

**CONTINUATION AND FIFTH AMENDMENT TO MASTER AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
RELATING TO THE SILICON VALLEY RAPID TRANSIT PROGRAM
BERRYESSA EXTENSION PROJECT**

THIS CONTINUATION AND FIFTH AMENDMENT TO MASTER AGREEMENT is made and entered into this _____ day of _____, 2021 by and between the CITY OF SAN JOSE, a municipal corporation of the State of California (“CITY”), and the SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, a public agency organized as a special district under California law (“VTA”), collectively referred to herein as the “Parties”.

RECITALS

A. WHEREAS, on June 22, 2010, CITY and VTA entered into an agreement entitled “MASTER AGREEMENT BETWEEN THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY AND THE CITY OF SAN JOSE RELATING TO THE SILICON VALLEY RAPID TRANSIT PROGRAM BERRYESSA EXTENSION PROJECT” (“AGREEMENT”); and

B. WHEREAS, on August 13, 2020, CITY and VTA entered into a Fourth Amendment to the AGREEMENT to extend the term to December 31, 2020; and

C. WHEREAS, the Parties desire to continue and extend the term of the AGREEMENT;

NOW, THEREFORE, the Parties agree to further amend the AGREEMENT as follows:

SECTION 1. Section 4 of the AGREEMENT is amended to read as follows:

“This Agreement shall be effective from Effective Date through December 31, 2021.”

SECTION 2. Except as herein modified, all other provisions of the AGREEMENT, including any exhibits and subsequent amendments thereto, shall remain in full force and effect. All references to the AGREEMENT in this Amendment shall refer to the AGREEMENT as amended by the Amendment unless otherwise specifically set forth or otherwise indicated by context.

SECTION 3. In the event of any conflict between the provisions of this Amendment and the provisions of the AGREEMENT, the provisions of this Amendment shall prevail. Whether or not specifically amended by the Amendment, all of the terms and provisions of the AGREEMENT are hereby amended to the extent necessary to give effect to the purpose and intent of this Amendment.

SECTION 4. Unless specifically defined herein, the capitalized terms used in this Amendment shall have the meanings defined in the AGREEMENT.

SECTION 5. If any provision of the AGREEMENT, as amended by this Amendment is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being impaired or invalidated in any way.

SECTION 6. This Amendment shall be governed by, and interpreted in accordance with, the laws of the State of California.

SECTION 7. This Amendment may be executed in any number of counterparts and each of such counterparts shall, for all purposes, be deemed to be an original, and all such counterparts shall together constitute one and the same agreement. VTA and Developer agree that electronic signatures delivered by email, DocuSign or in other agreeable electronic format will be fully binding upon the Party delivering the same as if an original thereof had been delivered.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

“VTA”

APPROVED AS TO FORM:

SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY, a
public agency

By: _____
Victor Pappalardo
Senior Assistant Counsel

By: _____
EVELYNN TRAN
General Counsel and Interim
General Manager/ CEO

Date: _____

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

By: _____
JON CALEGARI
Deputy City Attorney

By: _____
TONI TABER
City Clerk

Date: _____