

**AGREEMENT FOR DESIGN SERVICES
BETWEEN
CITY OF SAN JOSE
AND
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
FOR
THE CAPITOL EXPRESSWAY LIGHT RAIL (CELR) PEDESTRIAN IMPROVEMENTS
PROJECT (PHASE 1)**

THIS AGREEMENT is made and entered into this ____ day of _____ 2010, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and the SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, a public agency organized as a special district under California law (hereinafter "VTA").

RECITALS

WHEREAS, the City and VTA desire design services for Capitol Expressway Light Rail (CELR) Pedestrian Improvements Project (Phase1) ("PROJECT"), and other related services as outlined in EXHIBIT A; and

WHEREAS, the design services include: Bid Issue level (100%) street and pedestrian lighting, landscaping, irrigation and hardscape design; and;

WHEREAS, CITY has the necessary professional expertise and skill to perform such services;

NOW, THEREFORE, the purpose of this AGREEMENT is to retain CITY to perform those services specified in SECTION 1 of this AGREEMENT.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CITY shall perform those services specified in detail in EXHIBIT A, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from the date of execution to June 30, 2011, inclusive, subject to the provisions of SECTION 10 of this AGREEMENT.

SECTION 3. SCHEDULE OF PERFORMANCE.

The services of CITY are to be completed according to the schedule set out in EXHIBIT B, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein.

SECTION 4. COMPENSATION.

The compensation to be paid to CITY for professional services and authorized reimbursable expenses, if any, shall not exceed THREE HUNDRED NINE THOUSAND TWO HUNDRED TWENTY FIVE DOLLARS (\$309,225.00). The rate and schedule of payment is set out in EXHIBIT C, entitled "COMPENSATION," which is attached hereto and incorporated herein.

SECTION 5. METHOD OF PAYMENT.

CITY shall periodically furnish to the VTA a statement of the work performed for compensation during the preceding period. Such statement shall also include a detailed record of the period's actual reimbursable expenditures. Such statement shall be sent to the following address:

VTA - Accounts Payable

3331 N. First Street, Building A

San Jose, CA 95134-1906

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that CITY, in the performance of the work and services agreed to be performed by CITY, shall act as and be an independent contractor and not an agent or employee of VTA.

SECTION 7. ASSIGNABILITY.

The parties agree that the expertise and experience of CITY are material considerations for this AGREEMENT. CITY shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CITY's obligations hereunder, without the prior written consent of VTA, and any attempt by CITY to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect. Notwithstanding the foregoing, the CITY may use subconsultants in performing the work under this AGREEMENT based upon the prior written approval of VTA's Project Manager. CITY shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY shall be solely responsible to the VTA for the content and quality of services and work product of each subconsultant. CITY shall not change or add or delete subconsultants without prior written approval of the VTA's Project Manager.

SECTION 8. INDEMNIFICATION.

Pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify, defend and hold the other party, its officers, employees and agents, harmless from any damage or liability imposed for injury (as defined in Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful

misconduct of the indemnifying party, its officers, employees or agents, arising out of or in connection with any work performed under this AGREEMENT. Neither party, nor any officer, employee or agent thereof, shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its officers, employees or agents, arising out of or in connection with any work performed under this AGREEMENT.

SECTION 9. NONDISCRIMINATION.

CITY shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 10. TERMINATION.

A. If either party hereto fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, the other party may terminate this AGREEMENT immediately upon written notice.

B. CITY's Director of Public Works is empowered to terminate this AGREEMENT on behalf of CITY. VTA's Chief E&C Officer is empowered to terminate this AGREEMENT on behalf of VTA.

C. In the event of termination, CITY shall deliver to VTA copies of all reports, documents, and other work performed by CITY under this AGREEMENT, and upon receipt thereof, VTA shall pay CITY for services performed and authorized reimbursable

expenses incurred to the date of termination in accordance with the provisions of EXHIBIT C.

SECTION 11. GOVERNING LAW.

CITY and VTA agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 12. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for CITY in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by VTA, or as required by law.

SECTION 13. OWNERSHIP OF MATERIALS.

All reports, documents or other materials prepared by CITY or any other person engaged directly or indirectly by CITY to perform the services required hereunder, upon delivery thereof by CITY, shall become the property of VTA, and shall be used for the purposes of constructing, using and maintaining the elements of the PROJECT for which they were prepared, and for no other purpose without the consent of CITY (which consent CITY may withhold in its sole and absolute discretion), and CITY shall have no liability for any such non-consensual use.

SECTION 14. WAIVER.

The failure of either party to insist upon the strict performance of any of the terms, covenant and conditions of this AGREEMENT shall not be deemed a waiver of any right or remedy that either party may have, and shall not be deemed a waiver of their right to require strict performance of all of the terms, covenants, and conditions thereafter.

SECTION 15. CITY'S BOOKS AND RECORDS.

A. CITY shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to VTA for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CITY pursuant to this AGREEMENT.

B. CITY shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.

C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to VTA, at any time during regular business hours, upon written request by Chief E&C Officer. Unless an alternative is mutually agreed upon, the records shall be available at CITY's address indicated for receipt of notices in this AGREEMENT.

SECTION 16. DISPUTE RESOLUTION.

If a question arises regarding interpretation of this AGREEMENT or its performance, or the alleged failure of a party to perform, the party raising the question or making the allegation shall give written notice thereof to the other party. The parties shall promptly meet in an effort to resolve the issues raised. If the parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or binding arbitration, may be pursued by mutual agreement. It is the intent of the parties to the extent possible that litigation be avoided as a method of dispute resolution.

SECTION 17. NOTICES.

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY: City of San Jose
Department of Public Works
Katy Allen, Director of Public Works
200 E. Santa Clara Street, 5th Floor
San Jose, CA 95113-1905

To VTA: Santa Clara Valley Transportation
Authority
Mark S. Robinson, Chief E&C Officer
3331 North First Street, Bldg. A
San Jose, CA 95134-1906

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 18. VENUE.

In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

SECTION 19. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or

written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.

SECTION 20. WARRANTY OF AUTHORITY TO EXECUTE AGREEMENT.

Each party to this AGREEMENT represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this AGREEMENT on behalf of the entity that is a party to this AGREEMENT.

SECTION 21. SEVERABILITY.

If any term, covenant, condition or provision of this AGREEMENT, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this AGREEMENT, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

"CITY"

APPROVED AS TO FORM:

**CITY OF SAN JOSE, a municipal
corporation**

KENNETH D. JOHNSON
Senior Deputy City Attorney

By _____
LEE PRICE, MMC
City Clerk

200 E Santa Clara St., Wing 2nd Floor
San Jose, CA 95113-1905

"VTA"

APPROVED AS TO FORM:

**THE SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY, a
public agency**

KEVIN D. ALLMAND
General Counsel

By _____
MICHAEL T. BURNS
General Manager

EXHIBIT A
SCOPE OF SERVICES

GENERAL PROJECT DESCRIPTION

CITY shall provide Bid Issue level (100%) street and pedestrian lighting, landscaping, irrigation and hardscape design services for the PROJECT. The PROJECT location is shown in Exhibit A-1.

Below is a summary of tasks for CITY services which shall consist of the following seven (7) main activities:

- Task 1 - Project Management and Coordination
- Task 2 - Site Investigation/Background Gathering
- Task 3 – Conceptual Corridor Lighting Study
- Task 4 - Lighting Confirmation Design
- Task 5 - Bid Issue Lighting Plans, Specifications and Estimate
- Task 6 - Landscaping Confirmation Design
- Task 7 - Bid Issue Landscaping Plans, Specifications and Estimate

All design services will be performed under the responsible charge of a California registered engineer and City shall follow VTA developed Design Management Plan (DMP) for the project.

City will identify utility service points and design of necessary infrastructure to serve streetlight and landscaping needs on the project. The VTA shall coordinate the necessary service connection agreements with the respective utility companies.

TASK 1 Project Management and Coordination

VTA shall serve as project manager for entire PROJECT. VTA's Project Manager shall be Ken Ronsse and his written designee, the Project Manager may be changed upon written notice to CITY. CITY designates John Cannon, Senior Engineer, as the project manager for the services under this AGREEMENT, who shall be responsible for initiating the services, developing an Engineering Work Plan, implementing the services management procedures and controls, and maintaining effective communications among the CITY, VTA and its consultants (R&M) and other involved agencies and organizations regarding the services. The working interface between the CITY and VTA shall be defined by the following:

1. Within fifteen (15) days after execution of this AGREEMENT, the CITY shall submit an Engineering Work Plan that shall include the following:

- a. Description of the CITY's approach to perform the scope of services, including any constraints, specific strategies, or special considerations that apply.
 - b. The roles and responsibilities of the PROJECT team members. Any changes to the CITY's Project Manager shall be reviewed and approved by the VTA's Project Manager.
 - c. Procedures for maintaining services quality control and adherence to services budget and schedule.
 - d. A project services schedule in bar chart format which shall detail the overall activities of each subtask in an appropriate time frame consistent with the duration of this AGREEMENT.
 - e. A Control Budget which shall specify the overall monthly cost and manpower forecasts for each subtask of services.
2. The Engineering Work Plan shall include a degree of detail appropriate to the services phase or task completed, as reasonably determined by VTA's Project Manager, and shall be progressively more detailed as engineering progresses. The Engineering Work Plan shall be updated by CITY upon the completion of each of the Tasks or as deemed necessary by the VTA's Project Manager.
 3. During the performance of services, the CITY shall furnish Monthly Engineering Progress Reports which will include the following:
 - 1) A narrative report of specific milestones accomplished during the reporting period, problems encountered or anticipated, future goals or tasks to be scheduled for the next reporting period, and review dates and results of quality control programs, technical evaluations, and inspections related to the design services.
 - 2) A cost report that shows, for each task, the current period and cumulative expenditures to date, the estimated cost to completion, the approved budget, and a comparison of the latter two to show any variation.
 - 3) An updated project services schedule that compares actual to planned performance in terms of time and percent complete for each task.
 4. Teleconference meetings shall be held on a weekly basis between VTA's Project Manager and CITY's Project Manager to review services budget and schedule status and discuss any issues or potential issues that arise.
 5. Throughout the performance of the services, CITY's Project Manager shall regularly monitor services progress as compared with budget expenditures and schedule to assure that the services are on track and resources are being appropriately utilized. The budget and schedule status reports described above comprise an important part of this Project Management activity.

Successful implementation of the services will involve the cooperation of a number of stakeholders, as determined by the VTA's Project Manager. Various VTA Departments and consultants, and CITY Departments and Agencies will need to cooperate and work together during all phases of the services.

CITY will participate in up to eight (8) chartering, design initiation, design review, and project integration meetings, with respect to street and pedestrian lighting, landscaping irrigation and hardscape design services, as scheduled by the VTA's Project Manager. At a minimum, CITY's Project Manager and up to a maximum of two (2) CITY project team members shall attend such project meetings on an as-needed basis.

VTA's Project Manager shall be responsible for coordinating all comments and other input regarding the services from the various VTA Departments and consultants, as well as other stakeholders (such as the results of community outreach efforts conducted by VTA) which comments and other input shall be delivered in written form through VTA's Project Manager to CITY's Project Manager; CITY shall only accept direction from the various VTA Departments and consultants, and other stakeholders, in this manner.

TASK 2 Site Investigation/Background Gathering

The VTA shall provide CITY with all available existing utility mapping, including gas and electrical, telecommunications, water (potable & recycled water), and others as applicable. This information will be required no less than thirty (30) days following the date of this AGREEMENT. CITY will review information thus obtained and shall perform a site visit of the full extent of the PROJECT site, as shown in EXHIBIT A-1, to determine if there are any apparent utility conflicts with the street and pedestrian lighting, landscaping, irrigation and hardscape design services which are the subject of design/re-design. The site investigation shall be limited to a review of available plans provided by the VTA (or obtained from utility companies) showing utilities or easements, and visiting and inspecting the surface of the site itself. The CITY is responsible to verify with each utility owner that the utility plans obtained from the VTA are the most current; in the event updated plans are required, the Schedule of Performance shall be extended as reasonably required to permit CITY to obtain same.

If, as a result of its site investigation, the CITY identifies possible utility conflicts with the proposed street and pedestrian lighting, landscaping and irrigation design, including hardscape design services, the CITY shall coordinate with the appropriate VTA departments and/or utility companies to confirm the location and nature of the conflicts in question and identify possible solutions to such conflicts. CITY will recommend a course of action to VTA to resolve any such conflicts; provided, however that VTA shall be responsible for conducting negotiations, and reaching final resolution, with the utility companies. The Schedule of Performance shall be extended as reasonably required to permit resolution of any such conflicts. VTA shall provide CITY with written direction on how to proceed with design.

The VTA shall provide the CITY with roadway geometry and intersection layouts no less than thirty (30) days following the date of this AGREEMENT.

TASK 3 Conceptual Corridor Lighting Study

The scope of services for Lighting Design will be limited to the design of lighting for the street and pedestrian lighting portion within the PROJECT site based upon the 95% LRT plans dated June 2008, provided by the VTA. Specifications and estimates are also part of the Lighting Design scope of services.

Conceptual lighting designs will be provided for two (2) design options for the corridor that show spacing of new and/or relocated luminaires for each option meeting lighting requirements. CITY will use the AGI32 lighting program (Version 2.0 or later) by Lighting Analysts to perform the illumination calculations. Design options will show the lane configuration, type, distribution and wattage of luminaires, pole configuration, arm length, mounting height, spacing and the light level results. Lighting design will be based on the width of the roadway and placing luminaires along the curb line within the PROJECT location. CITY will work with Santa Clara County and VTA to determine the type of roadway and decorative pedestrian light fixture(s) to be used in the corridor.

The optimizer function shall be used for the conceptual lighting design. Direct calculation mode shall be used for preliminary illumination calculation. Illuminance calculations (Average illuminance levels and uniformity) will be provided. Illuminance and uniformity standards will be based on County and CITY standards (where applicable) and the Illuminating Engineering Society of North America (IESNA) *American National Standard Practice for Roadway Lighting*, RP-8-00. It is assumed that the average illuminance for each of the corridors will be per County and CITY Standards. Illumination Design shall conform to County and CITY construction requirements and use only standard stock materials.

A Conceptual Corridor Lighting Study, along with a preliminary illumination design technical memorandum shall be provided to summarize design standards, assumptions and the calculation results. A preliminary illumination design technical memorandum will be submitted in PDF format with an electronic copy of the AGI analysis. VTA and County will review and provide comments.

Deliverables:

- Conceptual Corridor Lighting Study
- Preliminary Illumination Design Technical Memorandum

TASK 4 Lighting Confirmation Design

The City of San Jose will prepare a Final Lighting Design Package for the street and pedestrian lighting portions of the Capitol Expressway Pedestrian Improvements Project based on the 95% LRT plans dated June, 2008, provided by the VTA. City of San Jose will work with County and VTA team to determine the type of decorative roadway and pedestrian light fixture(s) to be used in the corridor and provide illumination plans.

Work will include developing all lighting sheets to reflect mutually agreed to types and locations of poles, fixtures, conduit/wiring schedule and breaker/transformer control cabinet and service points along the corridor. Final Lighting Design plan sheets will indicate type and locations for roadway and pedestrian luminaires as well as proposed electrical services and power sources. A Luminaire pole schedule will be developed to show luminaire pole location (station, offset), luminaire type, pole type, pole height, arm length, and foundation type.

VTA shall provide drafting format standards, along with sheet borders and numbering scheme for the CITY to conform to when preparing the drawings. VTA templates into which CITY's work product will be incorporated shall be provided to CITY in AutoCAD 2009 compatible format.

CITY shall prepare designs in compliance with the requirements of the 1992 City of San Jose Standard Specifications and the 1992 City of San Jose Standard Plan Details, and mutually agreed modifications suitable for the PROJECT.

All plans will be submitted to the VTA in hard copy (half-size plan set) and electronically in AutoCAD (version 2009) and PDF format. VTA and County will provide comments.

Upon receipt of comments from VTA and County, CITY will prepare a Lighting Confirmation Design Package that responds to the provided comments. Lighting Plans (developed in 200 Scale, Metric), and Specifications will be developed and submitted in hard copy (Six (6) half-size plan sets) and electronically in AutoCAD (version 2009) and PDF format. CITY will also provide estimated quantities and an opinion of probable cost on a level of detail and accuracy appropriate to the Lighting Confirmation Design.

CITY will also submit a response to comments matrix that clearly documents responses to all plan review comments submitted by the VTA, County and Rajappan and Meyer team on the Final Lighting Design submittal.

Deliverables:

- Final Lighting Design Package
- Response to Comments Matrix: Final Lighting Design Comments
- Lighting Confirmation Design Package

TASK 5 Bid Issue Lighting Plans, Specifications and Estimate

VTA will review and provide comments on the Lighting Confirmation Design Package including input from County roadway and R&M (civil engineering, and traffic engineering teams).

City of San Jose will prepare Bid Issue Lighting Plans and Specifications that respond to the provided comments and will also submit a response to comments matrix that clearly documents all comment responses. Wiring schematic, conduit/wiring schedule and breaker/transformer schedules will be developed. Temporary lighting during construction will be studied as part of the basic scope of services. Any special warranty submittal or maintenance requirements will also be included in the plans and specifications.

These refinements will be incorporated by the CITY into the Bid Issue Lighting Design Plans (developed in 200 Scale, Metric), and Specifications, which will be submitted in hard copy (Six (6) half-size plan sets) and electronically in AutoCAD (version 2009) and PDF format. CITY will also provide Bid Issue quantities and a final cost estimate on a level of detail and accuracy appropriate to the Bid Issue Design; provided, however, that CITY cannot and does not warrant or represent that actual quantities or costs will not vary from the Bid Issue quantities and final cost estimate.

Deliverables:

- Response to Comments Matrix: Lighting Confirmation Design Comments
- Bid Issue Lighting Plans and Specifications
- Final Quantities and Cost Estimate.

TASK 6 Landscaping Confirmation Design

The City of San Jose will prepare a Final Landscaping Design Package for the Capitol Expressway Pedestrian Improvements Project based on the 95% LRT plans dated June, 2008, provided by the VTA.

Work will include revising all landscaping, irrigation and hardscape sheets to reflect mutually agreed to types and locations of plant and landscape material, irrigation layout, control cabinet and service points along the corridor. All work will be designed to utilize space within existing rights of way except for bus stop locations where the right of way needs have been identified. Landscape plans will also be prepared for the Lake Cunningham Park frontage. Substitution of trees and shrubs to a "sustainable" list of trees and shrubs will be evaluated. City will also prepare specifications and estimate for the above design. All plans will be submitted in hard copy (half-size plan set) and electronically in AutoCAD (version 2009) and PDF format along with specifications and estimate. CITY will also provide estimated quantities and an opinion of probable cost on a level of detail and accuracy appropriate to the Confirmation level Design. In addition, City will incorporate sustainable design into landscape, irrigation and hardscape elements of the project per California Native Plant Society (CNPS) recommendations.

VTA shall provide drafting format standards, along with sheet borders and numbering scheme for the CITY to conform to when preparing the drawings. VTA templates into which CITY's work product will be incorporated shall be provided to CITY in AutoCAD 2009 compatible format.

CITY shall prepare designs in compliance with the requirements of the 1992 City of San Jose Standard Specifications and the 1992 City of San Jose Standard Plan Details, and mutually agreed modifications suitable for the PROJECT.

VTA will review and provide comments on the Final Landscaping Design Package, including input from County, and the roadway and civil engineering teams. Upon receipt of comments from VTA and County, CITY will prepare a Landscaping Confirmation Design Package that responds to the provided comments.

Landscaping Plans (developed in 200 Scale, Metric), and Specifications will be developed and submitted in hard copy (Six (6) half-size plan sets) and electronically in AutoCAD (version 2009) and PDF format. CITY will also provide estimated quantities and an opinion of probable cost on a level of detail and accuracy appropriate to the Landscaping Confirmation Design.

CITY will also submit a response to comments matrix that clearly documents all comment responses. VTA, County and Rajappan & Meyer team will review and provide comments on the Final Landscaping Design Package.

Deliverables:

- Final Landscaping Design Package
- Landscaping Confirmation Design Package
- Response to Comments Matrix: Final Landscaping Design Package Comments

TASK 7 Bid Issue Landscaping Plans, Specifications and Estimate

VTA will review and provide comments on the Landscaping Confirmation Design Package including input from County roadway and R&M (civil engineering, and traffic engineering teams). Upon receipt of comments from VTA and County, CITY will prepare a Bid Issue Landscaping C Design Package that responds to the provided comments. Any special warranty submittal or maintenance requirements will also be included in the plans and specifications.

These refinements will be incorporated by the CITY into the Bid Issue Landscaping, Design Plans (developed in 200 Scale, Metric), and Specifications, which will be submitted in hard copy (Six (6) half-size plan sets) and electronically in AutoCAD (version 2009) and PDF format. CITY will also provide final quantities and estimated cost estimate on a level of detail and accuracy appropriate to the Bid Issue level Design;

provided, however, that CITY cannot and does not warrant or represent that actual quantities or costs will not vary from the Bid Issue quantities and final cost estimate.

At the same time, the City of San Jose will also submit a response to comments matrix that clearly documents all comment responses.

Deliverables:

- Response to Comments Matrix: Landscaping Confirmation Design Comments
- Bid Issue Landscaping Plans and Specifications
- Final Quantities and Cost Estimate.

EXHIBIT A-1
(to be attached)

EXHIBIT B

SCHEDULE OF PERFORMANCE

Work shall commence immediately upon execution of this AGREEMENT. The CITY shall schedule work such that tasks are completed in accordance with the schedule shown below. The schedule shown below is based upon the assumption that the VTA (or applicable consultants, utilities, agencies) has provided to CITY in a timely manner all design development and other project-related documents necessary for CITY to perform the services covered by this AGREEMENT, and VTA provides complete review of and comments to all CITY submittals within fifteen (15) days of receipt thereof.

| Task Name | <u>Latest Completion Date</u> |
|------------------------------------------------------------------|--------------------------------------|
| Task 1: Project Management and Coordination | November 12, 2010 |
| Task 2: Site Investigation/Background Gathering | July 15, 2010 |
| Task 3: Conceptual Corridor Lighting Study | August 1, 2010 |
| Task 4: Lighting Confirmation Design | September 10, 2010 |
| Task 5: Bid Issue Lighting Plans, Specifications and Estimate | November 12, 2010 |
| Task 6: Landscaping Confirmation Design | September 10, 2010 |
| Task 7: Bid Issue Landscaping Plans, Specifications and Estimate | November 12, 2010 |

The VTA will have the authority to extend any of the above completion dates, provided such modifications are made to CITY in writing.

EXHIBIT C

COMPENSATION

A. Maximum Compensation

The maximum amount of compensation to be paid to CITY under this AGREEMENT, shall not exceed THREE HUNDRED NINE THOUSAND TWO HUNDRED TWENTY FIVE DOLLARS (\$309,225.00).

Compensation shall be subject to the following general restrictions: (1) Any hours worked and services rendered for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the VTA. (2) Once the VTA accepts a particular task as complete, CITY shall not bill any further services against the budget for that task even if unexpended amounts remain in the budget, unless authorized in advance in writing by the VTA.

B. Budget

The maximum compensation shall not exceed the indicated amount for the following work items:

| <u>Description</u> | <u>Maximum Amount</u> |
|-------------------------------------------------------------------|-----------------------|
| Services | |
| Task 1 - Project Management and Coordination | \$35,000 |
| Task 2 - Site Investigation/Background Gathering | \$40,000 |
| Task 3 - Conceptual Corridor Lighting Study | \$40,000 |
| Task 4 - Lighting Confirmation Design | \$35,000 |
| Task 5 - Bid Issue Lighting Plans, Specifications and Estimate | \$29,225 |
| Task 6 - Landscaping Confirmation Design | \$80,000 |
| Task 7 - Bid Issue Landscaping Plans, Specifications and Estimate | <u>\$50,000</u> |
| TOTAL | \$309,225 |

The VTA may shift any portion of the amounts set forth above to another item so long as the total does not exceed the maximum amount of compensation to be paid under the AGREEMENT. Any such adjustment must be in writing to be effective.

C. Invoices

1. CITY shall, during the term of this AGREEMENT, invoice the VTA for all services performed under this AGREEMENT, subject to the maximum amounts described in Exhibit C, Section B above. Invoices shall be prepared upon delivery to the

VTA of each of the Tasks described above. The invoice shall set forth a detailed description of the services performed during the completion of each deliverable, the amount of hours expended in performing those services, any authorized reimbursable expenses, and the total amount to be paid.

2. Provided the services covered by the invoice have been completed in accordance with the provisions of this AGREEMENT, VTA shall pay the CITY at the amount shown on the invoice within thirty (30) days of the date of the invoice.

D. Rate of Compensation for Professional Services

VTA agrees to compensate CITY at the following maximum hourly rates for professional services and Additional Services performed in accordance with the terms and conditions of this AGREEMENT set forth in Exhibit D-1.

E. Reimbursable Expenses

No expense incurred by the CITY in performance of the services hereunder shall be reimbursable unless the VTA Project Manager or written designee has preapproved, in writing, the incurrence of such expenses.

EXHIBIT C-1

| <u>CITY OF SAN JOSE</u> | |
|--------------------------------------------|----------------------------------------------|
| <u>HOURLY BILLING RATE SCHEDULE</u> | |
| <u>Job Category</u> | <u>Hourly Billing Rates (\$/hour)</u> |
| | |
| Senior Engineer | \$154 |
| Associate Engineer | \$127 |
| Engineer I/II | \$109 |
| Prin. Engr. Technician | \$109 |
| Suprv. Traffic Signal Technician | \$109 |
| Senior Engr. Technician | \$98 |
| Assoc. Engr. Technician | \$89 |
| | |
| Senior Landscape Architect | \$154 |
| Assoc. Landscape Architect | \$127 |
| | |