



COUNCIL AGENDA: 12/18/18

FILE: 18-1705

ITEM: 2.24

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

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

**DATE:** December 4, 2018

Approved

Date

12-5-18

**COUNCIL DISTRICT: 4**

## RECOMMENDATION

- (a) Approve the proposed Second Amendment to Master Agreement with the Santa Clara Valley Transportation Authority to extend the term of the agreement to December 31, 2019.
- (b) Approve the proposed Third Amendment to Cooperative Agreement #6 with the Santa Clara Valley Transportation Authority to: 1) extend the term of the agreement to December 31, 2019, and, 2) increase the maximum cost reimbursement for City of San José project management services to an amount not to exceed \$1,200,000 for the period of January 1, 2012, through December 31, 2019.
- (c) Approve the proposed Third Amendment to Cooperative Agreement #7 with the Santa Clara Valley Transportation Authority to: 1) extend the term of the agreement to December 31, 2019, and, 2) increase the maximum cost reimbursement for City of San José encroachment permit services to an amount not to exceed \$4,100,000 for the period of January 1, 2012, through December 31, 2019.

## OUTCOME

To continue City project management and encroachment permit and inspection services for the Santa Clara Valley Transportation Authority 's (VTA) BART Extension to Berryessa including the design, construction, inspection and acceptance of City streets, storm drains, sanitary sewers, and electrical facilities constructed by the project.

## **BACKGROUND**

In June 2010, the City and VTA entered into a Master Cooperative Agreement (Master Agreement), whereby both parties agreed to consult and cooperate on the planning, environmental review, preliminary engineering, final design, construction, and funding of the BART Extension to Berryessa (Project). The Master Agreement established a framework for the on-going interaction between both parties and allows for subsequent agreements to address specific project issues and future City funding. On December 5, 2017, the First Amendment to Master Agreement was executed by the City Manager (pursuant to San Jose Municipal Code Section 4.04.055) to extend the term of the agreement to December 31, 2018.

On March 13, 2012, the City and VTA entered into Cooperative Agreement #6 for cost reimbursement for City project management services to support the Project. The agreement was originally intended for the City to provide dedicated project management services to support the Project during the first three years of design and construction starting in January 1, 2012, with funding in the amount of \$600,000 for the City project management team. On January 23, 2015, the First Amendment to Cooperative Agreement #6 was executed by the City Manager (pursuant to San Jose Municipal Code Section 4.04.055) to extend the term of the agreement to June 30, 2015. On June 23, 2015, the Second Amendment to Cooperative Agreement #6 was approved by Council to extend the term of the agreement to December 31, 2018 and increase the funding for project management services to \$940,000. After extensive coordination with the VTA, staff concluded that further extension of Cooperative Agreement #6 is necessary to support this high valued regional transportation project.

On June 28, 2012, the City and VTA entered into Cooperative Agreement #7 for cost reimbursement for encroachment permit and additional services. The agreement was originally intended for the City to provide encroachment permit and additional services to support the Project during the first five years of design and construction starting in January 1, 2012, with funding in the amount of \$3,900,000 for the City design review and construction inspection team. On December 22, 2016, the First Amendment to Cooperative Agreement #7 was executed by the City Manager (pursuant to San Jose Municipal Code Section 4.04.055) to extend the term of the agreement to June 30, 2017. On October 3, 2017, the Second Amendment to Cooperative Agreement #7 was approved by Council to extend the term of the agreement to June 30, 2018. After extensive coordination with the VTA, staff concluded that further extension of Cooperative Agreement #7 is necessary as the project nears completion.

## **ANALYSIS**

The proposed Second Amendment to Master Agreement between the City and VTA will extend the term of the agreement to December 31, 2019.

The proposed Third Amendment to Cooperative Agreement #6 between the City and VTA will extend the term of the agreement to December 31, 2019. The additional time extension is necessary for the City and VTA to resolve any remaining project close-out

issues. Additionally, the Third Amendment will increase the contract amount by \$260,000 to \$1,200,000 to account for the extension of project management services. The VTA will continue to be responsible for the reimbursement to the City for incurred staff costs, specifically for one Division Manager, one Senior Engineer, and one Associate Engineer. As part of the invoicing process, staff will continue to monitor the funding levels with VTA to assure that the funding is sufficient to cover all the project management support required to complete the project.

The proposed Third Amendment to Cooperative Agreement #7 between the City and VTA will extend the term of the agreement to December 31, 2019. The additional time extension is necessary for the City and VTA to resolve any remaining project close-out issues. Additionally, the Third Amendment will increase the contract amount by \$200,000 to \$4,100,000 to account for the extension of project coordination and construction inspection. The VTA will continue to be responsible for the reimbursement to the City for incurred staff costs, specifically for one Senior Construction Inspector and one Associate Engineer. As part of the invoicing process, staff will continue to monitor the funding levels with VTA to assure that the funding is sufficient to cover all the City staff support required to complete the Project.

### **EVALUATION AND FOLLOW-UP**

If Council approves these proposed amendments, no further action by the Council will be required. Staff will provide Project updates as a part of the Regional Quarterly Activities report to the Transportation and Environment Committee.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the December 18, 2018, Council agenda. Additionally, the VTA manages an extensive formal outreach process for the BART project that City staff is closely involved in.

### **COORDINATION**

This memorandum has been coordinated with the Departments of Transportation, and Planning, Building and Code Enforcement, the City Attorney's Office and City Manager's Budget Office.

### **COMMISSION RECOMMENDATION/INPUT**

This item does not have input from a board or commission.

### **FISCAL/POLICY ALIGNMENT**

The 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.

### **COST SUMMARY/ IMPLICATIONS**

Costs incurred by the City for project management and encroachment permit/inspection services will be reimbursed by the VTA.

### **BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the contract recommended as part of this memo.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2018-2019 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
465	7438	BART Program Management	\$4,000	\$1,200,000	V-821	10/16/2018, Ord. No. 30172
465	7439	BART Design and Construction Support	\$341,000	\$4,100,000	V-833	10/16/2018, Ord. No. 30172

### **CEQA**

Determination of Consistency with the BART Extension to Milpitas, San Jose, and Santa Clara Final EIR, BART Extension to Milpitas, San Jose, and Santa Clara Final Supplemental EIR, and BART Silicon Valley Phase 1 – Berryessa Extension Final 2<sup>nd</sup> Supplemental EIR, and Addenda thereto, Resolution No. 76126.

/s/  
MATT CANO  
Director of Public Works

For questions please contact Matt Loesch, Deputy Director of Public Works, at (408) 975-7381.