



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: COOPERATIVE AGREEMENTS
FOR BART EXTENSION TO
BERRYESSA**

DATE: January 3, 2012

Approved

Date

1/6/12

COUNCIL DISTRICT: 4

RECOMMENDATION

1. Approve two Cooperative Agreements, at no cost to the City, pursuant to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for design and construction of the BART extension to Berryessa relating to:
 - a. Reconstruction of the existing City-owned storm and sanitary sewer siphon at Lundy Avenue and former Union Pacific Railroad tracks.
 - b. Relocation of existing City utilities at Trade Zone Boulevard and former Union Pacific Railroad tracks.
2. Adopt a resolution authorizing the City Manager to negotiate and execute the following three Cooperative Agreements, at no cost to the City, pursuant to the Master Agreement with the VTA for the design, construction, and reimbursement relating to the BART project:
 - a. The construction of a new City street to be called "Berryessa Station Way", improvements to existing Berryessa Road and Mabury Road, and improvements to the existing storm drain system at Sierra Road and Lundy Avenue and reconfiguration of Sierra Road and Lundy Avenue.
 - b. A Cooperative Agreement for cost reimbursement for City of San Jose project management services in an amount not to exceed \$600,000 for the period of January 1, 2012 through December 31, 2014.
 - c. A Cooperative Agreement for cost reimbursement for City of San Jose design review, encroachment permits, and construction inspection services in an amount not to exceed \$4,100,000 for the period of January 1, 2012 through December 31, 2016.

January 3, 2012

Subject: Cooperative Agreements for BART Extension to Berryessa

Page 2 of 6

OUTCOME

The recommended actions help facilitate the design and construction of the BART extension to Berryessa including the design and construction of City streets, storm drains, sanitary sewers, water lines, and electrical facilities as needed to support timely implementation of the BART project.

BACKGROUND

In June 2010, the City and VTA entered into a Master Agreement, whereby both parties agreed to consult and cooperate on the planning, environmental review, preliminary engineering, final design and construction, and funding of the BART Berryessa Extension Project. The Master Agreement provided a framework for the on-going interaction between both parties and also provided the framework for subsequent agreements about specific project issues and future City funding.

Due to the size and complexity of the project, the City and VTA meet regularly to address major project design elements. Staff at this time is requesting Council approval of the proposed five Cooperative Agreements between the City and VTA to further establish and define responsibilities on specific design, construction, and maintenance issues for some major project elements and provide the funding necessary for City project management, design review, encroachment permits, and construction inspection services. The agreements serve the following purposes:

- The agreements reflect a strong working partnership with City of San José as required in part to fulfill Federal funding requirements for collaboration and resolution on major issues with local jurisdictions; and
- It is necessary for the City and VTA to establish design resolution for major design elements of the project prior to proceeding to the design-build process. Execution of the agreements will ensure that any proposed modifications by the design-build contractor to key City infrastructure will require coordination and collaboration.
- The agreements provide funding for City staff to provide project management, design review, encroachment permits, and inspection services for construction of the project as established by the Master Agreement.

The planning and construction of the BART project is progressing on schedule. On December 8, 2011, the VTA Board authorized awarding the design-build contract, with work starting in early 2012. The start of BART service at the Berryessa Station is planned for late 2016.

January 3, 2012

Subject: Cooperative Agreements for BART Extension to Berryessa

Page 3 of 6

ANALYSIS

Cooperative Agreements For Design and Construction

The three Design and Construction Cooperative Agreements discuss specific roles and responsibilities where San José and VTA will, at specific locations, cause changes to existing City infrastructure as a result of the BART project. The proposed agreements do not cover all City infrastructure work for the BART project but are focused on key design elements that require additional coordination and specific design resolution. All BART related City infrastructure construction or modifications including new roadways, lighting, storm and sanitary sewers, and signals will be designed and constructed by BART and maintained and operated by the City once the project is accepted.

In addition, all work within City of San José right-of-way, including those elements described in these proposed agreements, will go through a full plan review and inspection process as described in the Master Agreement. The Departments of Transportation and Public Works are partnering in facilitating the project's design and construction and are continuing to meet with the VTA on the implementation of the project. Below are brief descriptions of the three proposed agreements:

- Berryessa Station Way Agreement – This proposed agreement addresses the construction of new and modifications to existing City roadways and facilities in the vicinity of the future Berryessa BART station campus. New infrastructure will include streets and sidewalks with provisions for bicycles, landscaping, lighting, five new traffic signals, and public art. Street improvements will occur on Berryessa Road and Mabury Road as well as construction of a new City street to be known as Berryessa Station Way. In addition to the Berryessa station campus improvements, the existing storm drain system at Sierra Road and Lundy Avenue will also be improved and the roadway reconfigured.
- Lundy Place Siphon Agreement – This proposed agreement addresses reconstruction of a City owned storm and sanitary sewer siphon under the future BART trench planned for the area at Lundy Place and the former Union Pacific Rail Road (UPRR) tracks.
- Trade Zone Boulevard Agreement – This proposed agreement addresses installation of City water and electrical facilities onto a new bridge over the BART trench at Trade Zone Boulevard and UPRR. It also acknowledges the City undertaking of new maintenance obligations as a result of changes to existing City infrastructure to facilitate the project.

All three agreements are tied to the Master Agreement in which the VTA states its commitment to provide new infrastructure at no cost to City, including construction outreach and mitigation before and during the construction of the BART project.

Cooperative Agreements for Reimbursement of City Service Costs

The City and the VTA entered into a Master Agreement to provide interagency coordination of the final engineering and construction activities of the Silicon Valley Rapid Transit Project. The cooperative agreements included provisions for City to request for the reimbursement of staff costs in facilitation BART project review, encroachment permits, and inspection. These proposed Cooperative Agreements will fund the following services:

- Project Management Agreement – This proposed agreement is for a three-year commitment, retroactive from January 1, 2012 through December 31st, 2014. A two-person management team will be formed consisting of City staff, one Senior Engineer and one Support Manager, to assist the VTA in review of project plans and specifications. The VTA will be responsible for the reimbursement to the City for 100% of incurred costs of salary and benefits, exclusive of City overhead costs, for one Senior Engineer, and 100% of incurred costs of salary and benefits, exclusive of City overhead costs, for one Support Manager. The VTA will provide office space, supplies and equipment for the two-person management team while co-located at the VTA offices. The management team will meet periodically with an Executive Committee comprised of affected City departments such as Transportation, Public Works, Planning, Office of Economic Development, Redevelopment Agency, and Public Safety departments to discuss project plan and document reviews. The agreement will cover up to \$600,000 of project management support. As part of the invoicing process staff will continuously monitor the funding levels with VTA to assure that the funding is sufficient to cover all the management support required to complete the BART project. If at any time it is determined that additional funding is required, the City and VTA will need to negotiate an amendment to the agreement. The City will charge on a reimbursement basis per hours worked on the project.
- Design Review and Inspection Agreement – This proposed agreement is for a five-year commitment retroactive from January 1, 2012 through December 31, 2016. The funding will provide for City services required for the issuance of encroachment permits and other services for all work, excluding private utility work, related to the construction of the BART extension within City right-of-way. The services will include coordination of permits, improvement plan review, traffic signal review, and inspection services. The agreement will cover up to \$4,100,000 of City services. The funding level was determined based on the construction cost of City facilities as part of the project. During the construction of the project the City will work with VTA continuously as part of the invoice process to align with the funding estimates established as part of the agreement. However if during construction it is determined that additional funding is required, the City and VTA will need to negotiate an amendment to the agreement. The City will charge on a reimbursement basis per hours worked on the project.

January 3, 2012

Subject: Cooperative Agreements for BART Extension to Berryessa

Page 5 of 6

EVALUATION AND FOLLOW-UP

The construction of the BART project will have a formal outreach process managed by the VTA and coordinated with City staff.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website as part of the Council Agenda outreach process. As part of the BART project, City staff and the VTA will conduct regular public outreach as the project progresses. The VTA has conducted numerous public meetings, open houses, and other public forums to advise the public on this project. Additional public information is distributed and made available through advertisements, flyers, mail-outs, and e-mails, and on the VTA's project website.

COORDINATION

This item has been coordinated with the Department of Public Works, the City Attorneys Office, the City Manager's Budget Office, and the Department of Planning, Building and Code Enforcement.

FISCAL/POLICY ALIGNMENT

The BART project aligns with the City's Envision 2040 goals to facilitate increased travel by transit and the Transportation & Environment CSA goals to provide viable transportation choices that support a strong economy.

January 3, 2012

Subject: Cooperative Agreements for BART Extension to Berryessa

Page 6 of 6

COST SUMMARY/IMPLICATIONS

The design and construction of City infrastructure will be fully funded by the BART project. Costs incurred by the City for project management will be reimbursed by the VTA and at this time it is anticipated a request to appropriate funds for this purpose and recognize the associated revenue will be brought forward for Council consideration at the end of 2011-2012, once the costs for this fiscal year are known. The remaining funds will be programmed as part of the 2012-2013 Capital Budget and 2013-2017 Capital Improvement Program.

Future maintenance and operations of Berryessa Station Way (including associated improvements such as lighting and signals) and the new siphons will cost the City approximately \$40,000 a year. The BART project will also modify or upgrade other City facilities as part of construction. These modifications are not expected to have a significant cumulative effect on ongoing maintenance and operations.

CEQA

Resolution by the City, as a responsible agency for the Project under CEQA, to be adopted in accordance with the provisions of Section 15096(h) of the CEQA Guidelines (set forth at Title 14 of the California Code of Regulations, Chapter 3)

The Final Environmental Impact Report prepared by the VTA for the extension of the BART system to Berryessa in City (the "Final EIR") was certified and related findings adopted by the VTA Board on December 9, 2004, the Final Supplemental Environmental Impact Report prepared for the Project (the "Final SEIR") was certified and related findings adopted by the VTA Board on June 7, 2007, and the Final Supplemental Environmental Impact Report #2 prepared for the Project (the "Final SEIR2") was certified and related findings adopted by the VTA Board on March 3, 2011. The Administration has reviewed these actions and findings by the VTA and concurs with that analysis, which concurrence is reflected in the proposed CEQA resolution for this item.

/s/

HANS F. LARSEN
Director of Transportation

For questions please contact Manuel Pineda, Deputy Director for Transportation Planning and Project Delivery at 975-3295.