

COOPERATIVE AGREEMENT NUMBER 4
PURSUANT TO THE MASTER AGREEMENT
BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
CITY OF SAN JOSE
RELATING TO RELOCATION OF EXISTING CITY UTILITIES ON
TRADE ZONE BOULEVARD WITHIN THE BART CORRIDOR

This Cooperative Agreement (hereinafter “Agreement”) is entered into between the Santa Clara Valley Transportation Authority, a public agency organized as a special district (“VTA”), and the City of San José, a municipal corporation under the State of California (hereinafter “CITY”). This Agreement is entered into this ____ day of January, 2012 (the “Effective Date”). VTA and the CITY may hereinafter be individually referred to as a “Party” or collectively as the “Parties.”

RECITALS

- A. Whereas, VTA intends to construct a 16-mile extension of the Bay Area Rapid Transit system (“BART”) rail line into Santa Clara County, under the project entitled: Silicon Valley Rapid Transit Corridor Project (“SVRTC”); and
- B. Whereas, VTA has undertaken a program of activities leading to the aforementioned extension of BART service, to be constructed by VTA and operated by the Bay Area Rapid Transit District, in an initial phase through the City of Milpitas to the Berryessa District of San José, entitled: Silicon Valley Berryessa Extension Project (hereinafter the “Project”); and
- C. Whereas, VTA and CITY entered into a Master Agreement on June 22, 2010, which describes the roles and responsibilities of the Parties with respect to the Project, and this Agreement is made pursuant to said Master Agreement and the terms, conditions, and obligations of the Master Agreement shall apply to this Agreement, unless explicitly stated otherwise herein; and
- D. Whereas, in December 2002, VTA purchased the railroad right-of-way corridor (from Fremont to Downtown San José) from the Union Pacific Railroad Company (UPRR) as partially depicted in Exhibit A to this Agreement and fully depicted in BART Plan Set, Dwg No. LG-U200/Page No. 0607 (Trade Zone Boulevard Composite Utility Relocation Plan) of the BART plan set, dated March 25, 2011, as may be revised; and
- E. Whereas, the Project will construct a guideway for BART within the corridor purchased from UPRR and currently owned by VTA (the “right-of-way,” or “ROW”); and
- F. Whereas, a railroad grade crossing currently exists at the location where the ROW crosses Trade Zone Boulevard (the “Crossing”), which will be converted to a grade-separated passenger rail crossing by the Project; and
- G. Whereas, construction of the Project will require the relocation of the existing utilities in the Crossing, including CITY-owned as well as non-CITY-owned utilities as depicted in

Exhibit A and BART Plan Set, Dwg No. LG-U200/Page No. 0607, dated March 25, 2011, as may be revised, at an estimated cost of approximately \$1.2 million; and

- H. Whereas, the terms of the Master Agreement provide that VTA will bear all costs associated with the modification, relocation, and/or removal of CITY Infrastructure; and
- I. Whereas, CITY and VTA desire to enter into this Cooperative Agreement to set forth the relocation obligations of VTA, and the ownership and maintenance responsibilities of CITY with respect to the CITY Infrastructure depicted in Exhibit A;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

AGREEMENT

1. VTA's Obligations

- a. VTA, at its sole cost, shall fully fund, design, bid, and relocate, the CITY owned streetlight infrastructure located within the Trade Zone Boulevard crossing as depicted in attached Exhibit A and BART Plan Set, Dwg No. LG-U200/Page No. 0607, dated March 25, 2011, as may be revised,
- b. VTA, at its sole cost, shall fully fund and coordinate with the following privately owned public utility companies, the relocation of non-CITY owned utilities located within the Trade Zone Boulevard crossing, as depicted in Exhibit A and as noted below in the BART Plan Set:
 - i. San Jose Water
12in AC pipe with 18in steel casing on the bridge deck
Dwg No. LG-U400/Page No. 0608 of BART Plan Set
 - ii. PG&E (Electric)
4in and 6in PVC pipe with 8in and 10in steel casing on the bridge deck
Dwg No. LG-U500/Page No. 0609 of BART Plan Set
 - iii. PG&E (Gas)
4in pressure line with 8in steel casing on bridge deck
Dwg No. LG-U600/Page No. 0610 of BART Plan Set
 - iv. AT&T Telephone / Communication

2in and 4in PVC pipe with 6in and 8in steel casing on the bridge deck
Dwg No. LG-U800/Page No. 0611 of BART Plan Set

2. CITY’S Obligations

- a. To facilitate BART construction VTA will be required at its sole cost and expense to construct or modify certain CITY Infrastructure that either conflicts with the BART project or will need to be improved to facilitate the BART project. These construction of these infrastructure improvements and their final design and construction will be approved by CITY through the encroachment permit process, prior or subsequent cooperative agreements, and as described in the Master Agreement. Several items to be constructed by VTA, as described in Table 1 will require CITY to operate and maintain them using mechanical systems, electricity, and additional levels of maintenance activities. These maintenance burdens will over a twenty-year period increase CITY operations costs by the amount shown in Table 1.
- b. CITY will accept permanent ownership, operation and maintenance for the CITY Improvements as described in Table 1 below, namely, the Sierra-Lundy siphon and pump station, the Sierra-Lundy sewer pump station, and the Berryessa Station Way roadway and bridge upon completion of the PROJECT and CITY acceptance of the Improvements pursuant to any prior or subsequent cooperative agreements, encroachment permits, and the Master Agreement.

Table 1

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as set forth below.

SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY

CITY OF SAN JOSÉ

By: _____

Michael T. Burns
General Manager

By: _____

Dennis Hawkins, MMC
City Clerk

APPROVED AS TO FORM:

By: _____

VTA Counsel
VTA General Counsel

APPROVED AS TO FORM:

By: _____

Johnny V. Phan
Deputy CITY Attorney