14, 2021 at 2 p.m.
15. Adjourn

Upon request, the Tri-Valley-San Joaquin Valley Regional Rail Authority will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and the preferred alternative format or auxiliary aid or service at least 2 days before the meeting. Requests should be sent to: comments@valleylinkrail.com

AGENDA

ITEM 4 A



**Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of December 9, 2020 meeting via Zoom Teleconference**

1. Call to Order and Pledge of Allegiance

Meeting was called to order by Board Chair Veronica Vargas at 2:01 p.m.

a. Oaths of Office

Supervisor Robert Rickman administered Oaths of Office to Mayor David Hudson, Councilmember Brittini Kiick and Supervisor David Haubert. Haubert administered the oath to Rickman. Chair Vargas welcomed the new board members and expressed the importance of the Valley Link project to commuters and all the communities involved.

2. Roll Call of Members

Members Present

Chair Veronica Vargas, City of Tracy
Director Melissa Hernandez, City of Dublin
Director Paul Akinjo, City of Lathrop
Director Benjamin Cantu, City of Manteca
Director David Haubert, Alameda County
Director David Hudson, San Ramon
Director Brittini Kiick (Livermore), LAVTA
Director Bernice King Tingle, Mountain House
Director John McPartland (District 5), BART
Director Kathy Narum, City of Pleasanton
Director Robert Rickman, San Joaquin County
Director Karen Stepper, Town of Danville
Director Bob Woerner, City of Livermore
Director Leo Zuber (Ripon), ACE

Members Absent

Director Sol Jobrack, City of Stockton

3. Introduction of New Board Members and Election of New Vice Chair of the Board – ACTION

Vargas acknowledged former board chair Scott Haggerty who was present at the meeting. Each of the incoming board members gave a short introduction.

Motion to elect Director Melissa Hernandez as the new Vice Chair of the Board of Directors.

The directors discussed this motion. There was no public comment.

Motion: Vargas/Haubert

Aye: Akinjo, Cantu, Haubert, Hudson, Kiick, King-Tingle, McPartland, Narum, Rickman, Stepper, Vargas, Woerner, Zuber

Nay: None

Abstain: Hernandez

Absent: Jobrack

Motion Passed

4. Public Comments

Public comment was heard from Lilt Mai, Mayor of Fremont.

Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of December 9, 2020 meeting via Zoom Teleconference

5. **Consent Calendar – ACTION**

Motion to approve all items on Consent Calendar as follows:

- a. Minutes of December 9, 2020 Board of Directors Meeting.
- b. Treasurer’s Reports for November and December 2020.

Motion: Stepper/Narum

Aye: Akinjo, Cantu, Haubert, Hernandez, Hudson, Kiick, King-Tingle, Narum, Rickman, Stepper, Vargas, Woerner, Zuber

Nay: None

Abstain: McPartland (*absent during this item due to technical difficulties*)

Absent: Jobrack

Motion Passed

6. **Executive Directors Report – INFORMATION**

Executive Director Michael Tree gave a presentation and oral report

- **Draft EIR** – The public comment period for the DEIR closed on January 21, 2021. The Authority received letters from 42 different entities. The project team is currently working to respond to the comments and revise the DEIR as needed. The final DEIR should be ready for board approval at the May board meeting.
- **Project Fact Sheet** – The Valley Link Fact Sheet has been updated and is available on the Authority’s website.
- **AB 758** – Staff is working with Senator Susan Eggman to introduce amendments relating to project delivery and exemption from local zoning; an exemption already in place for rail transit districts in the State.
- **Funding** – Staff is in talks with the congressmen who represent the project area on three funding requests.
- **NEPA** – As agreed by the board, work on NEPA will begin after the EIR, the final step in the CEQA process, is concluded. Staff is in discussion with the FTA to be the federal agency that will sponsor the project. The Authority is in the process of applying to become a full FTA grantee, so the authority will be in a position to apply for federal funding.
- **California High-Speed Rail Authority** – Valley Link has been included in the Revised Draft 2020 Business Plan.
- **Valley Link Team** – Due to retirement of seconded BART employees, Authority staff is working with legal to determine the best option for keeping the Program Manager and Civil/Structural Lead on the project.

There was no discussion of the directors and no public comment was received.

**Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of December 9, 2020 meeting via Zoom Teleconference**

7. Resolution of the Board of Directors of the Tri-Valley-San Joaquin Valley Regional Rail Authority Adopting the Policy Titled “Fixed Asset Policy and Procedures” – ACTION

Tree presented the staff report. The fixed asset policy will track items, provide proper accounting and loss prevention. The policy will also be in line with FTA procedures. Directors discussed this item. No public comment was received.

Motion to approve the fixed asset policy and procedures as written.

Motion: Cantu/Stepper

Aye: Akinjo, Cantu, Haubert, Hernandez, Hudson, Kiick, King-Tingle, McPartland, Narum, Rickman, Stepper, Vargas, Woerner, Zuber

Nay: None

Abstain: None

Absent: Jobrack

Motion Passed

8. 2021 Strategic Priorities – Valley Link Advocacy – ACTION

Tree presented the staff report and introduced goals and strategies for attaining these goals. Once approved, the next steps will be to begin work to advance the advocacy within the adopted guidelines. Tactics will be identified for each of the adopted strategies and ongoing updates will be provided regularly to the board. Directors discussed this item. There was no public comment.

Motion to approve the program of strategic priorities to guide federal, state and regional/local legislative advocacy for Valley Link in 2021 with the inclusion of optimizing Vehicle Miles Travelled (VMT) reduction as a strategy for the sustainability goal.

Motion: Hudson/Akinjo

Aye: Akinjo, Cantu, Haubert, Hernandez, Hudson, Kiick, King-Tingle, McPartland, Narum, Rickman, Stepper, Vargas, Woerner, Zuber

Nay: None

Abstain: None

Absent: Jobrack

Motion Passed

9. Status Report on Efforts to Qualify Valley Link as a Federal Grant Recipient – INFORMATION

Legal Counsel Michael Conneran presented the staff report. In order to qualify to receive federal funds the agency must satisfy technical and legal requirements, including developing new policies regarding civil rights, DBE/SBE, environmental protection, safety, equal employment opportunity, and the prevention of drug and alcohol abuse. Staff is preparing to bring these measures to the board for approval at the March board meeting. There was no discussion by the directors. There was no public comment.

Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRRA)
Minutes of December 9, 2020 meeting via Zoom Teleconference

10. Title VI Policy Statement – ACTION

Tree presented the staff report and read the proposed policy language. The directors discussed this item and no public comment was received.

A motion was made to have the legal team amend the policy statement with the discussed changes and bring back to the board at the March meeting.

Motion: Kiick/King-Tingle

Aye: Akinjo, Cantu, Haubert, Hernandez, Hudson, Kiick, King-Tingle, McPartland, Narum, Rickman, Stepper, Vargas, Woerner, Zuber

Nay: None

Abstain: None

Absent: Jobrack

Motion Passed

11. Directors' Discussion

Director Woerner reiterated the importance of coordinating with the cities and counties with regard to lobbying. He asked that staff bring back an action plan with strategies for how this can be accomplished at a future board meeting. Director Narum asked that a list be provided of Valley Link's positions on relevant Senate and Assembly Bills so cities can further support the Authority.

12. Next Meeting

March 10, 2021 at 2 p.m. – Via Teleconference

13. Adjourn (King-Tingle/Cantu)

Meeting adjourned at 3:42 p.m.

AGENDA

ITEM 4 B





Tri-Valley San Joaquin Valley
REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Treasurer's Reports for November and December 2020

FROM: Tamara Edwards, Director of Finance

DATE: March 10, 2021

Action Requested

Staff requests that the Tri-Valley – San Joaquin Valley Regional Rail Authority Board accept the Treasurer's Reports for January 2021.

Background/Discussion

The Treasurer's Report shows all expenses and revenues for the month of January as well as the year to date totals.

The fund balance reflected on both the balance sheet and the expense report is the difference between the revenue received and the expenses. As the authorities funding is all on a reimbursement basis this will be reflected as a negative amount (expenses higher than revenues) until year end when accruals are done at which time the fund balance will be zero. Additionally, as all of the Rail Authority's funding is on a reimbursement basis LAVTA continues to provide the cash flow for the Rail Authority which is reflected in the funds due to LAVTA line item.

Attachments:

1. January 2021 Treasurer's Report

ATTACHMENT 1



**Tri-Valley San Joaquin Regional Rail Authority
BALANCE SHEET
FOR THE PERIOD ENDING:
January 30, 2021**

ASSETS:

108 CASH-GENERAL CHECKING	2,236,580	
120 ACCOUNTS RECEIVABLE	(282)	
150 PREPAID EXPENSES	0	
TOTAL ASSETS		2,236,298

LIABILITIES:

205 ACCOUNTS PAYABLE	0	
20501 DUE TO LAVTA	2,860,116	
211 PRE-PAID REVENUE	178,290	
TOTAL LIABILITIES		3,038,406

FUND BALANCE:

301 FUND RESERVE	0	
304 GRANTS, DONATIONS, PAID-IN CAPITAL	0	
30401 SALE OF BUSES & EQUIPMENT	0	
FUND BALANCE	(802,108)	
TOTAL FUND BALANCE		-802,108

TOTAL LIABILITIES & FUND BALANCE		2,236,298
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Tri-Valley San Joaquin Regional Rail Authority
REVENUE REPORT
FOR THE PERIOD ENDING:
January 30, 2021

ACCOUNT	DESCRIPTION	BUDGET	CURRENT MONTH	YEAR TO DATE	BALANCE AVAILABLE	PERCENT BUDGET EXPENDED
	Caltrans	20,000	0	0	20,000	0.0%
	MTC-Bridge Tolls	9,308,657	298,795	1,211,667	8,096,990	13.0%
	Alameda County/Strategic Development	39,950	0	20,475	19,475	51.3%
	Government Relations/Community Engage	58,815	0	0	58,815	0.0%
	TOTAL REVENUE	9,427,422	298,795	1,232,142	8,195,280	13.1%

Tri-Valley San Joaquin Regional Rail Authority
EXPENDITURE REPORT
January 30, 2021

ACCOUNT	DESCRIPTION	BUDGET	CURRENT MONTH	YEAR TO DATE	BALANCE AVAILABLE	PERCENT BUDGET EXPENDED
Direct Labor and Benefits						
	Executive Director	149,310	0	65,308	84,002	43.74%
	Administrative Assistant	96,200	0	39,728	56,472	41.30%
	Finance Director	42,000	0	15,218	26,783	36.23%
	IT support	36,000	0	0	36,000	0.00%
	Marketing Director	30,432	0	7,609	22,823	25.00%
	TOTAL - Direct Labor	353,942	0	127,863	226,079	36.13%
Consultants/seconded staff						
	Program Manager	490,000	0	0	490,000	0.00%
	Project Management support- Civil	373,607	0	0	373,607	0.00%
	Rail Vehicle Specs/Design	118,267	0	0	118,267	0.00%
	Program Management Staff	2,295,681	498,877	942,965	1,352,716	41.08%
	General Engineering Consultants	2,285,000	0	0	2,285,000	0.00%
	Environmental/30% Design	2,191,344	0	763,671	1,427,673	34.85%
	Feasibility Report	89,728	0	0	89,728	0.00%
	Strategic Development Dir	73,550	0	20,475	53,075	27.84%
	LTK	226,000	0	16,268	209,732	7.20%
	Government Relations/Community Engagement	15,000	16,775	16,775	(1,775)	111.83%
	TOTAL - Consultants	8,158,176	515,652	1,760,154	6,398,022	21.58%
Other Direct Costs						
	Legal	342,429	0	114,143	228,287	33.33%
	Insurance	10,000	0	7,624	2,376	76.24%
	Audits	25,000	0	5,395	19,605	21.58%
	Travel/Mileage/Mis	25,000	8,149	19,072	5,928	76.29%
	Office space/furnishings	145,000	0	0	145,000	0.00%
	ACE	20,000	0	0	20,000	0.00%
	BART	155,000	0	0	155,000	0.00%
	Caltrans Reimbursement	167,875	0	0	167,875	0.00%
	Union Pacific Reimbursement	25,000	0	0	25,000	0.00%
	TOTAL OTHER DIRECT COSTS	915,304.22	8,148.56	146,233.32	769,071	15.98%
	TOTAL OPERATING EXPENDITURES	9,427,422	523,801	2,034,250	7,393,172	21.58%
	FUND BALANCE (OPERATING)	(0.37)	(225,005)	(802,108)		

AGENDA

ITEM 5





Tri-Valley ▲ San Joaquin Valley
REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Executive Director's Report
FROM: Michael Tree, Executive Director
DATE: March 10, 2021

Action Requested

Informational item only.

Background/Discussion

An oral report will be provided at the Board meeting.

AGENDA

ITEM 6





Tri-Valley San Joaquin Valley REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Consideration of Authorizing the Filing of Applications with the USDOT, FTA, and Execution of Certifications, Assurances and Grant Agreements Required to Receive Federal Financial Assistance

FROM: Michael Tree, Executive Director and Michael Conneran, General Counsel

DATE: March 10, 2021

Action Requested

Staff requests that the Board of Directors (Board) approve Resolution R02-2021 to authorize the Executive Director, or designee, to file applications with the Federal Transit Administration (FTA), execute certifications, assurances, grant agreements and to take any other such actions as may be necessary to secure federal financial assistance, and manage federal assistance or cooperative agreements on behalf of the agency.

General Overview– Requirements for Valley Link to Become a FTA Grantee

Tri-Valley – San Joaquin Valley Regional Rail Authority (Valley Link) was established to deliver cost-effective and responsive transit, ensure the safe and efficient operation and maintenance of its transportation system for its passengers, and to provide a safe work environment for all Valley Link employees. In order to deliver public transit service, Valley Link will need supplemental funding, including federal funds. To become an FTA grantee, Valley Link must comply with a number of technical, financial, and legal requirements which are detailed in the annual certifications and assurances and the FTA grantee application. Valley Link can satisfy some of these requirements now, but other requirements will only apply when the agency hires employees above a certain threshold or reaches the construction or operations stages. For the former category, two other federally required policies are proposed for adoption at today's meeting: (1) Drug and Alcohol policy and (2) Title VI program. In addition, staff intends to present the DBE policy to the Board for approval at the April meeting. Finally, the informational items for today's meeting will provide a high-level overview of other legal requirements that will apply as the agency grows and the Valley Link Project progresses.

Specific Action – Authorization to File Funding Applications with the FTA

The proposed action today will allow the Executive Director, or his designee, to apply for and receive FTA funds, including section 5307 funds. To receive section 5307 funds in particular, Valley Link will need to obtain authorization from the California Department of Transportation (Caltrans) and/or Metropolitan Transportation Commission (MTC) to become a Designated Recipient of federal funding assistance. Caltrans and MTC are the agencies that disperse funds available through 49 U.S.C. 5307(a)(2) for the regions to be served by the Valley Link, including Tracy and Lathrop (Caltrans) and the Bay Area (MTC).

Fiscal Impact

There are no financial considerations at this time.

Recommended Action

Valley Link Staff recommends that the Board of Directors authorize the Executive Director, or designee, to file applications with the FTA, execute certifications, assurances, grant agreements and to take any other such actions as may be necessary to secure federal financial assistance, and manage federal assistance or cooperative agreements on behalf of the agency.

ATTACHMENT 1





RESOLUTION NO. R02-2021

* * *

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRI-VALLEY-SAN JOAQUIN VALLEY
REGIONAL RAIL AUTHORITY AUTHORIZING THE FILING OF APPLICATIONS WITH THE
UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT
ADMINISTRATION AND EXECUTION OF CERTIFICATIONS, ASSURANCES AND GRANT
AGREEMENTS REQUIRED TO RECEIVE FEDERAL FINANCIAL ASSISTANCE**

WHEREAS, the Federal Transit Administration (FTA), an operating administration of the United States Department of Transportation, has been authorized to provide funding to support public transportation under 49 U.S.C. Chapter 53, and other federal statutes administered by the FTA; and

WHEREAS, the Tri-Valley-San Joaquin Valley Regional Rail Authority (Authority) was established to plan, develop, and deliver cost-effective and responsive transit connectivity, between the Bay Area Rapid Transit's (BART) rapid transit system and the Altamont Corridor Express commuter rail service in the Tri-Valley region of California, that reflects regional consensus and meets the goals and objectives of the San Joaquin Valley and Tri-Valley communities, consistent with the project feasibility report adopted pursuant to Section 132661 of the Public Utilities Code; and

WHEREAS, the Authority is legally authorized under federal, state, or local law to apply for and receive federal assistance; and

WHEREAS, grants or cooperative agreements for federal financial assistance will impose certain obligations upon the Authority and may require the Authority to provide the non-federal share of the costs of projects supported with federal financial assistance; and

WHEREAS, contingent upon approval by California Department of Transportation and/or the Metropolitan Transportation Commission, which are Designated Recipients as defined at 49 U.S.C. 5307(a)(2), the Authority will be eligible to apply for and receive Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5307; and

WHEREAS, the Authority has or will provide certain annual certifications and assurances and other documents to the FTA that are required for the application for and receipt of federal financial assistance.

NOW, THEREFORE, BE IT RESOLVED BY the Tri-Valley-San Joaquin Valley Regional Rail Authority Board of Directors:

1. That the Executive Director, or designee, is authorized to execute and file an application for Federal assistance on behalf of the Tri-Valley-San Joaquin Valley Regional Rail Authority with the Federal Transit Administration for Federal assistance authorized by 49 U.S.C. Chapter 53 or any other Federal statutes authorizing activities administered by the Federal Transit Administration.
2. That the Executive Director, or designee, is authorized to execute and file with the Federal Transit Administration the annual certifications and assurances and other documents the Federal Transit Administration requires before awarding a federal assistance grant or cooperative agreement.
3. That the Executive Director, or designee, is authorized to execute the grant and cooperative agreements with the Federal Transit Administration on behalf of Tri-Valley-San Joaquin Valley Regional Rail Authority, and to take any other such actions as may be necessary to give effect to this resolution.
4. That the Executive Director, or designee, is authorized to manage federal assistance grant or cooperative agreements on behalf of Tri-Valley-San Joaquin Valley Regional Rail Authority.

Regularly passed and adopted this 10th day of March, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Veronica Vargas, Chair

ATTEST:

Michael Tree, Executive Director

CERTIFICATION

The undersigned duly qualified Executive Director, acting on behalf of Tri-Valley-San Joaquin Valley Regional Rail Authority, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Tri-Valley-San Joaquin Valley Regional Rail Authority Board of Directors held on March 10, 2021.

Michael Tree, Executive Director

Date

AGENDA

ITEM 7





Tri-Valley San Joaquin Valley REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Consideration to Approve and Adopt a Drug & Alcohol Free Workplace Policy for Tri-Valley – San Joaquin Valley Regional Rail Authority Full-Time and Part-Time Employees and Contractors In Safety-Sensitive Positions

FROM: Michael Tree, Executive Director and Michael Conneran, General Counsel

DATE: March 10, 2021

Action Requested

Staff requests that the Board of Directors (Board) approve Resolution R03-2021 to approve and adopt a Drug & Alcohol-Free Workplace Policy for Tri-Valley – San Joaquin Valley Regional Rail Authority full-time and part-time employees in safety-sensitive positions.

Background/Discussion

Tri-Valley – San Joaquin Valley Regional Rail Authority (“Valley Link”) was established to deliver cost-effective and responsive transit, ensure the safe and efficient operation and maintenance of its transportation system for its passengers, and to provide a safe work environment for all Valley Link employees. In order to receive federal funding from the Federal Transit Administration (FTA), Valley Link is responsible for meeting all applicable requirements and procedures outlined in the Department of Transportation’s (DOT’s) federal regulations (49 CFR Part 655) for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

The FTA also requires employers and contractors of those employers that receive financial assistance from the FTA to implement programs, as specified in 49 CFR Part 655, that are designed to help prevent accidents, injuries, and fatalities resulting from the misuse of alcohol and use of prohibited drugs by employees who perform safety-sensitive functions. An employer must have an anti-drug and alcohol misuse testing program in place by the date the employer begins operations.

Consistent with this directive, Valley Link Staff prepared the Drug & Alcohol-Free Workplace Policy (attached hereto as Exhibit A) for Valley Link full-time and part-time employees in safety-sensitive positions. The Policy satisfies FTA requirements that its anti-drug use and alcohol misuse program include:

- (a) A statement describing the employer’s policy on prohibited drug use and alcohol misuse in the workplace, including the consequences associated with prohibited drug use and alcohol misuse;
- (b) An education and training program which meets the requirements of 49 CFR Part 655;
- (c) A testing program which meets the requirements of 49 CFR Part 655; and
- (d) Procedures for referring a covered employee who has a verified positive drug test result or an alcohol concentration of 0.04 or greater to a Substance Abuse Professional.

While Valley Link does not currently have covered employees, Staff will provide written notice of Valley Link's anti-drug and alcohol misuse policies and procedures to future covered employees and representatives of employee organizations, as required by law.

Fiscal Impact

There are no financial considerations at this time.

Recommended Action

Valley Link Staff recommends that the Board of Directors approve the Drug & Alcohol-Free Workplace Policy and adopt the Resolution related to the same.

Attachments

1. Exhibit A - Tri-Valley – San Joaquin Valley Regional Rail Authority's Drug & Alcohol-Free Workplace Policy
2. Resolution R03-2021

ATTACHMENT 1





DRUG & ALCOHOL-FREE WORKPLACE POLICY

Procedure History

NEW POLICY	SUMMARY OF POLICY	APPROVED
-------------------	--------------------------	-----------------

February 2021

Drug & Alcohol-Free
Workplace Policy

Executive Director

I. POLICY

- 1.1 It is the policy of the Tri-Valley – San Joaquin Valley Regional Rail Authority (“Valley Link” or “the Company”) that its workplace is free from the effects of drug and alcohol abuse. This policy is enforced in order to ensure the effective and efficient operation and maintenance of its transportation system for its passengers, and to provide a safe and healthy work environment for its employees or contractors. This policy is also to avoid the dangers arising from substance abuse in the work place. These dangers include death and injury to the employee, harm to co-workers, and danger to the public resulting from accidents, dereliction of duty, poor judgment and carelessness. Substance abuse also results in lost productivity, reduced efficiency, and increased absenteeism by the substance abuser, and may interference with the job performance of employees or contractors who do not use illegal or unauthorized substances.
- 1.2 No Company employee or contractor shall: (1) use, possess, or be under the influence of drugs or other mind-altering substances; or (2) use or possess a container of alcohol or be under the influence to any extent that would impede the employee or contractor’s ability to perform his or her duties safely and effectively. Furthermore, employees or contractors shall not perform duties, which because of drugs or medication taken under a legal prescription or non-prescription cannot be performed without posing a threat to the health or safety of the employee, contractor, or others.
- 1.3 Valley Link is committed to providing safe, reliable and efficient transportation services to the public and a safe, healthy and productive work environment for its employees or contractors. In order to meet these goals, the policy of Valley Link is to:
 - a. Create a work environment free from the adverse effects of drug and alcohol misuse and abuse;

- b. Encourage employees or contractors to seek professional assistance when personal problems, including alcohol or drug dependency adversely affect their ability to perform their duties in a safe, productive and courteous manner;
 - c. Ensure that employees or contractors do not report to work or work with alcohol or drugs in their systems;
 - d. Prohibit the illegal use, possession, manufacture, sale or distribution of controlled substances by employees or contractors;
 - f. Provide guidelines and outline responsibilities for the testing of employees and employment candidates to determine drug abuse and alcohol misuse; and
 - g. Implement programs that are designed to help prevent accidents, injuries, and fatalities resulting from the misuse of alcohol and use of drugs by employees or contractors who perform safety-sensitive functions.
- 1.4 Company safety-sensitive employees or contractors will be subject to urine drug testing and breath alcohol testing in accordance with applicable federal law.
- 1.5 This policy complies with the Federal Transit Administration (FTA) Regulations (49 CFR Parts 40 and 655 with applicable amendments) that mandate urine drug testing and breath-alcohol testing for safety-sensitive employees or contractors and the U.S. Department of Transportation (DOT) standards for the collection and testing of urine and breath specimens. All drug and alcohol testing as required by this policy is mandated by the FTA Regulations.

II. APPLICABILITY

- 2.1 This Policy applies to all full-time and part-time safety-sensitive employees or contractors.
- 2.2 Participation in the testing program as described in this policy is a condition of employment for all safety-sensitive employees or contractors with Valley Link, but no employee-authorization is required.
- 2.3 An employee violating this policy is subject to disciplinary action up to and including discharge. See also Article XII (Employee Or Contractor Responsibilities) and XIII (Actions After Positive Test) for specific disciplinary actions. Any disciplinary actions taken as a result of a violation of this policy is pursuant to the Company's own authority.
- 2.4 Compliance with this policy does not relieve an employee or contractor of compliance with applicable federal laws and regulations.

III. CONTRACTOR APPLICABILITY

- 3.1 Company contractors and subcontractors, as required, shall comply with 49 Code of Federal Regulations Parts 40 and 655 to the extent required by Federal Law.
- 3.2 Valley Link shall insure that all applicable contractors and employees who are required to comply with the FTA drug and alcohol testing requirements are in actual compliance.

IV. PREEMPTION OF STATE AND LOCAL LAWS

- 4.1 If any conflict occurs between state and local laws and any requirement of the above-mentioned federal regulations, the federal regulations prevail.
- 4.2 Federal regulations do not, however, preempt provisions of state criminal laws that impose sanctions for reckless conduct attributed to prohibited drug use or alcohol misuse, whether the provisions apply specifically to transportation employees, employers, or the public in general.

V. DEFINITIONS

- 5.1 Accident: An occurrence associated with the operation of a vehicle, including the operation of the lift or ramp, if as a result: 1) an individual dies; 2) an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or 3) one or more vehicles (including FTA-funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle.
- 5.2 Alcohol Misuse: Occurs when an employee or contractor arrives at work site with alcohol in his/her system; consumes a beverage containing alcohol while on duty, subject to duty, within four hours of reporting to duty, or during coffee and/or lunch break; or is late to work absent from work due to the consumption of alcohol.
- 5.3 Breath Alcohol Technician (BAT): A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing or alcohol screening device, respectively.
- 5.4 Collection Site: A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs. Collection sites are certified by the Department of Health and Human Services (DHHS).
- 5.5 Contractor: A person or organization that provides a safety-sensitive service for Valley Link consistent with a specific understanding or arrangement. The understanding can be a written contract or informal arrangement that reflects an ongoing relationship between the parties.

- 5.6 Controlled Substances: Any drugs that are classified by the Drug Enforcement Administration (DEA) into five schedules or classes on the basis of their potential for abuse, accepted medical use and accepted safety for use under medical supervision. A drug in any of these schedules identifies that it is a controlled substance and determines the nature of supervisory control that must be exercised. Medications containing any controlled substances must be prescribed by a physician having a valid DEA license number.
- 5.7 DHHS: United States Department of Health and Human Services
- 5.8 Dilute Specimen: A specimen with creatinine and specific gravity values that are lower than expected for human urine.
- 5.9 DOT: United States Department of Transportation.
- 5.10 Drug Abuse: Use of any illegal drugs or controlled substance without a valid prescription, misuse of legally prescribed drugs, or use of illegally obtained prescription drugs. This includes use of prescription drugs legally prescribed to another individual other than one's self.
- 5.11 Employee or Contractor: See Section 14.23 Safety Sensitive Employees or Contractor.
- 5.12 Evidential Breath Testing (EBT) Device: A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations.
- 5.13 Follow-Up Testing: Unannounced drug and alcohol testing given to employees or contractors who have returned to duty after evaluation by the SAP. This type of test may be done up to a total of five years from the date the employee or contractor returns to duty.
- 5.14 FTA: Federal Transit Administration, an agency of the U.S. Department of Transportation.
- 5.15 Illegal Use: Use of any illegal drug, misuse of legally prescribed drugs and use of illegally obtained prescription drugs.
- 5.16 Incident: A single event or occurrence, which triggers drug and alcohol tests, as defined in this policy.
- 5.17 Public Transportation Vehicle: Vehicles used for public transportation or ancillary services, including a bus, van or automobile.
- 5.18 Medical Review Officer (MRO): A Company-authorized licensed physician (medical doctor or doctor osteopathy) responsible for receiving laboratory drug test results, who has knowledge or substance abuse disorders but who has been trained to interpret and evaluate laboratory test results by reviewing a laboratory report and an employees or contractors unique medical history to determine

whether the result was caused by the use of prohibited drugs or by an employee or contractor's medical condition.

- 5.19 Metabolite: A modified form of a drug that has been chemically altered by the body's metabolic system.
- 5.20 On-Call: Any employee or contractor who is responsible for being available to perform work on an emergency basis when called to do so, if said employee or contractor is guaranteed extra compensation because of his or her status as being on call.
- 5.21 Positive Alcohol Test: The presence of alcohol in the body at a concentration of 0.02 or greater as measured by an Evidential Breath Testing (EBT) Device. Refusal to take a breath test without a valid medical explanation also constitutes a positive alcohol test.
- 5.22 Positive Drug Test: Any urine or blood that is chemically tested (screened and confirmed), shows the presence of controlled substances and is verified by the MRO. Refusal to take a drug test without a valid medical explanation also constitutes a positive drug test. Valley Link may test for all drugs listed in 49 CFR Part 40 (as amended), and complies with the initial and confirmatory cut-off levels listed in those regulations. See 49 CFR §§ 40.85 to 40.87.
- 5.23 Safety-Sensitive Employee or Contractor: An employee or contractor whose job functions are, or whose job description includes the performance functions, related to the safe operations of public transportation service. The following are categories of safety sensitive functions: a) non-revenue service vehicle, including when not in revenue service vehicle; b) operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License (CDL); c) controlling dispatch or movement of a revenue service vehicle or equipment used in revenue service; and d) maintaining revenue service vehicles or equipment used in revenue service. Any supervisor who performs or whose job description includes the performance of any function listed above is considered a safety-sensitive employee or contractor.
- 5.24 Subject-to-Duty: The status of an employee or contractor who is scheduled to report for work at an assigned time and/or who has not been finally and completely released from the responsibility of performing further work that day. Subject-to-Duty also means any employee or contractor who is responsible for being available to perform work on an emergency basis when called upon to do so (i.e., in an on-call status, if said, employee or contractor is guaranteed extra compensation because of his/her status as being on call). An employee or contractor who is simply responsible for responding if available when said employee or contractor is not within either definition above is not considered to be subject-to-duty for the purpose of this policy.
- 5.25 Substance Abuse Professional (SAP): A person who evaluates employees who have violated a DOT drug and alcohol program regulation and makes recommendations concerning education, treatment, follow-up testing, and

aftercare. The SAP must be a drug and alcohol counselor certified by an organization listed at <https://www.transportation.gov/odapc/sap>.

- 5.26 Use: The presence of any controlled substance in the body or the consumption of any beverage mixture or preparation, including any medication containing alcohol.
- 5.27 Vehicle: A bus, electronic bus, van, automobile, rail car, trolley car, trolley bus or vessel. A public transportation vehicle is a vehicle used for public transportation.
- 5.28 Vehicle Disabling Damage: Damage to such an extent that it precludes departure of the vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It includes damage to vehicles that could have been operated, but would have been further damaged if so operated.
- 5.28.1 Inclusion: Damage to vehicles that could have been driven but would have been further damaged if so driven.
- 5.28.2 Exclusions:
- a. Damage, which can be remedied temporarily at the scene of the accident without special tools or parts.
 - b. Tire displacement without damage even if no spare tire is available.
 - c. Headlamp or tail light damage.
 - d. Damage to turn signals, horn, or windshield wipers, which make it inoperable.

VI. RESPONSIBILITIES OF DESIGNATED EMPLOYER REPRESENTATIVE AND OTHERS

- 6.1 The Designated Employer Representative (DER) or Human Resources (HR) shall ensure that the administration of all drug and/or alcohol tests comply with applicable laws. The DER shall be knowledgeable about the DOT and FTA regulations, and Company policies and procedures for drug and alcohol testing. The DER shall be immediately accessible to collection site personnel, Breath Alcohol Technicians (BAT), and Medical Review Officers (MRO)s, and be prepared to address drug and alcohol testing issues, make decisions, and provide direction in a timely manner. An employee or contractor seeking additional information about the program can contact Executive Director.
- 6.2 The DER shall post and distribute Valley Link's Drug & Alcohol Testing Policy to each safety-sensitive employee or contractor, or such distribution may be conducted by Human Resources (HR).
- 6.3 The DER or HR shall maintain all records and reports pertaining to the drug and alcohol testing program in a confidential manner.

- 6.4 Each safety sensitive employee or contractor shall receive a copy of this policy and is responsible for reading, understanding, and adhering to this policy.
- 6.5 Supervisors will be held accountable for the consistent application and enforcement of this policy. Any Supervisor who knowingly disregards the requirements of this policy, or who is found to have deliberately misused the policy in regard to subordinates shall be subject to disciplinary action, up to and including discharge.
- 6.6 Any employee or contractor who has actual knowledge that an employee or contractor has used alcohol within four hours of performing a safety-sensitive function or is under the influence of drugs while performing a safety-sensitive function shall report knowledge immediately to his or her Supervisor.
- 6.7 A Supervisor having actual knowledge that an employee or contractor is using alcohol while performing a safety-sensitive function shall not permit the employee or contractor to perform or continue to perform the safety-sensitive functions.
- 6.8 After obtaining an applicant, employee, or contractor's written consent who is seeking employment or a transfer to a safety-sensitive position, the DER or HR shall request the following information from DOT-regulated employers who have employed the applicant/employee during any period during the two years before the date of the applicant/employee's application or transfer request:
 - a. Alcohol tests with a result of 0.04 or higher alcohol concentration;
 - b. Verified positive drug tests;
 - c. Refusals to be tested, including verified or substituted drug testing results;
 - d. Other violations of DOT agency drug and alcohol testing regulations;
 - e. With respect to any employee or contractor who violated a DOT drug and alcohol regulation, documentation of the employee or contractor's successful completion of DOT return-to-duty requirements, including follow-up tests. If no documentation is forthcoming, the DER or HR shall seek to obtain the information from the applicant/employee.
- 6.9 If the applicant/employee refuses to provide written consent pursuant to Section 6.8 above, the applicant/employee shall not be permitted to perform safety-sensitive functions.

VII. EDUCATION/TRAINING

- 7.1 Valley Link shall be responsible to establish and maintain an education and training program in order to promote the deterrence of the misuse of drugs and alcohol. The education component shall include display and distribution to every safety-sensitive employee or contractor informational material. The DER or HR

shall maintain a copy of 49 CFR Part 40 in his or her office, which shall be made available to employees or contractors upon request.

- 7.2 Safety-sensitive employees or contractors shall be provided at least 60 minutes of training which must cover the effects and consequences of prohibited drug use on personal health, safety and the work environment and include information on the signs and symptoms that indicate prohibited drug use.
- 7.3 Company officials who are authorized to make reasonable suspicion determinations shall undergo at least one hour of training on the physical, behavioral, and performance indicators of probable drug use and at least one hour of training on the physical, behavior, speech, and performance indicators of probable alcohol misuse.

VIII. REHABILITATION

- 8.1 Drug users and alcohol abusers are encouraged to make every effort to overcome the abuse and addiction that comes from use. Successful rehabilitation hinges upon users rehabilitating themselves with the assistance of outside professionals. Employees or contractors of the Company who have a problem with drug or alcohol use are strongly encouraged to seek help voluntarily. In addition, all employee or contractors are encouraged to make use of other available resources for treatment for alcohol and substance abuse problems.

IX. TESTING

- 9.1 Employees or contractors shall submit a urine test for the detection of drugs under the following circumstances:
 - a. Pre-employment, transfer to a safety-sensitive position for the first time, or a return to work;
 - b. Post-accident;
 - c. Reasonable suspicion;
 - d. Random; and
 - e. Permit renewal
- 9.2 An employee or contractor shall be tested for the following drugs:
 - a. Marijuana¹;
 - b. Cocaine;

¹ While the use of marijuana has been legalized under California law, it remains an illegal drug under federal law and its use as it impacts the workplace is prohibited by Valley Link's policy.

- c. Opioids; (codeine, heroin, morphine, 6-AM, hydrocodone, hydromorphone, oxycodone, and oxymorphone)
 - d. Amphetamines (MDMA, MDA, MDE); and
 - e. Phencyclidine
- 9.3 Employee or contractors are prohibited from consuming the drugs identified in Section 9.2 at all times.
- 9.4 Employee or contractors shall submit a breath test for the detection of alcohol in the following circumstances:
- a. Random;
 - b. Post-accident;
 - c. Reasonable suspicion
- 9.5 An employee or contractor is prohibited from using alcohol while performing safety-sensitive functions.

X. TYPES OF TESTING

- 10.1 Pre-employment Testing
- 10.1.1 Applicants for full-time, part-time, or contractor employment in safety-sensitive positions may be required to undergo urine drug testing with a verified negative result prior to employment or contract being performed.
 - 10.1.2 Valley Link shall inform an applicant, employee or contractor seeking a safety-sensitive position prior to testing that drug tests, including those for the detection of marijuana, cocaine, amphetamines, opioids, and phencyclidine, will be administered. A positive test result shall be the basis for the decision to refuse to make the appointment or contracted work.
 - 10.1.3 Failure of a drug test will disqualify an applicant for work in a safety-sensitive position.
 - 10.1.4 When an employee or contractor has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the random selection pool during that time, the employee may be required to take a pre-employment drug test with a verified negative result before performing safety-sensitive duties. An employee may, at the employee's discretion, take the test while he or she is still on leave, so long as the applicable procedures are followed. Whether on leave or not, an employee testing positive shall be subjected to the procedures required by this policy following a positive test including disciplinary action.

10.1.5 Employees, contractors, or applicants who have previously failed or refused a pre-employment drug test administered under this policy must provide proof of having successfully completed a referral, evaluation and treatment plan as described in Section XIII (Actions After A Positive Test).

10.2 Reasonable Suspicion Testing

10.2.1 An employee or contractor shall be subject to drug/alcohol tests when there is a reason to suspect that such employee or contractor has used a prohibited drug or has misused alcohol. A reasonable suspicion referral for testing will be made on the basis of specific, contemporaneous, articulated observations concerning the appearance, behavior, speech or body odor of the employee or contractor, by a manager/supervisor trained in detecting signs and symptoms of drug use or alcohol misuse.

10.2.2 A manager who has made the required observations may direct an employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee or contractor is performing safety-sensitive junctions; or just after the employee has ceased performing such functions.

10.2.3 If an alcohol test required by this section is not administered within two hours following the determination to test, the supervisor who made the observations shall prepare a report stating the reasons the alcohol test was not promptly administered.

10.2.4 If the alcohol test is not given within eight (8) hours, following the determination to test, efforts to administer the test shall cease and the manager shall prepare a report stating the reasons for not administering the test. All reports required by this section shall be forwarded promptly to the Designated Employer Representative or Human Resources.

10.2.5 Under no circumstances shall an employee or contractor suspected of drug and/or alcohol intoxication be permitted to drive a Company vehicle. Company personnel shall transport such employee or contractor to the collection test site and offer to transport the employee or contractor to his or her residence or other appropriate destination after the test.

10.2.6 The manager who determined that there was reasonable suspicion to require a drug and/or alcohol test shall complete a report on a form provided by Valley Link setting forth the behavioral signs and symptoms observed in the employee or contractor who was suspected of being under the influence of drugs and/or alcohol. A copy of the report shall be marked confidential and forwarded to the DER or HR within twenty-four (24) hours of the determination.

10.3 Post-Accident Testing

10.3.1 As soon as practical following an accident involving the loss of human life, Valley Link shall test for drugs and alcohol each surviving employee or

contractor operating the public transportation vehicle at the time of the accident. Any other employee or contractor whose performance could have contributed to the accident as determined by a manager using the best information available at the time of the decision shall also be tested for drugs and alcohol.

- 10.3.2 As soon as practical following an accident (see “accident” definition in Section 5.1) not involving the loss of human life, in which a public transportation vehicle is involved, each employee operating the public transportation vehicle at the time of the accident shall be tested for drugs and alcohol unless a manager determines, using the best information available at the time of the decision, that the employee’s performance can be completely discounted as a contributing factor to the accident.
- 10.3.3 Other employees or contractors whose performance could have contributed to the accident, as determined by a manager using the best information available at the time of the decision, shall also be tested for drugs and alcohol.
- 10.3.4 Following the accident, the employee or contractor(s) shall be tested as soon as possible, but not later than eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing. An employee or contractor involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever comes first.
- 10.3.5 Following an accident an employee or contractor must remain readily available for testing. If an employee or contractor does not remain readily available, he or she may be deemed to have refused the tests and will be subject to employment discharge.
- 10.3.6 An employee or contractor who leaves the scene of the accident without appropriate authorization prior to submitting to a drug or alcohol test may be deemed to have refused the tests and will be subject to employment discharge.
- 10.3.7 Following an accident, field supervisory personnel at the scene shall do an immediate assessment of the condition of the employee or contractor to detect possible signs of the presence of drugs or alcohol.
- 10.3.8 In compliance with FTA requirements, alcohol testing shall be administered as soon as practicable after an accident. If the alcohol test is not administered within two (2) hours of the accident, the responsible manager shall prepare a written report stating the reason why the test was not promptly administered. A copy of such report shall be forwarded to the DER or HR and shall be available for inspection by the DOT or FTA.
- 10.3.9 All attempts to administer an alcohol test shall cease after eighth (8) hours and all attempts to administer a drug test shall cease after thirty-

two (32) hours following an accident and shall be documented in the same manner with a written report to the DER or HR.

- 10.3.10 Following an accident-based test, an employee or contractor shall not be allowed to perform safety-sensitive functions until the results of the test are known to Valley Link and the employee or contractor.
- 10.3.11 Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a safety-sensitive employee or contractor from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
- 10.3.12 The results of the blood, urine, or breath test for the use of the prohibited drugs or alcohol misuse, conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of this Section, provided such test conforms to the applicable federal, state, or local testing requirements and that the test results are obtained by the Company. Such test results shall be used only when the Company is unable to perform a post-accident test within the required period noted above.

10.4 Random Testing

- 10.4.1 A safety-sensitive employee or contractor will be subject to random, unannounced testing for drugs and alcohol using a computer-based random number selection method at a minimum annual percentage of covered employees as required by the FTA. Each employee or contractor in the random pool will have an equal chance of being selected for testing and shall remain in the pool even after being tested. Random testing will be administered at random times during the day (or shift) to avoid predictability. Each employee or contractor shall be assigned a unique number, which shall be entered into a pool from which the selection should be made. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year.
- 10.4.2 Once an employee or contractor is notified of his or her selection for a random test, they must proceed immediately at the collection test site.
- 10.4.3 A safety-sensitive employee or contractor shall be randomly tested for alcohol misuse while the employee or contractor is performing safety-sensitive functions; before or just after the employee or contractor has ceased performing such function. An employee or contractor shall be randomly tested for drug misuse anytime while on duty.
- 10.4.4 An employee or contractor who is not on duty because of sickness, vacation, jury duty, leave of absence, worker's compensation, family medical leave or any other purpose shall be removed from the random pool for purposes of random testing if the DER or HR determines, using

the best information available at the time, that such employee will be absent for at least 90 days.

10.5 Employee Or Contractor Retest

10.5.1 After notification by the Medical Review Officer, the DER, or HR of a confirmed verified positive drug test, an employee or contractor may, within 72 hours, request that an additional test be conducted at a different DHHS-certified laboratory specified by the Company. The request can only be made by the employee or contractor himself or herself, but may be made orally. The test shall be conducted on the split sample that was provided at the same time as the original or primary sample.

10.5.2 All costs for the contractor requested testing; including the transportation of the split specimen to the second laboratory shall be paid by the contractor.

XI. MEDICAL REVIEW OFFICER (MRO)

- 11.1 All positive drug testing laboratory results will be reviewed by the Company's MRO. The MRO shall verify and validate or invalidate test results.
- 11.2 The MRO shall conduct an administrative review of the control and custody form to ensure its accuracy.
- 11.3 The MRO shall review and interpret an employee or contractor's confirmed positive test by 1) reviewing the individual's medical history including any medical records and biomedical information provided, 2) affording the individual an opportunity to discuss the test result, and 3) deciding whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- 11.4 The MRO shall attempt to notify each employee or contractor who has a verified positive test that the employee or contractor has 72 hours in which to request an analysis of the split specimen. Within 72 hours of having been informed of a verified positive test, the MRO shall direct, in writing, the laboratory to ship the specimen to another DHHS-certified laboratory for analysis. If the retest is determined to be negative then the first test shall be considered to have a negative result.
- 11.5 If the employees or contractor has not contacted the MRO within 72 hours of being notified of a verified positive drug test, the employee or contractor may present to the MRO information documenting that serious illness, injury, inability to contact MRO, lack of actual notice of the verified positive test or other circumstances unavoidably prevented the employee or contractor from contacting the MRO in time.
- 11.6 If the MRO concludes that there is a legitimate explanation for the employee or contractor's failure to contact the MRO within 72 hours, the MRO shall direct that the analysis of the split specimen be performed.

- 11.7 If the MRO concludes that there is no legitimate explanation for the employee or contractor's failure to contact the MRO within 72 hours, the MRO is not required to direct the analysis of the split specimen to be performed.
- 11.8 The MRO shall report each verified test result to the DER or HR. Reporting of a verified positive result will not be delayed while awaiting the split specimen analysis.
- 11.9 If the MRO determines that a positive drug test was dilute, the MRO and Valley Link shall treat the test as a verified positive test. The employee or contractor will not be permitted to take another test based on the fact that the specimen was dilute.
- 11.10 If the MRO informs the Company that a negative test was dilute, the following action will be taken:
 - a. If the MRO directs the Company to conduct a recollection under direct observation (i.e. because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL), the Company will cause the recollection to take place under direct observation immediately.
 - b. If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, the Company will under its own authority direct the employee to take another test immediately. The collection of the specimen shall not be collected under direct observation unless there is another basis for such direct collection. The results of the second test, not that of the original test, will become the test of record on which the SCT will rely for purposes of this policy.
 - c. If the second test is also negative and dilute, the employee will not be required to take a third test. If an employee is directed to take another test pursuant to this Section and the employee declines to do so, the employee has refused the test for purposes of the Department of Transportation regulations and this policy and action will be taken in accordance with this policy.

XII. EMPLOYEE OR CONTRACTOR RESPONSIBILITIES

- 12.1 As a condition of employment, an employee or contractor must:
 - a. Submit immediately to alcohol and/or drug tests at a Company authorized collection site when ordered by a Supervisor or law enforcement personnel.
 - b. Refrain from alcohol consumption within four (4) hours of reporting for duty or during the hours that he or she is subject to duty, and while on-call.

- c. Refrain from reporting for duty or remaining on duty while having an alcohol concentration level of 0.02 or greater.
 - d. Refrain from alcohol use for eight (8) hours following an accident, or until he or she undergoes a post-accident alcohol test, whichever comes first.
 - e. Refrain from the use of prohibited drugs.
 - f. Upon arrival at a Company collection test site, the employee or contractor shall follow all instructions given by collection site personnel and Company supervisory personnel in providing specimen for drug and/or alcohol detection tests.
 - g. Complete a drug and/or alcohol detection test, as applicable, in accordance with federal laws and regulations.
 - h. Comply with the interview examination and/or evaluation as directed by the MRO.
- 12.2 An employee or contractor shall be considered to have refused a drug and/or alcohol test under the following circumstances:
- a. Failure to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the Company
 - b. Failure to remain at the testing site until the testing process is complete;
 - c. Failure to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
 - d. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the provision of a specimen;
 - e. Failure to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - f. Failure or refusal to take a second test the Company or collector has directed;
 - g. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER or HR as part of its “shy bladder” or “shy lung” procedures;

- h. Fails to cooperate with any part of the testing process (e.g., to refuse to empty pockets when directed by the collector or behave in a confrontational way that disrupts the collection process);
 - i. If the MRO reports that there is verified or adulterated or substituted test results;
 - j. Failure or refusal to sign Step 2 of the alcohol testing form;
 - k. Failure to follow the observer's instructions during an observed collection, including instructions to raise clothing above the waist, lower clothing and underpants to mid-thigh, and to turn around to permit the observer to determine if there is present any type of prosthetic or other device that could be used to interfere with the collection process;
 - l. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process;
 - m. Admitting to the collector or MRO that the specimen was adulterated or substituted.
- 12.3 An employee or contractor who refuses to submit to a drug and/or test as described above shall be removed from duty and immediately, and under the Company's own authority, the employee or contractor may be discharged from his/her employment with Valley Link.
- 12.4 An employee, contractor or applicant shall be denied appointment to a safety-sensitive position under the Company's own authority.
- 12.5 Any applicant, employee, or contractor who is being tested for a pre-employment test will not be considered to have refused the test if he or she engages in any of the behaviors set forth in Section 12.2, unless the applicant/employee has actually begun the collection process.
- 12.6 For an on-call employee or contractor, the following procedure is established should he or she consume alcohol within 4 hours of performing a safety-sensitive function:
- 12.6.1 When notified that he or she must report for duty, the employee must advise the Company if they have used alcohol, and indicate whether he or she is able to perform their safety-sensitive function.
 - 12.6.2 If the employee or contractor believes he or she is not capable of performing safety sensitive functions, the employee or contractor shall be excused from doing so.
 - 12.6.3 If the employee believes he or she is capable of performing a safety-sensitive function, the employee or contractor shall be tested for alcohol and the employee or contractor shall be permitted to perform a safety-sensitive function if their alcohol concentration level measures less than

0.02. If the employee or contractor's alcohol concentration level measures at 0.02 or greater, they shall not be permitted to work. The standards for disciplinary action set forth in Article XIII (Actions After A Positive Test) shall be applicable.

XIII. ACTIONS AFTER A POSITIVE TEST

- 13.1 The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirement that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, (SAP) as required by 49 CFR Part 40.
 - 13.1.1 Alcohol test results between 0.02 and 0.039 will be treated the same as a positive DOT test result under the Company's own authority. In this case, an employee or contractor will be referred to a Substance Abuse Therapist (SAT) who will perform the same function as a SAP does for verified positive drug and/or alcohol tests.
 - 13.1.2 Where a covered employee or contractor refuses to submit to a test, has a verified positive random drug test, or has a confirmed random alcohol test of 0.04 or greater, Valley Link will follow the procedures outlined in 49 CFR Part 40 and employee or contractor will be discharged immediately under the Company's own authority.
 - 13.1.3 Alcohol test results between 0.02 and 0.039 will be treated the same as a positive DOT test result under the Company's own authority.
- 13.2 When an employee or contractor has a verified positive, adulterated or substituted test result, or has otherwise violated a DOT agency drug & alcohol regulation, the employee or contractor will be terminated.
- 13.3 A positive test for drugs or alcohol shall result in disciplinary proceedings being initiated pursuant to the Company's own authority.
- 13.4 The following disciplinary standards shall apply for an employee who tests positive for drugs or alcohol at a concentration level of 0.04 or greater.
 - 13.4.1 Illegal Drugs: The safety-sensitive employee or contractor will be provided a listing of Substance Abuse Professionals (SAP)'s and discharged following a positive test result.
 - 13.4.2 Alcohol: The safety-sensitive employee or contractor will be provided a listing of SAP's and discharged following a positive test result of 0.04 or higher.
 - 13.4.3 Alcohol test results between 0.02 – 0.039 will be treated the same as a positive DOT result under the Company's own authority.

- 13.5 Nothing contained herein shall prevent Valley Link from imposing a more severe disciplinary action, should the specific facts and circumstances of the situation warrant such action.
- 13.6 Voluntary enrollment in the SAP rehabilitation program does not excuse or exempt the employee or contractor from discipline if he or she has alcohol or illegal drugs in their system while on duty.
- 13.7 Violations of this policy shall be grounds for disciplinary action, up to and including discharge.
- 13.8 Refusal to submit immediately to drug and alcohol test at the company authorized collection site when ordered by a company manager, supervisor or law enforcement personnel shall subject employees or contractors to discharge proceedings for insubordination and gross misconduct. Such refusal shall be considered an admission of guilt.
- 13.9 When an employee or contractor has a verified positive test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test as required, the DER or HR shall advise the employee or contractor of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses and telephone number of SAP's and counseling and treatment programs.

XIV. RELEASE OF TEST RESULTS

- 14.1 Valley Link is not authorized by federal law to release any testing records to law enforcement.
- 14.2 Valley Link is allowed to release testing records in criminal or civil action resulting from an employee or contractor's performance of safety-sensitive duties in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing Valley Link to produce the information.
- 14.3 Valley Link will provide drug and/or alcohol testing information of an employee, contractor, former employee, or former contractor to other agencies/companies, or an identified person when authorized in writing by such employee or contractor(s).
- 14.4 Valley Link will release information pertaining to an employee's drug or alcohol test including the results, without the employee or contractor's consent in certain legal proceedings including a lawsuit, grievance (e.g. an arbitration concerning disciplinary action taken by the Company against the employee or contractor) or administrative proceeding brought by, or on behalf of, the employee or contractor and resulting from a positive DOT drug or alcohol test, or a refusal to test (including, but not limited to, adulterated or substituted test results).
- 14.5 In addition to the foregoing, the Company will release drug or alcohol test information only as allowed by federal law or regulations.

14.6 Valley Link will immediately notify the employee in writing of any information released pursuant to Sections 14.2 and 14.4.

14.7 Valley Link will comply with a request from DOT representatives as follows:

14.7.1 Provide access to the facilities used for drug/alcohol program functions;

14.7.2 Release of all written, printed and computer based drug/alcohol program record, reports, files, materials, data, documents, agreements, contracts, policies and statements that are required by federal laws and regulations relating to drug/alcohol testing.

XV. RETENTION OF RECORDS

15.1 HR shall maintain records of the anti-drug and alcohol misuse programs as required by federal laws and regulations. The records shall be maintained in a secure location with controlled access.

15.2 Valley Link shall keep the following records for the following periods of time:

Records of alcohol test results with alcohol concentration of 0.02 or greater.	5 years
Records of verified positive drug test results <u>and refusals</u> .	5 years
Documentation of refusals to take required alcohol/drug tests (including substituted or adulterated drug test results).	5 years
Referrals to the SAP, SAP reports, copies of annual MIS reports submitted to FTA.	5 years
Information obtained from previous employers concerning drug and alcohol test results of employees.	3 years
Records related to the collection process and employee training.	2 years
Records of negative drug test results and alcohol test results with a concentration of less than 0.04.	1 year

ATTACHMENT 2



RESOLUTION NO. R03-2021

* * *

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRI-VALLEY – SAN
JOAQUIN VALLEY REGIONAL RAIL AUTHORITY APPROVING AND ADOPTING
A DRUG & ALCOHOL-FREE WORKPLACE POLICY FOR ALL FULL-TIME
AND PART-TIME SAFETY-SENSITIVE EMPLOYEES AND CONTRACTORS**

WHEREAS, the United States Department of Transportation (DOT) describes in 49 CFR Part 40 the required procedures for conducting workplace drug and alcohol testing for the federally regulated transportation industry; and

WHEREAS, the Federal Transit Authority (FTA), an agency within the DOT, requires employers and contractors of those employers that receive financial assistance from the FTA to implement programs that are designed to help prevent accidents, injuries, and fatalities resulting from the misuse of alcohol and use of prohibited drugs by employees who perform safety-sensitive functions; and

WHEREAS, in order to apply for and receive FTA funds, the Tri-Valley – San Joaquin Valley Regional Rail Authority (Valley Link) must satisfy all applicable requirements and procedures outlined in the DOT's federal regulations under 49 CFR Part 655 for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations; and

WHEREAS, FTA guidelines require Valley Link to have an anti-drug and alcohol misuse testing program in place by the date the employer begins operations; and

WHEREAS, Valley Link Staff has prepared a Drug & Alcohol-Free Workplace Policy which outlines Valley Link's anti-drug and alcohol misuse policies and procedures, as required by federal guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Tri-Valley-San Joaquin Valley Regional Rail Authority hereby approves the Tri-Valley – San Joaquin Valley Regional

Rail Authority Drug & Alcohol-Free Workplace Policy and authorizes the Executive Director, or designee, to take such actions as may be necessary to give effect to this Resolution.

APPROVED AND PASSED, this 10th day of March, 2021.

Veronica Vargas, Chair

ATTEST:

Michael Tree, Executive Director

AGENDA

ITEM 8 A





STAFF REPORT

SUBJECT: **8.a** Updated Equity Statement

FROM: Michael Tree

DATE: March 10, 2021

Action Requested

Adopt the following policy statement to support the Authority's commitment to social equity:

The Tri-Valley – San Joaquin Valley Regional Rail Authority (Valley Link) is committed to ensuring that no person is excluded from participation in, nor denied the benefits of, its programs, activities or services on the basis of race, color, national origin, age, sex, sexual orientation, gender identity or disability.

Valley Link will ensure that its programs, policies and activities comply with Title VI of the Civil Rights Act of 1964, as amended, and Department of Transportation regulations.

Any person who believes they have been discriminated against with respect to Valley Link's programs, activities, services, or other transit related benefits, may file a written complaint within 180 days of the alleged incident. Complaint forms are available at Valley Link Administration, 1362 Rutan Court, Suite 100, Livermore, CA, 94551; and on the web at www.valleylinkrail.com. You also may file a complaint of discrimination based on race, color or national origin with the Federal Transit Administration through its Office of Civil Rights, Title VI Program Coordinator, East Building, 5th floor-TCR, 1200 New Jersey Ave., SE, Washington DC 20590.

Background/Discussion

At the last Board meeting in February, the Board reviewed and discussed a proposed Title VI Policy Statement. Upon discussion, the Board directed staff to revise the proposed policy statement to reflect a Board commitment to a policy of non-discrimination in the conduct of its business that not only meets but exceeds Title VI protections against discrimination. Staff has revised the proposed policy statement to now include adoption of a non-discriminatory practice toward all persons on the basis of race, color, national origin, age, sex or disability and have expanded this commitment to include sexual orientation and gender identify. Staff has also included information on how to file a discrimination complaint, as required for recipients of federal financial assistance through the Federal Transit Administration.

Next Steps

This policy statement will be included as part of the Valley Link Title VI Program and will also be posted on the Valley Link website, throughout the Authority's workplace and in other communications as applicable. The statement will assure all persons of the Authority's commitment to non-discriminatory practices and social equity.

Fiscal Impact

There is no fiscal impact associated with this action.

AGENDA

ITEM 8 B





Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: **8.b** Public Participation Plan

FROM: Michael Tree

DATE: March 10, 2021

Action Requested

Approve a Public Participation Plan that complies with the Federal Transit Administration (FTA) Title VI Program guidance.

Background/Discussion

The Tri-Valley – San Joaquin Valley Regional Rail Authority (Authority) is taking all necessary steps to ensure transportation equity in all of its activities and services through the preparation of a Public Participation Plan. The Public Participation Plan identifies a multi-faceted approach to reaching diverse populations within the Authority's proposed project service area. It has been assembled to capture the methods, innovations and measurements of the agency's commitment to meet and, when possible, exceed the prescribed requirements of Section 601 of the Civil rights Act of 1964 (Title VI). The Public Participation Plan will ensure that there is an established process to solicit and consider public comment regarding future service, project planning, environmental studies and construction. In particular, the plan will ensure that outreach to minority and/or limited English proficient (LEP) populations will occur during each and every public comment period.

Project development to-date has been advanced with outreach guided by the following elements of the Board adopted Sustainability Policy guiding equitable access (December 2018):

- Encourage engagement in planning and decision-making for the project to ensure a meaningful level of participation from disadvantaged communities and low- income communities and households.
- Strive to maximize benefits to disadvantaged communities and low-income communities and households in project planning and design.

The Public Participation Plan reflects these commitments and further builds on work previously completed to support completion of the Project Feasibility Report. The Public Participation Plan ensures there is a process to solicit and consider public comment prior to making significant decisions during project development. It will be updated no later than when the Authority is preparing to launch Valley Link service – but any time sooner as needed to reflect current best practices and community needs and resources.

Fiscal Impact

There are no financial considerations at this time.

ATTACHMENT 1





PUBLIC PARTICIPATION PLAN

I. Introduction

The Tri-Valley – San Joaquin Valley Regional Rail Authority (Authority) is taking all necessary steps to ensure transportation equity in all of its activities and services through the preparation of a Public Participation Plan. The Public Participation Plan identifies a multi-faceted approach to reaching diverse populations within the Authority’s proposed project service area. It has been assembled to capture the methods, innovations and measurements of the agency’s commitment to meet and, when possible, exceed the prescribed requirements of Section 601 of the Civil rights Act of 1964 (Title VI). The Public Participation Plan will ensure that there is an established process to solicit and consider public comment regarding future service, project planning, environmental studies and construction. In particular, the plan will ensure that outreach to minority and/or limited English proficient (LEP) populations will occur during each and every public comment period.

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- Strive to maximize benefits to disadvantaged communities and low-income communities and households in project planning and design.

The Public Participation Plan reflects these commitments and further builds on work previously completed to support completion of the Project Feasibility Report. The Public Participation Plan ensures there is a process to solicit and consider public comment prior to making significant decisions during project development. It will be updated no later than when the Authority is preparing to launch Valley Link service – but also any time sooner as needed to reflect current best practices and community needs and resources.

Project Overview

The Tri-Valley – San Joaquin Valley Regional Rail Authority was established on January 1, 2018 through the enactment of Assembly Bill 758 with the mandate to plan and deliver cost-effective and responsive transit connectivity between the Bay Area Rapid Transit (BART) system and the Altamont Commuter Express. The Feasibility Report adopted by the Board in October 2019, identifies a proposed project that is now undergoing environmental review and further project development and design. The Proposed Project is a new 42-mile, 7-station passenger rail project that will connect the existing Dublin/Pleasanton BART Station in Alameda County to the planned Altamont Corridor Express (ACE) North Lathrop Station in San Joaquin County utilizing existing transportation rights-of-way where feasible. Regular service is planned

for throughout the day in both directions with timed connections with both BART and ACE services. Initial Operating Segments are also under consideration – from the Dublin/Pleasanton BART Station to either the Greenville or Mountain House Station.

The Valley Link Project Feasibility Report (October 2019) identified many communities in the Valley Link Project as “Disadvantaged Communities,” by definition of the California Public Utilities Commission – suffering from a combination of economic, health and environmental burdens. These communities suffer from decades of disinvestment, geographic inequity and poverty, resulting in pockets of concentrated low-income communities lacking adequate access to jobs, healthcare and educational opportunities. The proposed Downtown Tracy, River Islands and North Lathrop stations are all within geographic areas identified as disadvantaged. Areas designated as low-income are also near these stations, as well as the Mountain House station.

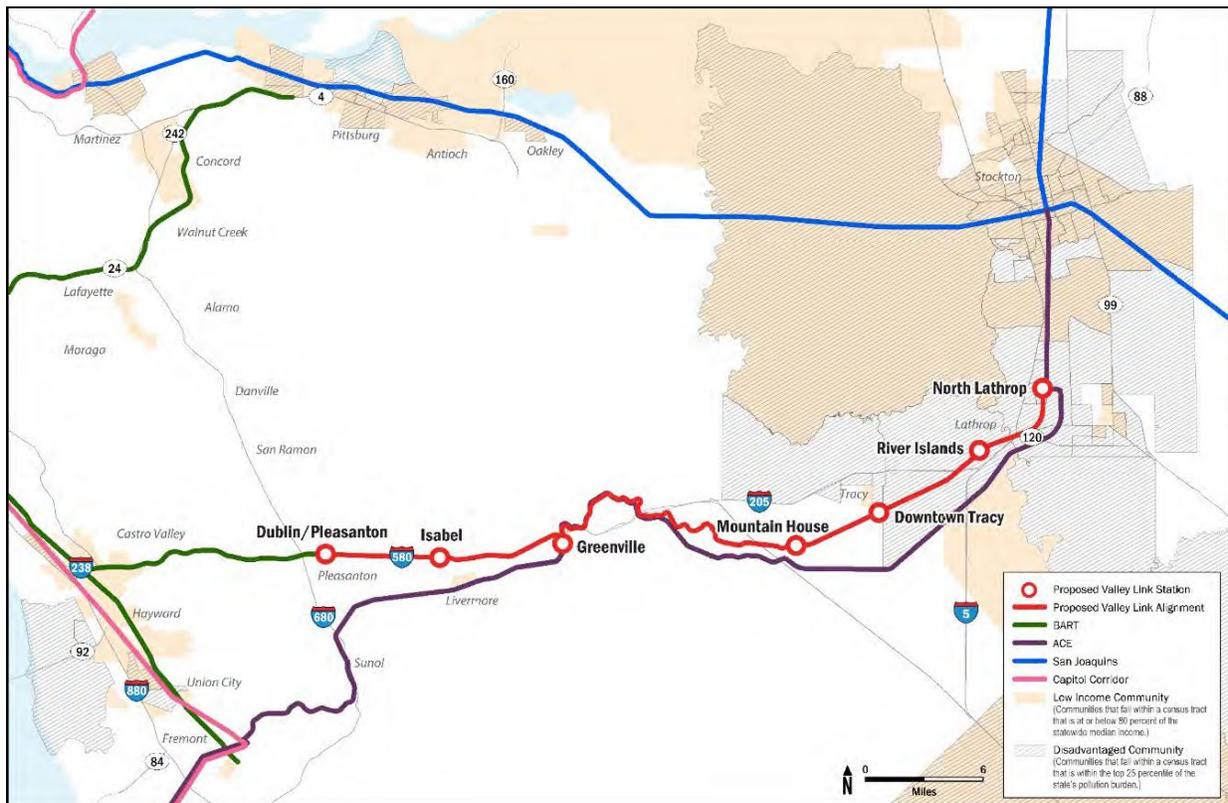


Figure 1 – Disadvantaged and Low-Income Communities

II. Project Goals & Policy Guidance

The following are the Board adopted goals that are guiding project development:

- Improve connectivity within the Northern California Megaregion: connecting housing, people, and jobs.
- Establish rail connectivity between BART’s rapid transit system and the ACE commuter service.
- Pursue Project implementation that is fast, cost-effective, and responsive to the goals and objectives of the communities it will serve.
- Be a model of sustainability in the design, construction, and operation of the system.

- Support the vision of the California State Rail Plan to connect the Northern California Megaregion to the State rail system. Valley Link supports State transportation goals.

To support the advancement of these goals, the Board further adopted the Sustainability Policy which identifies key objectives and strategies for the promotion of equitable access and community input into project development and design:

Equitable Access

- Encourage engagement in planning and decision-making for the project to ensure a meaningful level of participation from disadvantaged communities and low- income communities and households.
- Strive to maximize benefits to disadvantaged communities and low-income communities and households in project planning and design.

Station Area Planning

- Work in partnership with communities to identify and incorporate high priority local goals and objectives for individual stations.
- Initiate service at earliest possible date and preserve land and right-of-way to allow for the implementation of phased design and infrastructure in support of Sustainable Community Strategies (SB375).

To achieve these objectives, and promote a key project goal of, “responsiveness to the goals and objectives of the communities it will serve,” staff outlined a work program aimed at effectively reaching out to a variety of stakeholders and incorporating their input into the planning process that included the following key elements:

- Identify a point person in each community to assist with identification of best approach for meaningful outreach.
- Focus on use of non-traditional, creative, grassroots approaches.

This work program also included meetings of a Station Ad Hoc Committee for San Joaquin Stations which was reconvened to review preliminary station layouts and identify a process for developing goals and objectives for community station area planning. In addition, a survey was developed for wide distribution through social media, employer newsletters and email blasts and the project website.

The proposed Valley Link project, as outlined in the Project Feasibility Report responds to Sustainability Policy direction and includes basic station infrastructure identified as needed to operate the system. The Board adopted TOD Policy (December 2019) provides further direction and guidance regarding the station plans to be developed by local jurisdictions prior to completion of final design. These plans, in combination with a requirement to meet corridor-level housing thresholds of 2,200 housing units per station, are intended to facilitate transit-oriented, pedestrian-friendly station areas, seamless connections between rail, shuttle buses, and fixed bus service, and promotion of active transportation (bicycling and walking), use of zero emission vehicles, and shared rides. The Authority will work in partnership with local jurisdictions to support station area planning efforts, but these plans are not a part of the proposed project and are the responsibility of each sponsoring jurisdiction.

III. Community Outreach - Efforts To-Date

All outreach efforts completed to-date have been advanced subject to Board adopted project goals and policy guidance and focused on project development and design of the project. Since March of 2020, the ability to conduct in-person outreach and meetings has been limited due to restrictions imposed due to the Covid-19 pandemic and all efforts have been conducted remotely online. Every effort has been made, however, to ensure the continued advancement of effective outreach to minority and/or limited English proficient (LEP) through this new format.

Project Feasibility Report

Upon establishment of the Authority in January 2018, an 18-month effort to complete a Project Feasibility Report was initiated and extensive community outreach efforts were launched in parallel. As mandated by Assembly Bill 758, the following are key elements that, at a minimum, were required to be in the report:

- Recommendations for expediting the development of cost-effective and responsive connectivity between the BART and ACE rail systems in the Tri-Valley.
- The identification of a preferred entity or entities to deliver transit connectivity, including the role each entity will play in planning, designing, financing, constructing, operating, maintaining, and the leasing, development of land, facilities or equipment necessary to deliver transit connectivity.
- A funding plan describing any grants, loans, allocations, fund transfers, or awards of local, regional, state, federal, or private funds that are proposed to be made available for achieving transit connectivity.
- A description of any plan to finance the development of transit connectivity, including a description of any revenue source or sources to be pledged for financing, the duration of time to complete the financing, and the estimated total cost of financing.
- A proposed schedule for completion of transit connectivity.

- Preliminary design for the project or projects to complete transit connectivity, including the identification of right-of-way, routes, stations, equipment and any other facilities necessary to achieve transit connectivity.

A Draft Feasibility Report was completed on June 12, 2019 and released for public review and comment through July 31, 2019. The Authority received over 140 comments from the public which were responded to in the Final Project Feasibility Report, adopted in October 2019. Following is a summary of outreach efforts conducted throughout the entire 18-month effort which had particular focus on the preliminary design of the system including preliminary location of station facilities and design. All outreach efforts were directed by Board policy and guided by representatives from member agencies including the Ad Hoc Station Committee for San Joaquin Stations, comprised of Board members from the City of Tracy, the Mountain House Services District and the City of Lathrop. These Ad Hoc Committee members, as well as designated points of contact from local jurisdictions, provided insight into when and where station workshops could be most effective. They also identified opportunities for community briefings and non-traditional grassroots approaches to outreach such as pop-up meetings throughout the communities and booths at community events and fairs. These efforts were aimed at meeting the diverse individualized needs of the communities along the 42-mile system.

Station Workshops

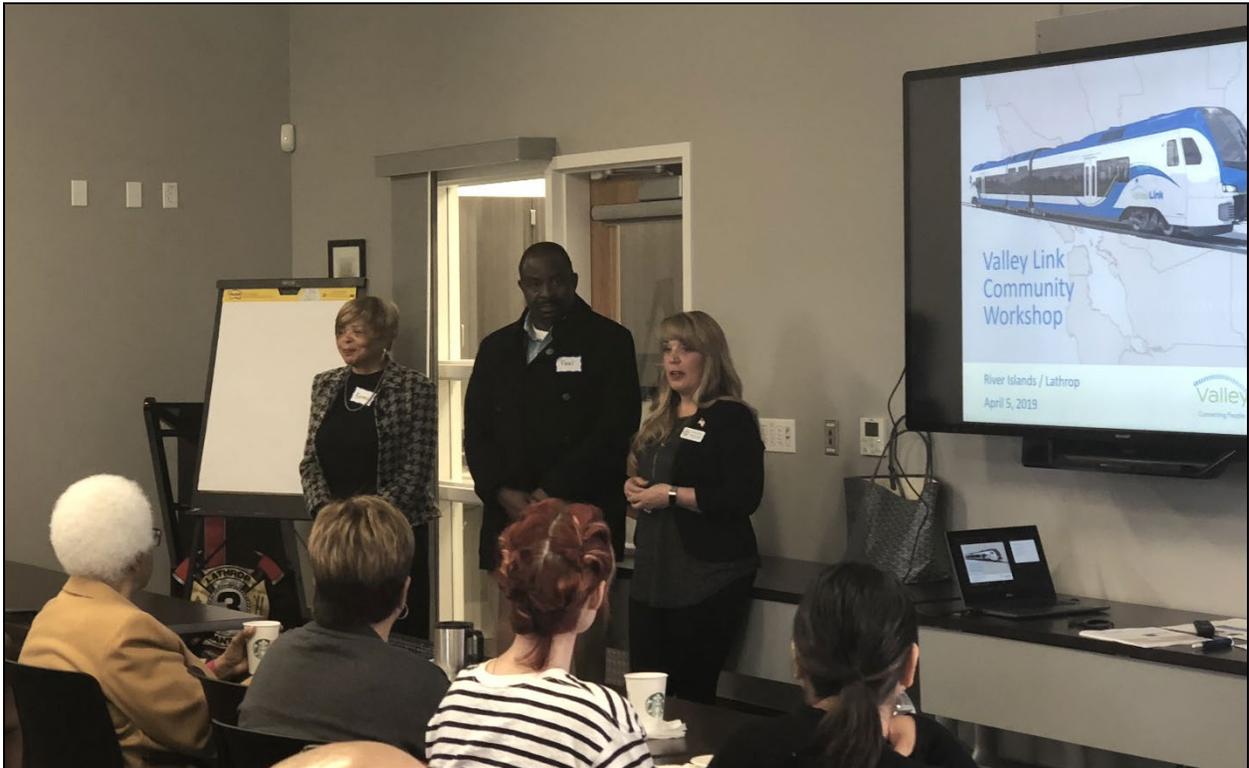


Station area workshops were held in the Lathrop, Tracy, Mountain House and Livermore communities at various days of the week and times. These workshops were used to collect input on priorities for various design aspects of the stations and the immediately surrounding areas. Topics included station architecture and amenities, modes and routes of access, and adjacent land-use opportunities. Project staff and consultants provided an update on project planning and provided opportunities to ask questions and make comments on the project. A project fact sheet was available in both English and Spanish at these meetings and at least one bilingual staff member was present to provide Spanish interpretation if requested. Following are the dates of these meetings:

Workshop	Date	Disadvantaged Community
Mountain House Workshop	February 16, 2019	X
Tracy Open House and Workshop	February 23, 2019	X
Livermore Workshop	March 13, 2019	
Lathrop/River Islands/Manteca Workshop	April 6, 2019	X



Board Chair Scott Haggerty speaks at a Community Workshop



Directors (from left) Bernice King Tingle, Paul Akinjo and Veronica Vargas at River Islands Workshop on April 6, 2019

Pop-Up Meetings and Community Briefings



Throughout the Spring of 2019, Authority staff and consultants, conducted over twenty pop-up meetings and community briefings – responding to opportunities in large part suggested by local jurisdictions, to reach project stakeholders at community events, farmers markets, transportation hubs and everyday congregate points such as a popular Hispanic market in the Tri-Valley. Pop-ups were held at the Dublin/Pleasanton BART station during the evening commute, an ACE station, and an informal park/ride lot in the Altamont Pass. Informational booths were set up and staffed at the Saint Patrick’s Day Parade Festival in Dublin, the Lathrop Fair

and Farmer’s Markets in Tracy and in the Tri-Valley. There was also a booth at the Las Positas Community College Club Day. In addition, there were briefings and presentations made on request to Chambers of Commerce, Realtor Associations, the Downtown Merchants group in Tracy and business associations such as Innovation Tri-Valley and the San Joaquin Partnership. A partial list of these activities is identified below:

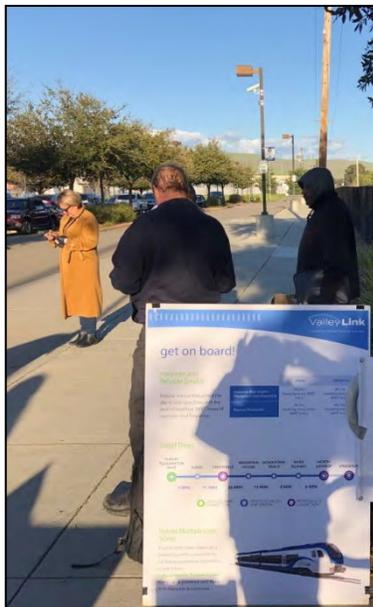
Event	Date	Disadvantaged Community
Mountain House Workshop	February 16, 2019	
El Concilio Coalition Meeting	February 22, 2019	X
Tracy Winter Farmer's Market	February 23, 2019	X
Tracy Open House and Workshop	February 23, 2019	X
CenTen Merchants Meeting	February 27, 2019	X
ACE Park and Ride Lot Pop-up (Vasco Road)	March 12, 2019	
Las Positas College Club Day	March 13, 2019	
Central Valley Association of Realtors (Lathrop Coffee)	March 13, 2019	X
ReMax Manteca Sales Meeting	March 13, 2019	X
St. Patrick's Day Festival – Day 1	March 16, 2019	
St. Patrick's Day Festival – Day 2	March 17, 2019	
Grantline (informal) Park and Ride Lot – Pop Up	March 19, 2019	
Livermore Farmers’ Market	March 24, 2019	
BART Station Pop-Up (Dublin-Pleasanton)	March 26, 2019	
San Joaquin Partnership Meeting	March 28, 2019	X
BART Station Pop-Up (Dublin-Pleasanton)	April 2, 2019	
Dublin Farmers’ Market	April 4, 2019	
Lathrop/River Islands Workshop	April 6, 2019	X
Contreras Market Pop-Up	June 1, 2019	



Lathrop Workshop in April 2019



Community briefings and commuter outreach pop-up events were held throughout the project area.





Pop-up at Las Positas College Club Day on March 13, 2019

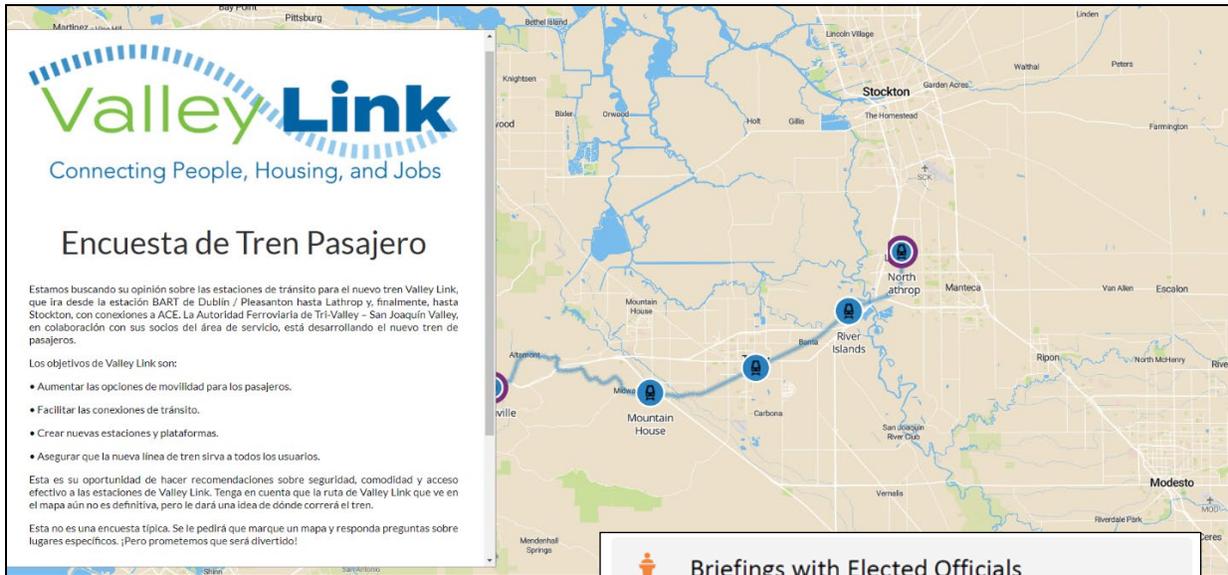
Bilingual Community Survey

An online survey, launched on February 12, 2019, was available in both English and Spanish and kept open through June, 2019. This map-based survey allowed participants to geo-locate their responses and could be accessed from a QR code on an informational handout. The public was encouraged to complete the survey at outreach events, on the project website, and through email blasts and social media sites. The survey provided an opportunity for members of the community to provide input on their own time from any location without having to work around the schedule of an event.

The survey allowed the public to provide input on stations and station area amenities. This preference-setting survey gathered a broad range of feedback from self-selected participants representing a variety of community sources. The online survey instrument includes text, maps, and images. Results of the survey were presented to the Board and included in outreach analyses for the Final Project Feasibility Report.

The survey questions specifically addressed:

- Current home and work locations
- Commute mode
- Commute travel time
- Likelihood and frequency of riding the future Valley Link
- Trip purpose for riding Valley Link
- Which station the respondent would use
- How the respondent would access the station
- Desired station amenities, with pictures (parking, bicycle, “people,” and aesthetic amenities)
- Commute choice goals and barriers to riding Valley Link
- Demographics
- Open answer opportunity to provide any additional information desired

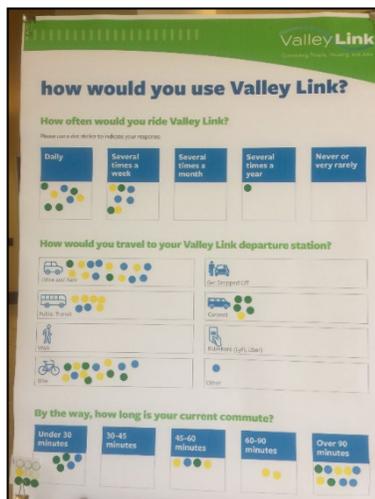


Outreach Results

The multi-targeted outreach approach of “meeting people where they are,” when layered onto traditional channels of communication such as the project website, social media postings and press releases, resulted in over 2,000 points of contact and in the distribution of nearly 3,500 Project Fact Sheets throughout the development of the Project Feasibility Report. This approach expanded outreach to segments of the community who would not typically participate in more traditional formats and allowed project staff to receive input from a broader cross-section of the community.

- Briefings with Elected Officials
- Interviews with Community Members
- Station Workshops
- Pop-up Community Events
- Commuter Outreach Popups
- Bilingual Community Survey
- Total Touch Points: 2,115**

The Commuter Rail Survey sought user input on transit stations for the Valley Link rail corridor.

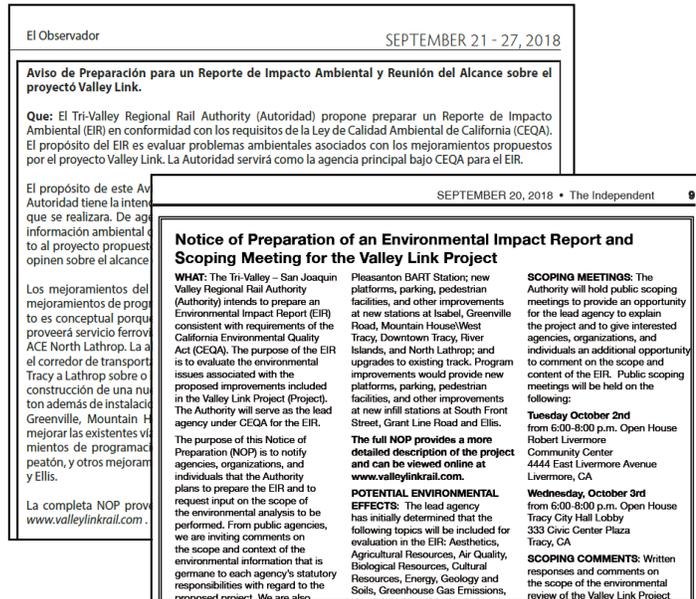


Environmental / CEQA

The Authority is currently in the process of preparing an Environmental Impact Report (EIR), consistent with all requirements of the California Environmental Quality Act (CEQA). The purpose of the EIR is to evaluate all environmental issues that may be associated with Valley Link Rail Project improvements. Following is a summary of all public outreach and issuance of public notices to-date.

Notice of Preparation of an EIR and Scoping Meetings

The Authority published a Notice of Preparation (NOP) for the Valley Link Project on September 13, 2018 and the public scoping period was open until October 15, 2018. Public scoping meetings were held on October 2, 2018 in Livermore at the Robert Livermore Community Center and in Tracy at the Tracy City Hall on October 3, 2018. The release of the NOP was publicized in the Livermore Independent, Pleasanton Weekly, Tri-Valley Herald, Tracy Press, Manteca Bulletin, Stockton Record, and El Observador newspapers immediately following the release of the NOP. Newspaper postings included a summary of the project and the NOP, information on the two upcoming scoping meetings, and information on how to provide comments. The NOP, scoping meetings, and instructions on how to provide comments were also posted to the project website at www.valleynlinkrail.com; sent out in an email blast to a list of 446 stakeholders; and mailed to 160 public agencies, nearby jurisdictions, tribes, local organizations, and other stakeholders. Included in the email and mailing contact list were cities and counties containing disadvantaged communities as defined by Senate Bill 535. Staff bilingual in Spanish and English were present at both scoping meetings, and the NOP was translated to Spanish and published in the El Observador newspaper.

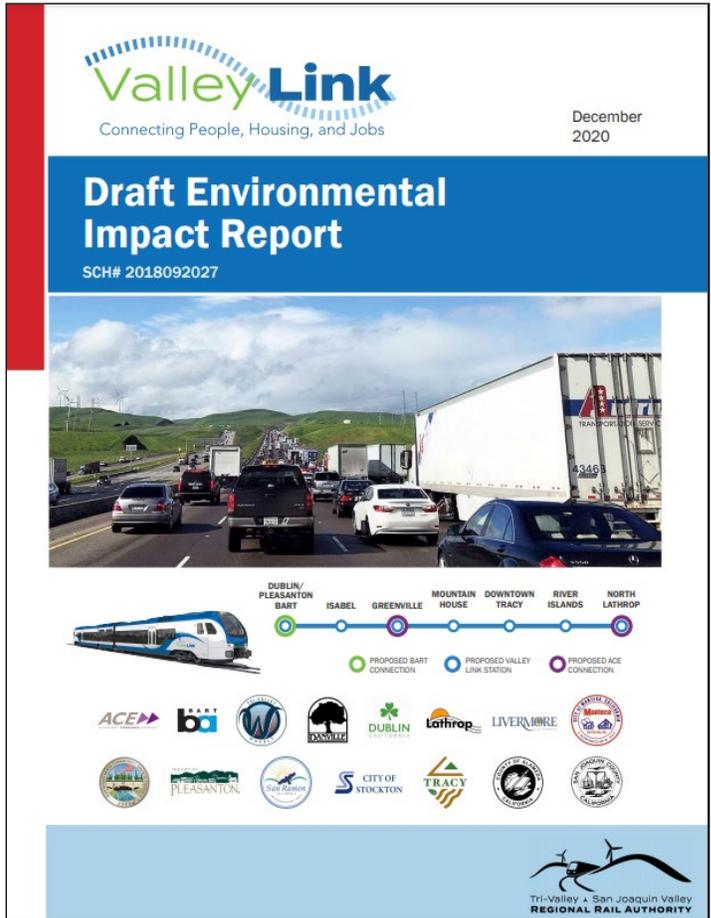


The Authority published a Notice of Preparation for the Valley Link Project in September 2018.



Notice of Availability (NOA) of a Draft EIR

The Authority, acting as lead agency under the California Environmental Quality Act (CEQA), prepared a Draft environmental impact report (EIR) for the Valley Link Project (Proposed Project) and issued an NOA December 2, 2020. Written comments on the Draft EIR were accepted from December 2, 2020 through January 21, 2021 by either mail or the email addresses posted in the NOA. The release of the NOA was publicized in the Livermore Independent, Pleasanton Weekly, Tri-Valley Herald, Tracy Press, Manteca Bulletin, Stockton Record, and El Observador newspapers immediately following the release of the NOA. Newspaper postings included information on the three planned Online Open House Meetings, and information on how to provide comments. The NOA, notice of meetings, and instructions on how to provide comments were also posted to the project website at www.valleylinkrail.com; sent out in an email blast to project stakeholders; and mailed to 160 public agencies, nearby jurisdictions, tribes, local organizations, and other stakeholders. It was also sent by mail to all property owners listed in the DEIR, Appendix C – Preliminary Right-of Way Requirements.



Draft EIR – Online Open House Meetings

The Authority held three online open house meetings to provide information about the Draft EIR and respond to general questions about the DEIR analysis. Under restrictions enacted due to the Covid-19 pandemic, these meetings could not be held in person. A presentation summarizing the project and the DEIR was provided instead at these online meetings and staff was available to answer questions. While staff was available to answer questions of a general nature at this meeting; the public was asked to submit all formal comments on the DEIR in writing.

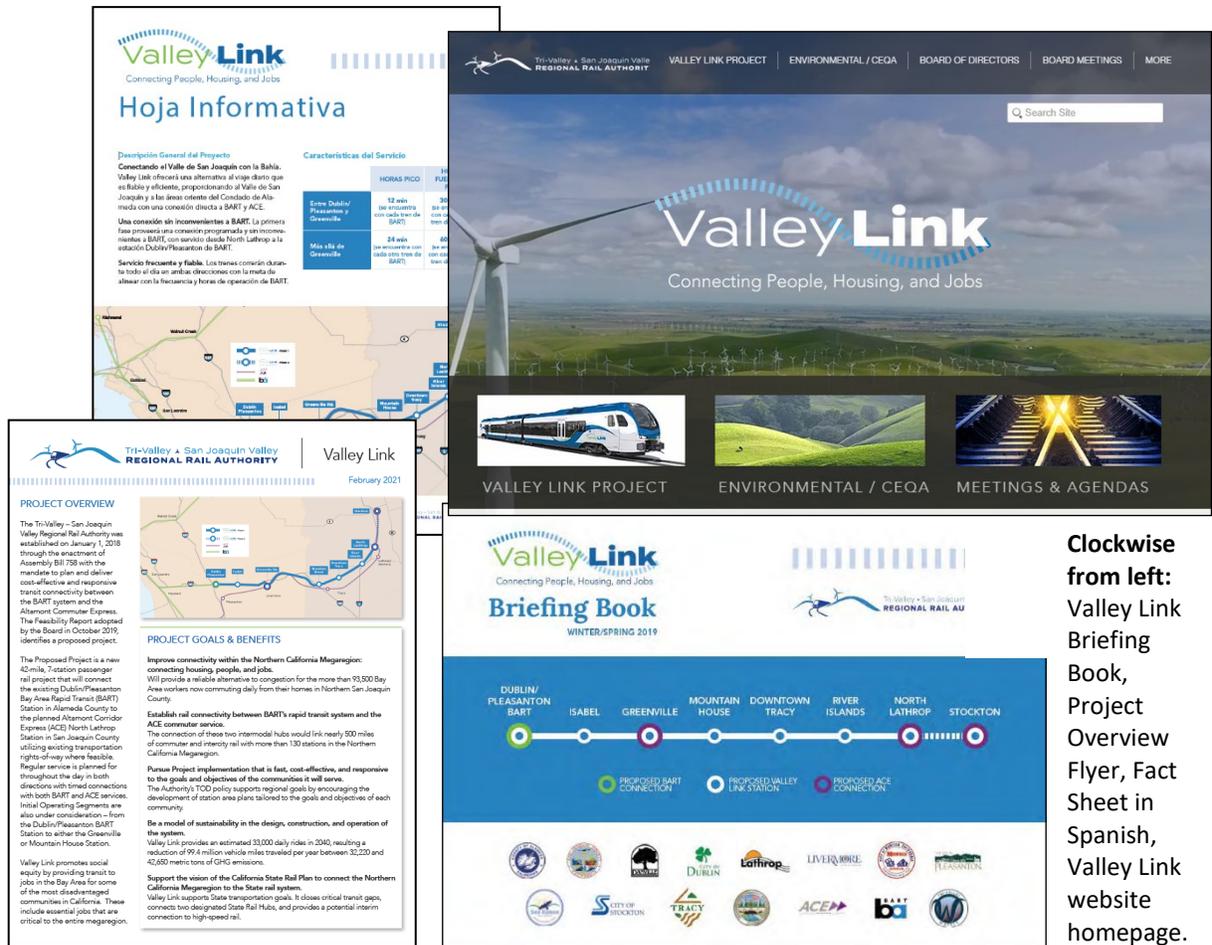


The three Online Open House Meetings were held on the dates and times listed below:

- Saturday, Dec. 12, 2020, from 9 am to 10:30 am.
- Wednesday, Dec. 16, 2020 from 11:30 am to 1pm.
- Thursday, Dec. 17, 2020 from 5 to 6:30 pm.

Ongoing Public Participation

In addition to targeted public participation in support of the Project Feasibility Report and advancement of the Environmental Impact Report, other efforts have been conducted on an ongoing basis to provide the public with project information and updates. These efforts have included the preparation of both written and electronic materials as well as regularly scheduled meetings of the Authority's Board and individual briefings of policymakers and stakeholder interests. Access to project materials and information about project Board meetings are provided on the project website and through email blasts to all individuals on the project email mailing list.



Clockwise from left: Valley Link Briefing Book, Project Overview Flyer, Fact Sheet in Spanish, Valley Link website homepage.

Outreach Materials

Access to project information materials is provided through the project website. This has included a Project Briefing Book with vital project information concisely outlined for project stakeholders and policymakers. Project fact sheets have also been prepared in both English and Spanish languages and these materials have been updated regularly as the project has advanced. In addition to the website, project updates have also been provided by email to the project mailing list. This email distribution list has been maintained since project inception and includes all who sign up through the website as well as at community outreach meetings and events.

Authority Board Meetings

The 15-member Authority Board of Directors is comprised of representatives from the cities of Dublin, Lathrop, Livermore, Manteca, Pleasanton, Stockton, Tracy, Danville, San Ramon, and the Mountain House Community Services District; the counties of Alameda and San Joaquin; and the Livermore Amador Valley Transit Authority (LAVTA), San Francisco Bay Area Rapid Transit District (BART) and the San Joaquin Regional Rail Commission (SJRRRC). Prior to restrictions due to the Covid-19 pandemic, these meetings were held regularly in-person on the second Wednesday of each month – alternating locations between the Cities of Tracy and Livermore and the public was given an opportunity to provide verbal or written comment on each item at the meeting. In May of 2020, these regularly scheduled meetings were switched to an online format using a meeting platform that allows for both Board members and members of the public to provide input and comments on items under consideration by the Board. Meeting agendas are posted on the Valley Link website a minimum of 72 hours in advance and also sent to all individuals on the Valley Link mailing list.



Top: Virtual Authority Board of Directors meeting.
Above and below: Pre- pandemic in-person Board of Directors meetings.



IV. Community Outreach – Future Efforts

As the Valley Link project is further advanced, the Authority will continue to support Board adopted project goals aimed at achieving equitable access. The Authority will encourage public participation at every decision opportunity. This will include targeted outreach to minority populations and those with limited English proficiency (LEP) when soliciting feedback on project development and decisions regarding future service and fare decisions, using the Language Assistance Plan. To ensure the effectiveness of this outreach, guiding principles and design guidance will be followed to ensure that meaningful and effective public participation may occur. A menu of public participation strategies has been identified and at critical project junctures, these strategies will be closely reviewed and, with continued guidance from local jurisdictions, a tailored approach will be selected from a menu of options described below to meet the individualized needs of each community. Additional ongoing strategies will also be used to promote and enhance outreach to low income, minority and LEP populations.

Guiding Principles and Design Strategies

To provide meaningful opportunities for the public, including low income, minority and limited English proficient populations, to be involved in Valley Link decisions, all outreach will be based on the following principles and design strategies. These factors will guide the Authority in choosing public participation strategies that are culturally sensitive and inclusive of low income, minority and LEP populations.

Community Partnerships

The Authority will work with community partners and stakeholders to identify the most effective methods to support participation within a particular area or cultural group.

Target Population Needs

The engagement process will accommodate participation in a variety of ways and be adjusted as needed. The methods will be tailored to match local and cultural preferences as much as possible, and all feedback received will be given careful and respectful consideration.

Clear, Focused and Understandable

Participation methods will have a clear purpose and use for the input, and will be described in language that is easy to understand. The Authority will strive to use videos, pictures, the use of real-life examples, art, pictograms and other digital tools that may be available whenever possible to explain harder to decipher technical details and increase public awareness and understanding.

Authentic and Meaningful

The Authority will support public participation as a dynamic and meaningful activity that requires teamwork and commitment at all levels of the organization. All feedback received will be given careful and respectful consideration.

Translation and Interpretive Services

Public hearing meeting notices will be produced and distributed according to the language translation thresholds in the Language Assistance Plan. These notices will advise that participants can request interpreter services 48 hours in advance of the meeting and, if needed, the Authority will provide at least one qualified interpreter at these meetings who is fluent in the requested language.

Public Participation Methods

The Authority will be successful in reaching out to low income, minority and LEP populations by using a variety of methods to provide information, invite participation and seek input. The following menu of methods will be used when selecting effective public participation activities.

Printed Materials Produced by Authority

Outreach information can be publicized in print materials produced by the Authority such as fact sheets, flyers and posters. If all information cannot be translated, notices could offer translated tags, describing where to obtain translation/interpretations.

Printed Materials Produced by Other Organizations

Coordinating with community partners can be cost-effective and can help partner organizations provide information that is of interest to the groups they represent. Information can be publicized in local and regional community newsletters, church bulletins, flyers and other publications including local social service providers.

Authority Website

The Valley Link website, www.valleylinkrail.com, is a communications tool that provides substantial information about the Valley Link project including policies and plans. It also provides information about past and present meetings. Important studies and environmental documents are also posted. The Authority's website offers translation into Spanish. The Authority also uses social networking applications such as Facebook and Twitter and links to these sites are posted on the website too.

Webcast Meetings

Webcast meetings and public participation methods to allow remote viewing and participation can provide access in lieu of in person meetings. Informational materials and videos can be posted online for advance review. Webcast meetings may include opportunities for web participants to ask questions or make comments through email or other web-based applications. Valley Link meetings have been in this format due to Covid-19 pandemic restrictions and consideration may be given to continuing to provide online access to meetings once restrictions are lifted and in-person meetings resume.

Postcards and Letters Distributed by Mail

Participation methods can be publicized by letter or postcards distributed by mail. While it is costly to contact all interested persons by mail (regardless of their communications preference), it can be the most effective method for reaching a specific geographic area or population group. For example, sending a postcard in a targeted language to promote a participation activity may be an effective and cost-efficient manner to reach members of a specific community who may be directly impacted by a specific activity.

Media Targeted to Ethnic Communities

Participation opportunities can be publicized through radio, television and newspapers that serve both English speaking and language-specific audiences, including Spanish, Chinese, Vietnamese and Korean. Some local news or radio shows and local publications, such as free neighborhood weekly papers, are considered to be good sources of information and events in the immediate area. The Authority can tailor its message to the appropriate audience and remind participants that they can contact the Authority to receive information in their preferred language.

Coordination with Community Events

In cooperation with community organizations, the Authority can continue its current practice of hosting information tables that provide materials about the Valley Link project and outreach methods at community events and activities. These events can range in scale from large city-wide events to localized activities. This outreach can be conducted in locations where people already gather, for instance, at community events such as fairs, festivals and farmer's markets.

Coordination with Other Agencies

The Authority may develop partnerships with agencies that regularly communicate with local residents. The Authority could identify agencies in the project area by considering who serves the population and where they convene. The following types of agencies may be considered to reach low income, minority and LEP populations: faith based, geographic-specific such as tenant associations, neighborhood and community, education, social services, recreation, environmental, political, youth- and senior oriented organizations.

Regular Meetings of Civic and Community Organizations

The Authority can provide updates on its policies, projects, strategies and methods by participating periodically in scheduled meetings of local civic and community organizations. These gatherings provide an opportunity to make a presentation and answer questions. Depending on the meeting format, the Authority may also be able to solicit public input at these meetings.

Community Meetings

There are a variety of meeting formats that can be tailored to achieve public participation goals. Some meetings are designed to share information and answer questions. Others are designed to engage the public in providing input, establishing priorities and helping to achieve consensus on a specific recommendation. It is important to create an agenda that works to achieve the Authority's goals but is relevant to and not overwhelming for the public. For all meetings, the venue should be a facility that is fully accessible for persons with disabilities and, preferably, is served by public transit. The venue should be a location that is familiar and comfortable for the target audience. A convenient meeting time is important to low income, minority and LEP survey participants. Public participation methods can be scheduled at varying times of day and on different days of the week.

Open Houses

This format provides opportunities for participants to receive information at their own pace by visiting a series of information stations that may include tabletop displays, maps, photographs, visualizations and other tools. Individual questions are responded to by staff and technical experts. Some open houses include a short educational presentation and comment period at a designated time. Participants are often given comment cards so they can provide written comments. Staff may be assigned to take verbal comments and transcribe them to provide a written record.

Workshops

Workshops feature an educational presentation designed to orient participants to the issue being discussed. Workshops often include break-out or discussion groups, where participants have the opportunity to discuss topics in small groups. Participants can share their feedback orally during the small group discussion and in writing on comment cards. Workshops include the use of tools

that promote interaction and include: electronic or show-of-hands polling, mapping exercises, discussion questions, priority setting methods and other techniques to promote dialogue and discussion.

Large Group Discussion

These meetings are usually focused on a specific topic and feature an informational presentation followed by a comment period. The comment period can be formal or informal depending on the number of participants and the meeting venue. Individual comments are often limited to 2-3 minutes, especially when there are a large number of people wanting to comment. This format can also include some interactive techniques suitable for a large group such as electronic or show of hands polling or short questionnaires or surveys.

Focus Groups

The Authority can host discussion groups with small, targeted groups of participants. Focus groups can provide in-depth information about projects, plans or issues that may impact a specific group or community. These groups can be both formal and informal and can be conducted in a specific language.

Special Events

The Authority can develop special events to announce, highlight or kick-off its outreach about a policy, program, project or activity. Events can be region-wide or focus on a specific station or geographic area. Along with providing information and/or collecting input, the events should include something interactive and/or entertaining to attract participation.

Walking Tours and On-Site Meetings

The Authority can host walking tours and on-site meetings specific to locations that interest the public, in order to highlight an initiative, project or facility. Walking tours can be primarily educational and the Authority may ask participants to complete a survey or questionnaire during or after the tour. Walking tours may be helpful in collecting community opinion on issues such as station improvements. The Authority can work with community partners to host language specific meetings if warranted.

Pop-Up Events

Informal “pop-up” events provide an opportunity to show up at various locations in the project area to present information and seek input from people who may not ordinarily make time to attend a more formal meeting. This may include setting up an informational table at key transit stations and park/rides, in the quad at community college locations, at local sporting events and at ethnic markets.

Key Person Interviews

Authority staff and Directors could meet individually with community leaders and stakeholders to exchange information and gain early insight into upcoming outreach and engagement methods. This could specifically target and include low income, minority and LEP populations. Interviewees would be asked the same set of questions to allow the Authority to compare responses and identify key themes and issues. The Authority may contact interviewees throughout the span of a project or activity to keep them engaged in the public participation process.

Surveys

The Authority may conduct surveys in print, by telephone and online to collect public opinion on specific topics or issues. The Authority could also consider strategies for letting people know that surveys are available in multiple languages, so as to increase the response rate from low income, minority and LEP populations.

Telephone Information and Comment Line

Access to Language Line Services (LLS), which is an over-the-phone language interpretation service may be implemented. The Service would allow staff to call the LLS number when a stakeholder is unable to speak English. The professionally trained and tested LLS interpreters listen to the customer, analyze the message and accurately convey its original meaning to the Authority staff member, then respond to the customer in his/her own language. The LLS offers interpretation in 170 languages

Ongoing Public Participation Methods

The Authority will continue to promote and enhance the use of its ongoing public participation methods to reach out to low income, minority and LEP population through the following ongoing methods.

- Authority website (www.valleylinkrail.com)
- Valley Link Facebook page
- Valley Link communications via Twitter
- Regular communications with media
- Authority Board meetings
- Key person interviews
- Partnerships with community-based organizations
- Communication with elected officials
- Press briefings and news releases
- Regular emails to community members – on mailing list
- Participation in community fairs and festivals
- Language interpreters at public meetings when needed
- Written language assistance services

V. Conclusion

The Authority's Public Participation plan will ensure that no person shall on the grounds of race, color, national origin, sex, disability, age or any other protected category described by state or federal law be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of the Authority's programs or activities. The Plan has been assembled to capture the methods, innovations and measurements representative of the Authority's commitment to meet and exceed the prescribed requirements as a recipient of public investment, Title VI regulations, and on behalf of LEP, low-income and minority communities. At this point in the development of Valley Link, the Authority has not determined the precise mode of travel to be operated, its frequency, specific geographic locations to be served, or on-board or station/terminal amenities. Once such decisions are made, the Authority will adopt more specific public participation procedures to ensure adequate opportunities for public input in service and fare decisions. The Plan will be updated no later than when the Authority is preparing to launch Valley Link service – but any time sooner as needed to reflect current best practices and community needs and resources.

AGENDA

ITEM 8 C





Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: **8.c** Language Assistance Plan for Individuals with Limited English Proficiency

FROM: Michael Tree

DATE: March 10, 2021

Action Requested

Approve a Language Assistance Plan for Individuals with Limited English Proficiency that complies with Federal Transit Administration (FTA) Title VI Program guidance (Attachment 1).

Background/Discussion

The Language Assistance Plan (Plan) has been prepared to address the responsibilities of the Tri-Valley – San Joaquin Valley Regional Rail Authority (Authority), an intended recipient of federal financial assistance, as they relate to the language access needs of individuals with limited English proficiency (LEP). The Plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin. Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency," indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each federal agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. The Executive Order applies to all state and local agencies which receive federal funds, including the Authority, which in the future may receive federal assistance through the U.S. Department of Transportation (U.S. DOT).

The Plan has been developed to help identify reasonable steps for providing language assistance to persons with limited English proficiency who wish to access the Authority's services. As defined in Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This Plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

Fiscal Impact

There are no financial considerations at this time.

ATTACHMENT 1





LANGUAGE ASSISTANCE PLAN FOR INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY

Proposed for Adoption March 10, 2021

1. Introduction

This Language Assistance Plan (Plan) has been prepared to address the responsibilities of the Tri-Valley – San Joaquin Valley Regional Rail Authority (Authority), an intended recipient of federal financial assistance, as they relate to the language access needs of individuals with limited English proficiency (LEP). The Plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin. Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency," indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each federal agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. The Executive Order applies to all state and local agencies which receive federal funds, including the Authority, which in the future may receive federal assistance through the U.S. Department of Transportation (U.S. DOT).

2. Plan Summary

The Authority has developed this Plan to help identify reasonable steps for providing language assistance to persons with limited English proficiency who wish to access the Authority's services. As defined in Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This Plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

3. LEP Four Factor Analysis

In order to prepare this Plan, the Authority undertook the four-factor LEP analysis described in the U.S. DOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons (DOT LEP Guidance), published at 70 Federal Register 74087, on December 14, 2005. The four-factor LEP analysis considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served or are likely to encounter an Authority program, activity or service.
2. The frequency with which LEP persons come in contact with Authority programs, activities or services.
3. The nature and importance of programs, activities or services provided by the Authority to the LEP population.
4. The resources available to the Authority and overall cost to provide LEP assistance.

A summary of the results from the LEP four-factor analysis follows.

3.1 Factor One: The number or proportion of LEP persons in the service area who may be served or are likely to encounter an Authority program, activity or service

The Authority has no ridership demographics or similar data sources at this time. Accordingly, this Plan relies entirely upon data from the U.S. Census Bureau's American Community Survey for the three Tri-Valley cities (Dublin, Pleasanton, and Livermore) and San Joaquin County to assess the level of English proficiency and use of languages other than English within Valley Link's generally-anticipated service area.

Table 1 shows the languages (other than English) spoken at home for all persons, aged five years old and older, within the service area. Of the total service area population (820,701), 334,322 people, or 40.74%, speak a language other than English at home. The Census Bureau classifies how well people speak English using the following descriptions: "very well," "well," "not well," and "not at all." An LEP person is defined for purposes of this Plan as someone who speaks English less than "very well." Within the service area, 132,422 people, or 16.14% of the population, speak English less than "very well."

Table 1. Distribution of English proficiency within the Authority's service area population, aged 5 years and older.

Language Spoken at Home	TOTAL Valley Link Service Area		San Joaquin County	Livermore	Dublin	Pleasanton
	Percent of Population	Population	Population	Population	Population	Population
Total Population		820,701	690,215	43,399	51,591	35,496
Spanish:	23.19%	190,300	180,312	5,439	3,157	1,392
Speak English less than "very well"	9.15%	75,061	71,124	2,402	1,145	390
French, Haitian, or Cajun:	0.15%	1,245	652	253	183	157
Speak English less than "very well"	0.03%	228	134	72	22	0
German or other West Germanic languages:	0.19%	1,588	1,239	53	164	132
Speak English less than "very well"	0.02%	182	151	0	19	12
Russian, Polish, or other Slavic languages:	0.26%	2,103	986	74	618	425
Speak English less than "very well"	0.09%	710	397	39	245	29
Other Indo-European languages:	5.43%	44,571	32,169	2,132	6,106	4,164
Speak English less than "very well"	1.89%	15,543	13,028	533	1,156	826
Korean:	0.47%	3,866	1,144	194	1,022	1,506
Speak English less than "very well"	0.24%	1,979	603	46	562	768
Chinese (incl. Mandarin, Cantonese):	2.26%	18,561	7,808	2,116	5,204	3,433
Speak English less than "very well"	1.28%	10,467	4,905	1,165	2,599	1,798
Vietnamese:	0.97%	7,965	6,687	295	864	119
Speak English less than "very well"	0.55%	4,476	3,924	155	354	43
Tagalog (incl. Filipino):	2.96%	24,328	21,680	950	1,249	449
Speak English less than "very well"	1.24%	10,190	9,393	411	241	145
Other Asian and Pacific Island languages:	4.11%	33,710	24,750	1,707	4,230	3,023
Speak English less than "very well"	1.46%	11,958	9,866	415	955	722
Arabic:	0.47%	3,823	3,010	109	628	76
Speak English less than "very well"	0.14%	1,134	916	0	184	34
Other and unspecified languages:	0.28%	2,262	1,614	216	393	39
Speak English less than "very well"	0.06%	494	323	43	128	0

Source: U.S. Census Bureau, American Community Survey 2015-2019, 5-Year Estimates

The six most prevalent languages (other than English) spoken at home within the Authority's service area population are listed in Table 2.

Table 2. Top Six Languages (other than English) spoken at home within the Authority's service area population, aged 5 years and older.

	Population in Valley Link Service Area	Percent of Population in Valley Link Service Area
Spanish	190,300	23.19%
Tagalog (incl. Filipino)	24,328	2.96%
Chinese (incl. Mandarin, Cantonese)	18,561	2.26%
Vietnamese	7,965	0.97%
Korean	3,866	0.47%
Arabic	3,823	0.47%

Source: U.S. Census Bureau, American Community Survey 2015-2019, 5-Year Estimates

The number of people speaking a language other than English at home (334,322, or 40.74% of the population) is larger than the group reporting that they speak English less than very well (132,422 people, or 16.14% of the population). Table 3 identifies the languages that are considered "Safe Harbor" languages in the service area because there are at least 1,000 people (or 5% of the population, whichever is less), who speak these languages at home and who also speak English less than "very well."

Table 3. "Safe Harbor" Languages for the Authority: Languages (other than English) spoken at home within the Authority's service area population, aged 5 years and older, by at least 1,000 people (or 5% of the population, whichever is less) who speak English less than "very well"

	Population in Valley Link Service Area	Percent of Population in Valley Link Service Area
Spanish	75,061	9.15%
Chinese (incl. Mandarin, Cantonese)	10,467	1.28%
Tagalog (incl. Filipino)	10,190	1.24%
Vietnamese	4,476	0.55%
Korean	1,979	0.24%
Arabic	1,134	0.14%

Source: U.S. Census Bureau, American Community Survey 2015-2019, 5-Year Estimates

When determining the precise Valley Link service locations and alignment, the Authority will further analyze this information to review the language needs of potentially-impacted communities to maximize opportunities for input and information-sharing in appropriate language in addition to English. To the extent that it is helpful and feasible, Census block-level information will be utilized and mapped to inform staff and consultant work. In addition, when infrastructure improvements are considered and underway, the Authority will review language needs of neighboring areas to ensure public outreach and information includes messaging for LEP individuals. For example, if a new facility is being considered or built in an area with a recognizable density of LEP individuals, the Authority will communicate about the facility and

related construction impacts in the language(s) spoken by such group(s). Mapping will be used to assist in identifying these needs, as will engagement with local governments and community-based organizations that work with the LEP population.

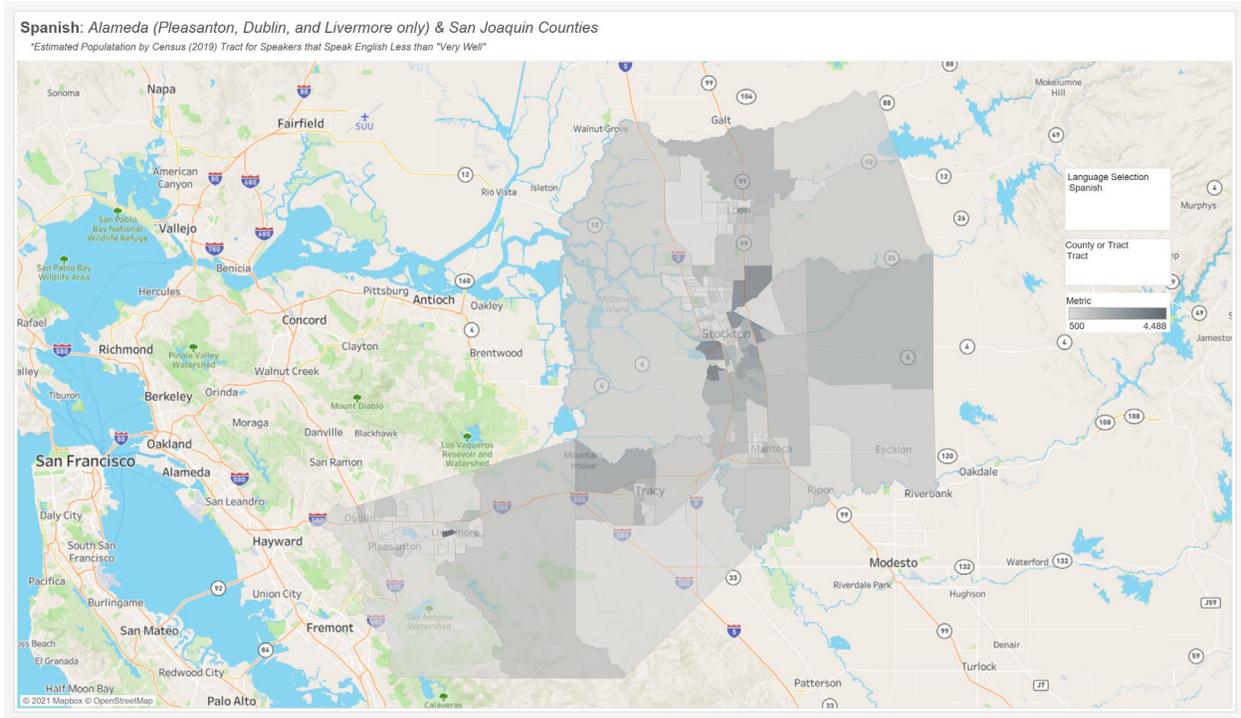


Figure 1 Estimated Population by Census Tract for Spanish Speakers that Speak English less than "Very Well"

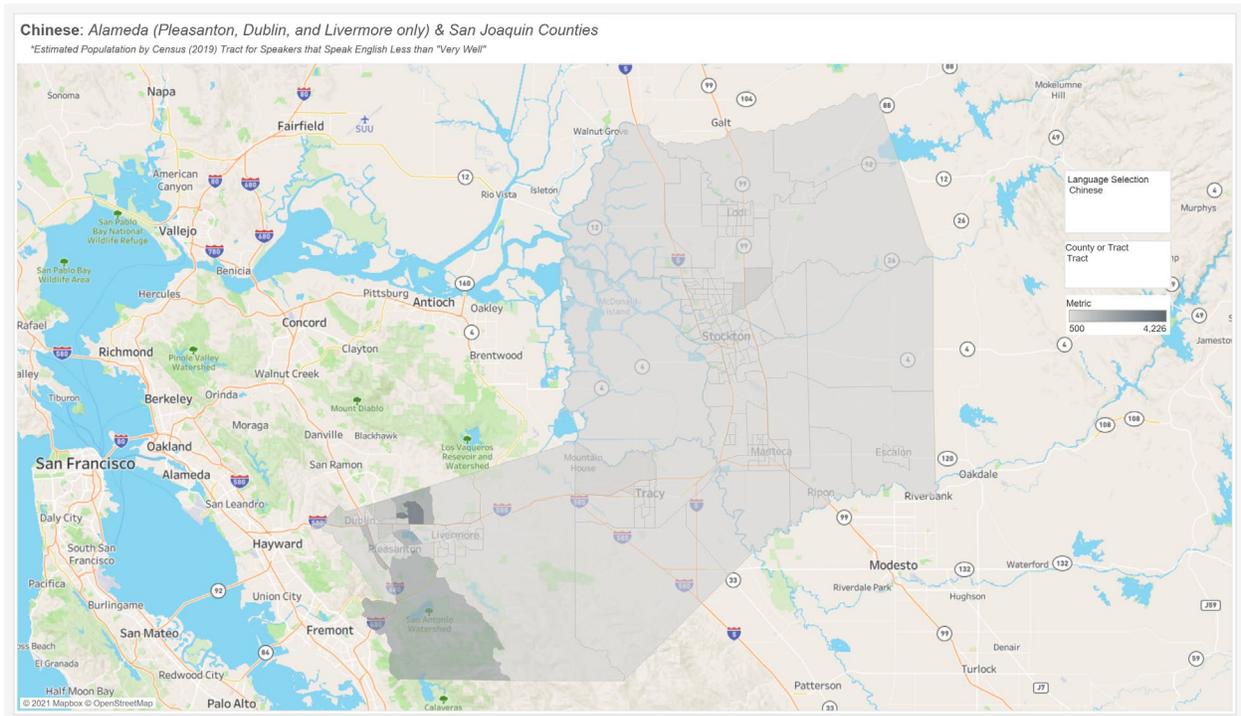


Figure 2 Estimated Population by Census Tract for Chinese Speakers that Speak English less than "Very Well"

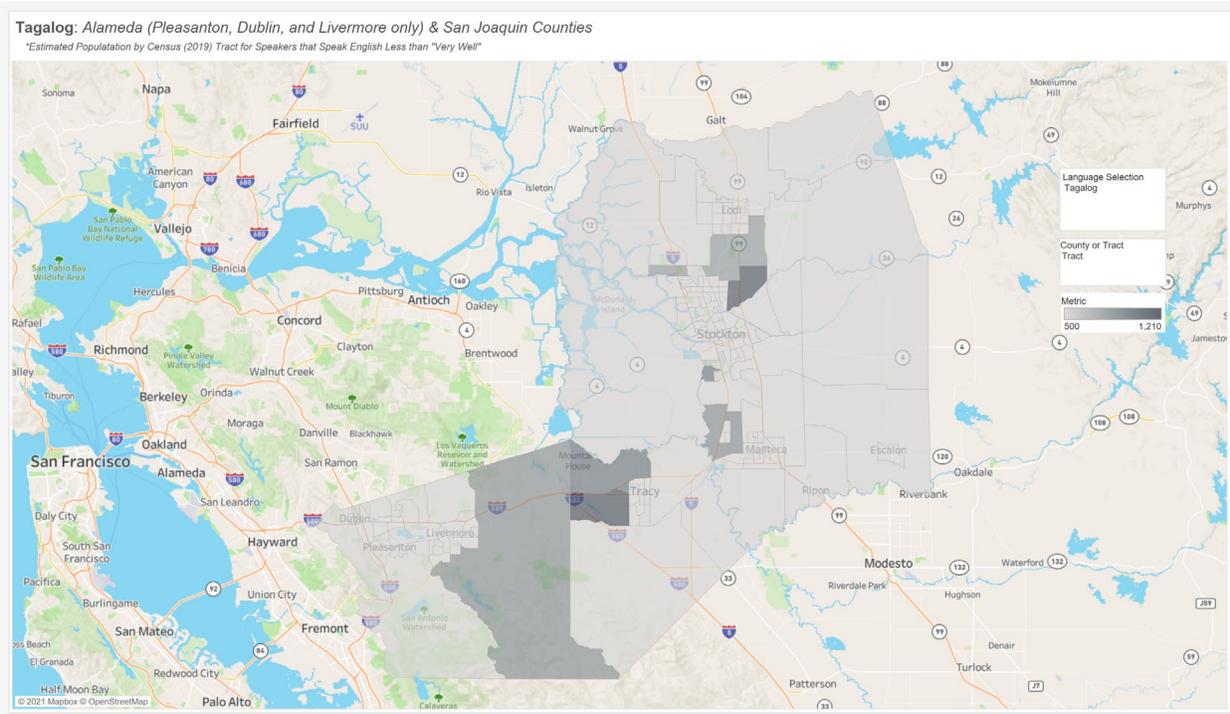


Figure 3 Estimated Population by Census Tract for Tagalog Speakers that Speak English less than "Very Well"

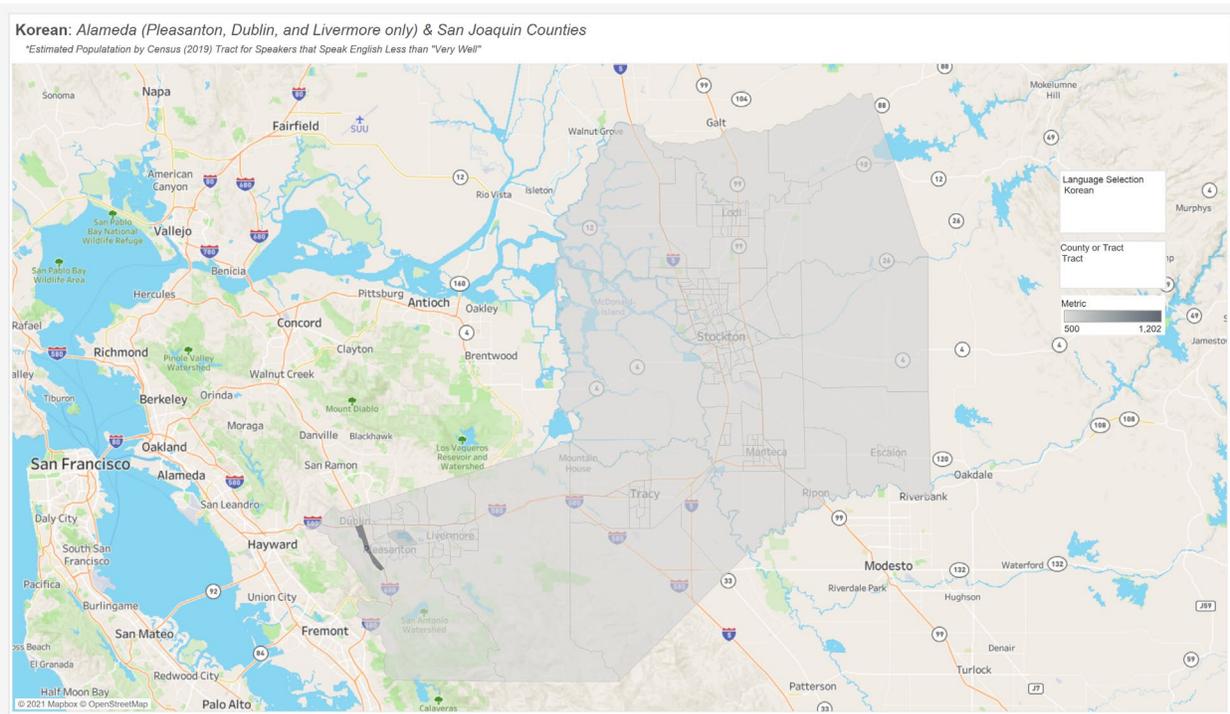


Figure 4 Estimated Population by Census Tract for Korean Speakers that Speak English less than "Very Well"

Additional maps will also be developed as part of the first update to this Plan once the Valley Link service area is more certain.

3.2 Factor Two: The frequency with which LEP persons come in contact with Authority programs, activities or services

The Authority is required to assess the frequency with which LEP persons have, or could have, contact with Authority services, including its staff and consultants. At this point in the development of the Authority's Valley Link transportation service, the public's only interface with Authority programs, activities and services is planning exercises and Board meetings as the Authority has not yet selected a final service model or launched any form of public transit services. Accordingly, the Authority has little relevant data for this aspect of the analysis but this aspect of the analysis will be updated as opportunities for the Authority to regularly interface with the public increase. In the meantime, the Authority will collect data on interactions with individuals using translation services or indicating a need for the same during planning studies, outreach activities and the like.

Public participation and community outreach efforts to-date, as outlined in the Public Participation Plan, have been guided by the Authority's Board adopted Sustainability guiding equitable access (December 2018):

- Encourage engagement in planning and decision-making for the project to ensure a meaningful level of participation from disadvantaged communities and low-income communities and households.
- Strive to maximize benefits to disadvantaged communities and low-income communities and households in project planning and design.

Outreach efforts were tailored to match the needs of each of the local jurisdictions and developed in consultation with Station Ad Hoc Committee members as well as designated points of contact from local jurisdictions who provided insight into when and where station workshops could be most effective. They also identified opportunities for community briefings and non-traditional grassroots approaches to outreach such as pop-up meetings throughout the communities and booths at community events and fairs. These efforts were aimed at meeting the diverse individualized needs of the communities along the 42-mile system and included a bi-lingual surveys and bi-lingual fact sheets.

The multi-targeted outreach approach of “meeting people where they are,” when layered onto traditional channels of communication such as the project website, social media postings and press releases, resulted in over 2,000 points of contact and in the distribution of nearly 3,500 Project Fact Sheets throughout the development of the Project Feasibility Report (October 2019). This approach expanded outreach to segments of the community who would not typically participate in more traditional formats and allowed project staff to receive input from a broader cross-section of the community

3.3 Factor Three: The nature and importance of programs, activities or services provided by the Authority to the LEP population

At this time, the Authority provides neither public transportation services nor customer service information on the users of transportation services. However, a proposed new 42-mile, 7-station passenger rail project is now undergoing environmental review, project development and design. The proposed project will connect the existing Dublin/Pleasanton Bay Area Rapid Transit (BART) Station in Alameda County to the planned Altamont Corridor Express (ACE) North Lathrop Station in San Joaquin County utilizing existing transportation rights-of-way where feasible. Regular service is planned for throughout the day in both directions with timed connections with both BART and ACE services. Initial Operating Segments are also under consideration – from the Dublin/Pleasanton BART Station to either the Greenville or Mountain House Station.

The Valley Link Project Feasibility Report (October 2019) identified many communities in the Valley Link project as “Disadvantaged Communities,” by definition of the California Public Utilities Commission – suffering from a combination of economic, health and environmental burdens. These communities suffer from decades of disinvestment, geographic inequity and poverty, resulting in pockets of concentrated low-income communities lacking adequate access to jobs, healthcare and educational opportunities. The proposed Downtown Tracy, River Islands and North Lathrop stations are all within geographic areas identified as disadvantaged. Areas designated as low-income are also near these stations, as well as the Mountain House station.

During the planning process, the Authority seeks input from future Valley Link passengers regarding the service type, station locations and amenities. Input from the LEP population is important to this process, as it helps ensure the community's transportation needs and desires are considered. Engagement in the planning process also may support future potential riders in developing personal connections with and knowledge about the Authority and its future services.

In time, the Authority intends to build the infrastructure needed to operate Valley Link services. These services are expected to serve LEP individuals through fixed-route transit services, at transit stations and other facilities and through fare sales and customer service. Language services will be important for all such interactions. Ongoing community outreach events will act as additional opportunities where LEP individuals and Authority staff may communicate through language services.

3.4 Factor Four: The resources available to the Authority and overall cost to provide LEP assistance

The Authority has assessed the available resources that could be used to provide LEP assistance, including determining the costs of professional interpreters and translation and taking an inventory of available organizations with whom resources could be shared. The Authority also used this information to determine which of its documents and materials would be the most valuable to be available in multiple languages. Translation of documents and other printed material is achieved through a contractor on an as-needed basis, costing the agency approximately of \$2,000 per year thus far. Depending on which languages become more prominent in the service area and the speed with which development of the Valley Link service progresses, more money may be spent on translation services in the next few years.

The Authority and the agency that helps administer the new organization (Livermore Amador Valley Transit Authority, or LAVTA) currently employ several Spanish-speaking staff members, including the entire staff of three who work at the Downtown Livermore Transit Center. LAVTA Transit Center staff handle about twenty Spanish-speaking calls a day. Overall, LAVTA has indicated that approximately one out of twenty people encountered by Customer Service are not proficient in English. Customer Service indicates individuals who are not proficient in English, speak other languages including Chinese, Tagalog, Spanish, Arab, and Farsi. Additionally, both LAVTA and the Authority have access to a Language Line telephone translation service. For in-person meetings, Authority staff can be accompanied by a translator to ensure clear communication with LEP individuals.

4. Language Assistance Plan

This portion of the Plan addresses how the Authority will ensure meaningful access to its services, resources, benefits, and information through language assistance for LEP persons.

The Four Factor Analysis above shows the geographic breakdown of LEP persons based on data from the 2015-2019 American Community Survey. Spanish speakers account for over half of the population who identifies as speaking English less than "very well" in the Authority's service area. Chinese and Tagalog speakers each account for approximately 8% of the LEP population in the service area. Vietnamese, Korean and Arabic are the other three of the Authority's Safe Harbor languages.

As a result of the Four Factor Analysis, the Authority will translate its existing vital documents into all six Safe Harbor languages by the end of 2021, and continue this practice as new vital documents are identified.

Based on the four-factor analysis, the Authority has also identified desired language assistance activities in the following five areas:

1. Identifying LEP individuals who need language assistance
2. Language assistance measures
3. Training Staff
4. Providing Notice to LEP persons

5. Monitoring and updating the LEP Plan

4.1 Identifying LEP individuals who need language assistance

Moving forward, the Authority will aim to identify LEP persons who needs language assistance utilizing:

- Census data, provided in response to Factor One, to determine the number and proportion of LEP persons eligible for service;
- Records on past use of language assistance, either at meetings, online or over the phone, with a focus on determining which events/venues are most likely to benefits from language assistance in the future;
- Data on use of the Authority's language line;
- Greeters at Authority-sponsored events. By informally engaging participants in conversation it is possible to informally gauge each attendee's ability to speak and understand English;
- Data on how many times and into what languages the Authority website pages have been translated, thereby allowing the Authority to consider pre-translation of those pages in the Authority's website updates; and
- Work with community based organizations (CBOs) to identify LEP persons in the Authority's project area as well as their frequency and points of contact with the Authority.

4.2 Language Assistance Measures

There are numerous language assistance measures available to LEP persons, including both oral and written language services. There are also various ways in which the Authority staff may respond to LEP persons, whether in person, by telephone or in writing.

Moving forward, the Authority will assist LEP persons who needs language assistance by

- Working with local senior centers to provide vital information to LEP groups on the Authority's programs and services;
- Networking with local human service organizations that provide services to LEP individuals and seeking opportunities to provide them and their clients with information on Authority programs and services;
- Providing a statement in notices and publications that interpreter services are available for public hearings and Board of Director meetings;
- Providing a statement in flyers that interpreter services are available at public hearings and workshops;
- Engaging on-call interpreters for in-person and telephonic communications using professional interpretation services and a language line;
- Engaging Spanish-speaking and other bilingual staff to provide language assistance services;
- Encouraging recruitment of public-facing employees with the skill to speak multiple languages;
- Translating all vital documents into all Safe Harbor languages;

- Translating additional documents (including public hearing information) into Spanish; and
- Utilizing the Authority's Public Participation Plan to perform targeted outreach to LEP persons.

4.3 Staff Training

The Authority will train staff on its role and responsibilities in providing meaningful access to services for LEP persons, including by

- Identifying Authority staff that are likely to come in contact with LEP persons;
- Developing curriculum and a corresponding PowerPoint to educate Authority staff on providing meaningful access to services for LEP persons;
- Providing staff with a description of language assistance services offered by the Authority; and
- Providing staff with specific procedures to be followed when encountering an LEP person and information on accessing available language assistance resources.

4.4 Communications with LEP Persons

The Authority will communicate with LEP persons as follows:

- In oral communications:
 - Provide a statement affirming that the Authority will make reasonable accommodations to provide an interpreter at public hearings and meetings with advance notice;
 - Utilize the Public Participation Plan to perform outreach to LEP persons; and
 - Utilize a language line when a customer calls in and is unable to speak English or Spanish.
- In written communications:
 - Use the services of a professional translation provider to ensure that vital documents (defined as those documents without which a person would be unable to access services) are accurate;
 - Provide information about the Authority's non-discrimination policies and information on the local/federal complaint process in all Safe Harbor languages on the Authority's website and in other languages upon request;
 - Ensure the www.valleylinkrail.com website can be viewed in English and Spanish from an easily-accessed dropdown menu at the top of any page, and explore similar mechanisms for Chinese, Korean, Tagalog, Vietnamese, and Arabic;
 - Conduct surveys in English and Spanish; and
 - Utilize the Public Participation Plan to perform outreach to LEP persons.

4.5 Monitoring and Updating the LEP plan

This Plan is designed to be flexible, and should be viewed as a "living document." As such, it is important to consider whether new documents and services need to be made accessible for LEP persons, and also to monitor changes in demographics and types of services offered by the Authority.

The Authority will examine and update its LEP Plan periodically and, at a minimum, when:

- The Authority begins to make significant capital investments to develop and operate its Valley Link transit services; and
- Higher concentrations of LEP individuals are present in the service area.

To ensure updates are effective and meaningful, the Authority will:

- Record how many times the language line has been utilized and for which languages;
- Determine how the needs of LEP persons have been addressed;
- Determine whether and how the LEP population in the service area changes;
- Determine whether local language assistance programs have been effective and sufficient to meet the need;
- Determine whether the Authority's financial resources are sufficient to fund language assistance resources needed;
- Determine whether Authority staff and consultants have fully complied with the goals of this LEP Plan; and
- Determine whether complaints have been received concerning the Authority's failure to meet the needs of LEP individuals.

5. Dissemination of the Language Assistance Plan

This Plan will be disseminated to customers and the community as follows:

- A link to the Plan and the Title VI Program will be included on the Authority's website, www.valleylinkrail.com;
- The LEP Plan will be shared with human service organizations in the Authority's project area; and
- The Plan will be translated (if requested and if feasible) and shared (at no cost) with any person or agency who requests a copy via telephone, fax, mail, or in person.

6. Contact Information

Questions or comments regarding this Plan may be submitted to the Tri-Valley – San Joaquin Valley Regional Rail Authority Executive Director as follows:

Michael Tree, Executive Director
Tri-Valley – San Joaquin Valley Regional Rail Authority
1362 Rutan Court, Suite 100 Livermore, CA 94551
Phone: (925) 455-7555 Fax: (925) 443-1375
Email: equity@valleylinkrail.com

AGENDA

ITEM 8 D





Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: **8.d** Approve and Authorize Submittal of 2021 Title VI Program

FROM: Michael Tree

DATE: March 10, 2021

Action Requested

Approve and authorize submittal of the 2021 Title VI Program to the Federal Transit Administration (Attachment 1).

Background/Discussion

Title VI of the Civil Rights Act of 1964 prohibits discrimination in most areas of public life in the U.S. (42 U.S.C. §2000d et seq.):

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

Title VI ensures that:

- Public services – such as transportation – are provided in a nondiscriminatory manner
- There are opportunities for public participation in decision-making without regard to race, color, or national origin (including limited English proficiency).
- There is access to public services by Limited English Proficiency (LEP) populations.

The Federal Transit Administration (“FTA”) reviews Title VI Programs submitted by federal grantees every three years. The FTA also investigates Title VI complaints and performs Title VI audits. Title VI compliance is also within the scope of FTA’s triennial comprehensive audit. The FTA requires that applicants for federal financial assistance provide Title VI assurances in their applications, which certifies that each applicant has submitted a Title VI Program that is compliant with FTA Circular 4702.1B. The proposed Title VI Program (Attachment 1) is compliant with this Circular and includes the following elements:

- Copy of the Authority’s new Title VI non-discrimination notice (subject to approval under a different agenda item at this March 10, 2021 meeting), information on posting of notice
- Complaint procedures and processes for tracking and investigating Title VI complaints
- Language Assistance Plan for populations with Limited English Proficiency (including demographic data analysis)
- Public Participation Plan, including examples of how outreach is done
- Evidence of Board adoption of the Title VI Program

The following are elements that will be added when to future Program updates and as/when appropriate:

- List of any investigations/complaints/lawsuits
- Service standards and policies reflecting the Valley Link service model and coverage selected
- Updated Language Assistance Plan to reflect additional venues/opportunities for interactions based on transit service plan
- Racial breakdown of membership of any Authority-appointed advisory committees, as well as information on encouragement of minority participation
- Information on siting analysis for new facilities
- Sub-recipient information, monitoring process and outcomes (if applicable)
- Additional requirements if Valley Link operates 50 or more fixed route-vehicles in peak service within an urbanized area with population of 200,000+

Fiscal Impact

There are no financial considerations at this time.

Recommended Action

Approve a Resolution (Attachment 2) which approves and authorizes submittal of the 2021 Title VI Program to the Federal Transit Administration.

ATTACHMENT 1



**Tri-Valley – San Joaquin Valley
Regional Rail Authority**

Title VI Program

Proposed for adoption March 10, 2021

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APPENDICES

- Appendix A: Title VI/Nondiscrimination/Social Equity Notice**
- Appendix B: Discrimination Complaint Instructions**
- Appendix C: Discrimination Complaint Form**
- Appendix D: Public Participation Plan**
- Appendix E: Language Assistance Plan**
- Appendix F: Evidence of Board adoption of Title VI Program**

INTRODUCTION

The Tri-Valley – San Joaquin Valley Regional Rail Authority ("the Authority," also known as "Valley Link") was established on January 1, 2018 by the State of California through the enactment of Assembly Bill 758 with the mandate to plan and deliver cost-effective and responsive transit connectivity between the Bay Area Rapid Transit (BART) system and the Altamont Commuter Express. The Feasibility Report adopted by the Authority's Board of Directors in October, 2019 identifies a proposed project. The Proposed Project is a new 42-mile, 7-station passenger rail project that will connect the existing Dublin/Pleasanton BART Station in Alameda County to the planned Altamont Corridor Express (ACE) North Lathrop Station in San Joaquin County utilizing existing transportation rights-of-way where feasible. As initially envisioned, regular service is planned to run throughout the day in both directions with timed connections with both BART and ACE services. Initial Operating Segments are also under consideration from the Dublin/Pleasanton BART Station to either the Greenville or Mountain House Station. Valley Link promotes social equity by providing transit to jobs in the Bay Area for some of the most disadvantaged communities in California. These include essential jobs that are critical to the entire megaregion.

As of adoption of Valley Link's first Title VI Program, an Environmental Impact Report (EIR) is currently being completed for the Project. The Authority expects to certify a project in May of 2021 and plans soon after to initiate federal environmental review with the Federal Transit Administration (FTA) tentatively identified as the lead agency. It is also anticipated that the Authority will be an applicant for federal financial assistance for the next phases of work to plan and construct and/or obtain the infrastructure and rolling stock needed to launch Valley Link service, in whatever form(s) is/are selected at the end of the environmental process.

TITLE VI ANNUAL CERTIFICATIONS AND ASSURANCES

In accordance with 49 CFR Section 21.7(a), with every application for financial assistance from the FTA, the Authority will submit an assurance that it will carry out its programs in compliance with Department of Transportation's (DOT) Title VI regulations. Upon becoming a federal grantee, the Authority also will submit its Title VI assurance as part of its annual Certifications and Assurances to the FTA, assuring compliance with laws and regulations so that no person will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA funded program or activity, particularly in the level and quality of transportation services and transportation-related benefits, on the basis of race, color, or national origin.

TITLE VI COMPLIANCE HISTORY

The Authority has not previously received funding from any Federal agency, and has no pending applications for assistance with any Federal agency. No Federal agency has ever found the Authority to be in noncompliance with any civil rights requirement.

TITLE VI PROGRAM

NOTIFY BENEFICIARIES OF PROTECTION UNDER TITLE VI

The Authority posts a non-discrimination notice, including but not limited to categories protected under Title VI, to inform the public that the agency complies with Title VI regulations and to provide information about how Title VI protects the public from discrimination based on race, ethnicity and national origin. This notice is posted in English and Spanish on the Valley Link website and in public areas at the Authority's Administration & Operations Facility on Rutan Court in Livermore, California. The notice, in English and Spanish, is provided as Appendix A. It will be translated into the other languages identified as "Safe Harbor" languages in the Language Assistance Plan by the end of 2021.

TITLE VI DISCRIMINATION COMPLAINT PROCEDURES

How to Make a Complaint

The Authority provides instructions on how to find additional information on Valley Link's Title VI Program and how to file a claim of discrimination via our website, www.valleylinkrail.com. Instructions on how to file a claim of discrimination are available in English and Spanish on the website. The public is instructed to call or visit the Administrative office for more information. A copy of the instructions is provided as Appendix B. It will be into the other languages identified as "Safe Harbor" languages in the Language Assistance Plan by the end of 2021.

A complaint form is provided in both English and Spanish and can be downloaded from the website or provided by the Title VI Coordinator. Complaint forms will be translated into the other languages identified as "Safe Harbor" languages in the Language Assistance Plan upon request. A copy of the complaint form is provided as Appendix C.

Title VI Complaint Procedures

The Authority has a file established for Title VI complaints. This file is stored at the Authority's office located at 1362 Rutan Court, Suite 100, Livermore, CA. Though the Authority has not yet received any Title VI complaints, any complaints will be investigated by the Authority's Third Party Claims Adjuster. A record of the investigation will accompany a copy of the original complaint in the case file. Additionally, any notification of legal action, as well as the results of any legal action, will be filed with the original complaint and investigation documents.

Procedures

1. Upon receipt of a complaint regarding a violation of civil rights, a case folder is created with the name of the person filing the complaint and the date of the filing.
2. A copy of the complaint is placed in the case folder.
3. The case folder is filed within the Title VI file.
4. The original complaint is submitted to the Authority's Third Party Claims Adjuster for an investigation.
5. Any additional correspondence from the person filing the complaint will be handled in the same manner with a copy being placed in their case folder.

6. Any correspondence from the Third Party Claims Adjuster or legal counsel pertaining to the claim will also be filed in the case folder.
7. If the Third Party Claims Adjuster determines it necessary, they will forward the claim to legal counsel.

TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS RECORDS

There have been no Title VI complaints, investigations, or lawsuits against the Authority since it was created.

PUBLIC PARTICIPATION PLAN

The Authority's first Public Participation Plan is included as Appendix D. The Public Participation Plan ensures that there is a process established to solicit and consider public comment prior to making significant decisions about future capital projects and transit services, and that outreach to minority and/or limited English proficient (LEP) populations occurs during every public comment period. The Public Participation Plan identifies a multi-faceted approach to reaching diverse populations within the Authority's anticipated service area, including the LEP and minority populations. The Public Participation Plan will be used to inform decisions on outreach in other situations, and will be updated as needed to reflect current best practices and community needs and resources. The Public Participation Plan will be updated no later than when the Authority is preparing to launch Valley Link service.

LANGUAGE ASSISTANCE TO PERSONS WITH LIMITED ENGLISH PROFICIENCY

A copy of the Authority's first Language Assistance Plan for people with Limited English Proficiency (LEP) is provided as Appendix E. The Language Assistance Plan will be updated no later than when the Authority is preparing to launch Valley Link service.

RACIAL BREAKDOWN OF AUTHORITY'S APPOINTED COMMITTEES

The Authority does not yet have any appointed committees.

REPORTING SUBRECIPIENT COMPLIANCE

The Authority has no subrecipients.

EQUITY ANALYSIS FOR THE LOCATION OF NEW CONSTRUCTION

The Authority has not located or constructed any facilities thus far. The Authority will conduct the required equity analysis for facilities citing whenever future new facilities are considered.

FIXED ROUTE TRANSIT PROVIDER REQUIREMENTS

Valley Link currently does not operate any transit services.

SERVICE STANDARDS AND POLICIES

At this point in the development of Valley Link, the Authority has not determined the precise mode of travel to be operated, its frequency, its precise service area, or related amenities.

Once such decisions are made, the Authority will adopt quantitative service standards (e.g., for vehicle load, headways, on-time performance and service availability) and qualitative service policies (e.g., for transit stop amenities and vehicle assignment), as described in FTA Circular FTA C 4702.1B, to develop and maintain efficient and effective fixed-route transit service.

APPENDIX A

TITLE VI/NON-DISCRIMINATION/SOCIAL EQUITY POLICY STATEMENT

The Tri-Valley – San Joaquin Valley Regional Rail Authority (Valley Link) is committed to ensuring that no person is excluded from participation in, nor denied the benefits of, its programs, activities or services on the basis of race, color, national origin, age, sex, sexual orientation, gender identity or disability.

Valley Link will ensure that its programs, policies and activities comply with Title VI of the Civil Rights Act of 1964, as amended, and Department of Transportation regulations.

Any person who believes they have been discriminated against with respect to Valley Link's programs, activities, services, or other transit related benefits, may file a written complaint within 180 days of the alleged incident. Complaint forms are available at Valley Link Administration, 1362 Rutan Court, Suite 100, Livermore, CA, 94551; and on the web at www.valleylinkrail.com. You also may file a complaint of discrimination based on race, color or national origin with the Federal Transit Administration through its Office of Civil Rights, Title VI Program Coordinator, East Building, 5th floor-TCR, 1200 New Jersey Ave., SE, Washington DC 20590.

[[Spanish language translation to be added before submittal to FTA]]

APPENDIX B**TITLE VI/DISCRIMINATION COMPLAINT PROCEDURE**

The Tri-Valley – San Joaquin Valley Regional Rail Authority ("Authority" or "Valley Link") grants all citizens equal access to all its transportation services. It is further the intent of the Authority that all citizens are aware of their rights to such access. This procedure is designed to serve as an educational tool for citizens so that they may understand the civil rights laws that protects against discrimination that could result from Valley Link programs and services, specifically including Title VI of the Civil Rights Act of 1964.

What is Title VI?

Title VI is a section of the Civil Rights Act of 1964 requiring that “No person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” Note that Title VI does not address discrimination based on other factors, such as gender, sexual identity or disability. It only covers race, color and national origin, including limited English proficiency. Other Civil Rights laws prohibit other forms of discrimination.

How do I file a complaint?

Any person who believes she or he has been discriminated against by Valley Link may file a Title VI / discrimination complaint by completing and submitting Valley Link’s Title VI / Discrimination Complaint Form. The Authority investigates complaints received no more than 180 days after the alleged incident. Valley Link will process complaints that are complete.

Methods of filing a complaint

The preferred method is to file your complaint in writing using the Title VI / Discrimination Complaint Form, and sending it to:

Title VI Coordinator
Tri-Valley – San Joaquin Valley Regional Rail Authority
1362 Rutan Court, Suite 100
Livermore, CA 94551
equity@valleylinkrail.com

Once the complaint is received, the Authority will review it to determine if the Authority has jurisdiction to investigation and respond. The Authority will send an acknowledgement letter within 10 days informing the complainant whether the complaint will be investigated by the Authority.

Investigations

The investigation will address complaints against any of the Authority's department(s). The investigation will be conducted in conjunction with and under the advice of the Authority's Third Party claims Adjuster.

The investigation may include discussion(s) of the complaint with all affected parties to determine the problem. The complainant may be represented by an attorney or other representative of his/her own choosing and may bring witnesses and present testimony and evidence in the course of the investigation.

The investigation will be conducted and completed within 60 days of the receipt of the formal complaint. If more information is needed to resolve the case, the Authority may contact the complainant. The complainant has 5 business days from the date of the letter to send requested information to the investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within 5 business days, the Authority can administratively close the case. A case also can be administratively closed if the complainant no longer wishes to pursue their case.

Based upon all the information received, an investigation report will be written by the Third Party Claims Adjuster for submittal to the Title VI Administrator and Executive Director. The complainant will receive a letter stating the final decision of the Executive Director by the end of the 60-day time limit. One of two letters to the complainant will be issued: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and the case will be closed. An LOF summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur. If the complainant wishes to appeal the decision, she/he has 10 days after the date of the letter or the LOF to do so.

A person may also file a complaint of discrimination based on race, color or national origin directly with the Federal Transit Administration, at:

Federal Transit Administration
Office of Civil Rights
Attn: Complaint Team
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

[[Spanish language translation to be added before submittal to FTA]]

APPENDIX C

TITLE VI / DISCRIMINATION COMPLAINT FORM

The Tri-Valley – San Joaquin Valley Regional Rail Authority / Valley Link is committed to ensuring that no person shall be excluded from the equal distribution of its services and amenities because of race, color, national origin (including language), age, sex, sexual orientation, gender identity or disability. Any person who believes they have been discriminated against based on one of these categories may file a complaint. Complaints must be filed within 180 calendar days of the incident.

Within 10 working days of receipt of your completed complaint form, Valley Link will contact you to confirm receipt of your complaint form and begin an investigation (unless the complaint is filed with an external entity first or simultaneously). The investigation may include discussion(s) of the complaint with all affected parties to determine the nature of the problem. The investigation generally will be conducted and completed within 60 days of receipt of a complete complaint form. Based upon all information received, an investigation report will be submitted to the Executive Director. The complainant will receive a letter stating Valley Link's final decision by the end of the 60-day time limit.

Please complete the information below and send to:

Tri-Valley – San Joaquin Valley Regional Rail Authority
Attn: Title VI Coordinator
1362 Rutan Court, Suite 1
Livermore, CA 94551
equity@valleylinkrail.com

SECTION 1 - CONTACT INFORMATION

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: (Home) _____ (Cell) _____ (Work) _____

[Please note if any of the phone numbers are for a TDD or TTY.]

E-mail: _____@_____

SECTION 2 – FILING FOR ANOTHER PERSON

Are you filing this complaint on your own behalf? ___ Yes ___ No

[If you answered "yes" to this question, go to Section 3.]

If not, please supply the name and relationship of the person for whom you are filing the complaint: _____

Please explain why you have filed for a third party. _____

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party. ___ Yes ___ No

SECTION 3 – DISCRIMINATION COMPLAINT

Which of the following describes the reason you believe the discrimination took place? Was it because of your:

- ___ Race ___ Color ___ National Origin (including language)
- ___ Age ___ Sex ___ Sexual orientation or gender identity
- ___ Disability

If complaint is based on race, color or national origin, please describe the Race, Color or National Origin of the aggrieved party _____

Date and time the alleged discrimination took place:

Date ___/___/___ Time _____ a.m. / p.m.

Where did the alleged discrimination take place? Specific vehicle information is helpful (e.g. vehicle number).

Is there a person you can identify who discriminated against the aggrieved party?

Name: _____ ID# _____

In your own words, describe the alleged discrimination. Explain what happened and who you believe was responsible. Please use additional sheets if necessary.

SECTION 4 – PREVIOUS OR EXISTING COMPLAINTS AND LAWSUITS

Have you previously filed a discrimination complaint with Valley Link?

___ Yes, for this incident ___ Yes, for a different incident ___ No

Have you filed this complaint with any other agencies or a court?

___ Federal Agency ___ State Agency ___ Local Agency

___ Federal court ___ State court

___ Other (please specify): _____

Have you filed a claim or lawsuit regarding this complaint? Yes ___ No ___

If yes, please provide a copy of the complaint form and note court where filed:

___ Federal Court ___ State Court

Please provide contact person information for the agency/court where the complaint was filed.

Name / Office: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number _____

SECTION 5 – SIGNATURE

Please sign below to attest to the truthfulness of the above. You may attach any written materials or other information that you think is relevant to your complaint.

Complainant’s Signature

Date

Note: A complaint related to discrimination based on race, color or national origin also may be filed with: Federal Transit Administration, Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor – TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.

[[Spanish language translation to be added before submittal to FTA]]

APPENDIX D

PUBLIC PARTICIPATION PLAN

Insert adopted plan

APPENDIX E

EVIDENCE OF BOARD ADOPTION OF TITLE VI PROGRAM

Insert resolution and/or minutes of March 10, 2021 Board meeting

APPENDIX E

LANGUAGE ASSISTANCE PLAN

Insert adopted plan

ATTACHMENT 2



RESOLUTION NO. R04-2021

* * *

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRI-VALLEY-SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY APPROVING AND AUTHORIZING SUBMITTAL OF THE 2021 TITLE VI PROGRAM TO THE FEDERAL TRANSIT ADMINISTRATION

WHEREAS, the Federal Transit Administration (FTA), an operating administration of the United States Department of Transportation, has been authorized to provide funding to support public transportation under 49 U.S.C. Chapter 53, and other federal statutes administered by the FTA; and

WHEREAS, Title VI of the Civil Rights Act of 1964 requires recipients of federal financial assistance to operate their programs and services without regard to, or discrimination based on, race, color or national origin; and

WHEREAS, the FTA issued Circular FTA C 4702.1B, effective October 1, 2012, setting forth requirements and guidelines for Title VI compliance for its grantees; and

WHEREAS, the above-referenced Circular details required elements of a Title VI Program, which the FTA requires each recipient of FTA grants and assistance to submit before receiving federal financial assistance for the first time and then every three years on a schedule established by the FTA to evidence grantees' compliance with Title VI; and

WHEREAS, the Tri-Valley – San Joaquin Valley Regional Rail Authority (Authority), as a potential future recipient of federal financial assistance from the FTA, must submit an updated Title VI Program to the FTA before submitting an application for assistance; and

WHEREAS, the Authority's initial Title VI Program must include, in part:

1. A notice of rights provided under Title VI of the Civil Rights Act of 1964;
2. A discrimination complaint form and process;
3. A Public Participation Plan, including descriptions of prior public participation activities undertaken by the Authority; and
4. A plan for engaging persons with limited English proficiency; and

WHEREAS, staff has developed and provided a proposed Title VI Program for Board consideration and approval including the above-referenced items, which is partially attached as Attachment 1 and shall include the Public Participation Plan and Language Assistance Plan presented for Board review under Agenda Items 8.b and 8.c, respectively, at this March 10, 2021 Board meeting.

NOW, THEREFORE, BE IT RESOLVED BY the Tri-Valley-San Joaquin Valley Regional Rail Authority Board of Directors:

1. Adopts the Authority's 2021 Title VI Program, in a form consistent with that attached as Attachment 1;
2. Adopts and authorizes staff to incorporate into the Title VI Program the Public Participation Plan and Language Assistance Plan presented as Agenda Items 8.b and 8.c, respectively, during this March 10, 2021 Board of Directors meeting;
3. Authorizes staff to complete and incorporate Spanish-language translations of certain elements of the Title VI Program as noted in Attachment 1;
4. Authorizes the Executive Director to submit the Authority's complete initial Title VI Program to the Federal Transit Administration and take any other steps necessary to give effect to this Resolution, including responding to any follow-up inquiries from the FTA and making any revisions to the Program required by the FTA after it reviews of the Program.

Regularly passed and adopted this 10th day of March, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Veronica Vargas, Chair

ATTEST:

Michael Tree, Executive Director

CERTIFICATION

The undersigned duly qualified Executive Director, acting on behalf of Tri-Valley-San Joaquin Valley Regional Rail Authority, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Tri-Valley-San Joaquin Valley Regional Rail Authority Board of Directors held on _____, 2021.

Michael Tree, Executive Director

Date

AGENDA

ITEM 9





Tri-Valley San Joaquin Valley
REGIONAL RAIL AUTHORITY

STAFF REPORT

SUBJECT: Presentations on Upcoming Actions on Federal Grantee Requirements

FROM: Michael Tree, Executive Director, and Michael Conneran, General Counsel

DATE: March 10, 2021

Action Requested

Informational item only.

Background/Discussion

In conjunction with the agenda items relating to FTA Grantee Requirements, an oral report will be provided at the Board meeting regarding:

- a. Disadvantaged Business Enterprise (DBE) Program
- b. Equal Employment Opportunity (EEO) Program
- c. Transit Asset Management (TAM) Plan
- d. Public Transportation Agency Safety Plan (PTASP)
- e. Cyber Security Policy
- f. Rail Safety Training and Oversight

AGENDA

ITEM 10





Tri-Valley San Joaquin Valley **REGIONAL RAIL AUTHORITY**

STAFF REPORT

SUBJECT: Employment Agreement with Deputy Executive Director/Program Manager

FROM: Michael Tree, Executive Director

DATE: March 10, 2021

Action Requested

Approve terms of the Employment Agreement of Deputy Executive Director/Program Manager and authorize the Executive Director to sign an Employment Agreement as approved by Legal Counsel.

Background/Discussion

In March of 2020, Mr. Ric Rattray was seconded from the BART organization to serve as the Rail Authority's Program Manager. Mr. Rattray has 35 years of experience in rail project delivery, including the recently-completed BART to Antioch project, known as eBART. Since March of 2020, Mr. Rattray has provided valuable leadership as the Rail Authority has continued to move forward quickly with the Valley Link project, including the completion of the 12-minute headway analysis to accommodate crush load ridership, the engineering of infrastructure required by 12-minute headway, the completion of the draft EIR and associated 15% design, and significant work towards by Caltrans for work to be performed on the I-580 to accommodate Valley Link.

On March 19, 2021, Mr. Rattray will retire from BART and has offered his services and expertise to the Rail Authority. In reviewing the workloads at the Rail Authority, it is the recommendation of the Executive Director to hire Mr. Rattray as the Rail Authority's Deputy Executive Director/Program Manager. Negotiation are ongoing with Mr. Rattray and a report will be provided to the Board of Directors at the March meeting.