

MASTER AGREEMENT
BETWEEN
THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND THE CITY OF MILPITAS
RELATING TO THE SILICON VALLEY RAPID TRANSIT PROGRAM BERRYESSA
EXTENSION PROJECT

Milpitas - (3.26.10)
-DRAFT-

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This is a Master Agreement (“Agreement”) between the City of Milpitas, a general law city of the State of California (“City”) and the Santa Clara Valley Transportation Authority, a public transit district (“VTA”) (collectively, the “Parties”). This Agreement is entered into this ____ day of ____ 2010 (the “Effective Date”).

RECITALS

- A. The Bay Area Rapid Transit system (“BART”) comprises a network of four heavy-rail rapid transit lines serving several of the urbanized counties (San Francisco, Alameda, Contra Costa, and San Mateo) of the San Francisco Bay Area. At present, the southern terminus of the system is in the City of Fremont in Alameda County. There is no BART service within Santa Clara County. VTA has undertaken a program of activities leading to extension of BART service into Santa Clara County. Ultimately, VTA intends to construct an extension of approximately 16 miles, providing service to the Cities of Milpitas, San Jose and Santa Clara. The extension, referred to as Silicon Valley Rapid Transit, will be constructed by VTA and operated by BART.
- B. The Bay Area Rapid Transit system (“BART”) extension into City and Santa Clara County is intended to provide a higher quality of life, economic vitality and many other benefits to the Milpitas community and County region. VTA and City will work together to achieve positive impacts (both short-term and long-term) to the City of Milpitas, by delivering a well designed system that is a good balance between excellent design and costs.
- C. To maximize the opportunities for development of a transit oriented community, City has made land-use changes to its General Plan by adopting a “Transit Area Specific Plan” around the proposed Milpitas BART station and creating a developer impact fee program to fund portions of the infrastructure needed, such as the extension of Milpitas Boulevard, support the mixed use redevelopment of this area, and provide increased and long term sustained BART ridership patronage.
- D. The project is expected to be developed in phases. An initial phase of approximately ten miles has been proposed, which would extend from the planned Warm Springs station

(currently under development in the city of Fremont), through the City, to a temporary terminal station at Berryessa in the City of San Jose. This phase is referred to as the Berryessa Extension Project (SVBX) (“Project”) and includes two stations, one in Milpitas at the intersection with the VTA Alum Rock/Santa Theresa Light Rail Line near Great Mall Parkway and one near the temporary terminus in San Jose, near Berryessa Road.

- E. VTA, along with the Federal Transit Administration (“FTA”), has prepared a final environmental impact statement (“FEIS”) for the Project and has proposed a mitigation monitoring and reporting plan (“MMRP”) which includes mitigation measures in the City. As part of the FEIS process, the City reviewed the environmental documents and provided comments and suggestions on, and proposed revisions to, the Project.
- F. In addition, VTA and the City have consulted on the design, engineering, and urban planning aspects of the Project. The City desires to cooperate with VTA to facilitate the construction and operation of the Project and VTA recognizes the importance of public health, safety and various other public services which the City provides to the community for economic and quality of life benefits. Construction of the BART guideway and stations will require reconstruction or relocation of existing City infrastructure, including roads and utilities. The project will also relocate infrastructure owned by other agencies and VTA will need to coordinate these relocations to minimize temporary and permanent impacts on all Parties and the public. Accordingly, through this Agreement, VTA and the City desire to create and memorialize an overall structure for interagency cooperation, processes, elements, City permitting, execution of the project design and construction, and consultation between the Parties.
- G. VTA and the City acknowledge that it will be necessary to develop procedures to ensure careful and continued cooperation between the Parties, including the following: (1) procedures for finalizing any necessary design and construction options relating to City Infrastructure; (2) procedures to avoid unnecessary delays to either the contracting or construction process; and (3) procedures for inspecting the construction, relocation, and replacement, as necessary, of city infrastructure. (4) procedures for minimizing and controlling negative impacts to the community both during and post-construction.

- H. The Parties acknowledge that the Project is funded in part with funds made available by the Federal Transit Administration. Accordingly, this comprehensive agreement and the obligations imposed on the Parties hereby shall be interpreted in a manner consistent with both Federal and State laws and regulations; including the requirements of 49 U.S.C. Section 5309 (“New Starts”).
- I. The Parties recognize that this Agreement may not reasonably anticipate all aspects of the Project and changes thereto which may occur due to unforeseen circumstances. Accordingly, the Parties acknowledge their respective obligations to act reasonably and in good faith and to modify the terms hereof when necessary to accomplish their mutual goals.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

SECTION 1: OPERATIVE DATE

This Agreement will be effective when executed by both Parties.

SECTION 2: DEFINITIONS

The following definitions relate to such terms found in the entire Agreement, including, without limitation, all Exhibits hereto.

A. “VTA” The Santa Clara Valley Transportation Authority, its officers, employees, agents, consultants, and contractors.

B. “Base Level” The City infrastructure of the size, capacity, and capabilities (i) in existence at the time of the execution this Agreement and (ii) the City infrastructure of the size, capacity, and capabilities already programmed, at the time of the execution of this Agreement, for future construction within a twenty-year period along the BART corridor and in the Milpitas Transit Area Specific Plan, City master plans, capital improvements programs, and other long range documents.

C. “Project Triggered Facility Work” The upgrading, redesign, or adjustment of City facilities (e.g. protective sewer main line sleeves) that are necessitated by construction of the SVBX Project, but are nonetheless considered to be non-grant fundable “Concurrent

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Non-Project Activities” or “betterments” under FTA Circular 5010.1D, Section 5.1. (Nov. 1, 2008). Such upgrading, redesign, or adjustment work shall be performed by VTA and funded by non-FTA grand fund monies. The extent and scope of a Project-Triggered Facility Work shall be calculated as that upgrade, redesign or adjustment above or different than the Base Level. ↓

Deleted: and is made solely for the benefit of and at the election of City (not including a technological improvement which is able to achieve such upgrade at costs equal to or less than the costs of a “like-for-like” replacement or relocation)

Comment [CoM1]: Per our last meeting CG recommended moving this item to General commitments.

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D. “Bid Package” The Invitation to Bid, Instructions to Bidders, Forms for the submittal of Bids, and all other documents provided to prospective Bidders.

E. “CEQA” The California Environmental Quality Act, Public Resources Code Section 21000 et.seq.

F. “City” The City of Milpitas, its officers, employees, agents, consultants and contractors.

G. “City Infrastructure” All City-owned facilities and appurtenances including, but not limited to, City streets (pavement sections, pavement markings, curbs, gutters and sidewalks), traffic control devices, storm drains, sanitary sewers, water lines, hydrants, street lighting systems, landscaping, irrigation systems, fiber optics, and other communication systems.

H. “Contract Documents” The executed base agreement, contract drawings, construction drawings and construction specifications, design criteria, bonds, addenda, change orders, materials incorporated by reference by the base agreement, and other documents that set forth the legally binding rights and obligations of VTA and its chosen contractor for the construction of the Project or its subcomponents.

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I. “FEIS” The Final Environmental Impact Statement for the Project. The FEIS process will be completed when a Record of Decision is issued by FTA. This is currently expected to occur in the spring of 2010.

J. “FTA” The United States Department of Transportation, Federal Transit Administration.

K. “MMRP” The Mitigation Monitoring and Reporting Plan for the Project.

- | L. “MTC PCI Index” The Pavement Condition Index methodology set forth in the December 1988 Metropolitan Transportation Commission Pavement Management System Users Guide.

- | M. “NEPA” The National Environmental Policy Act

- | N. “Parties” The City and VTA

- | O. “Plans and Specifications” Drawings, documents, plans, specifications, general and special conditions, and related construction documents defining the work to be done for the “Project.”

- | P. “Project” or “SVRT Project” The Berryessa Extension Project as defined in the FEIS and this Agreement. The Project is also referred to as “SVBX” in the locally Preferred Alternative document submitted to FTA.

- | Q. “Project Owner” VTA is the owner of the Project and shall be responsible for fulfillment of engineering studies, design, right of way clearance, construction management, plans and specification preparation, construction, inspection, and environmental clearance requirements.

- | R. “ROD” The Record of Decision issued by the Federal Transit Administration for the Project, indicating FTA’s acceptance of the FEIS and the conclusion of the environmental review process for the Project.

- | S. “Standard Specifications” The standard construction details, drawings, general and special conditions, and construction methods usually and customarily utilized by the City for public works projects.

- | T. “VTA” Santa Clara Valley Transportation Authority.

SECTION 3: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to memorialize the Parties’ consultation and cooperation thus far, define their respective rights and obligations, and ensure future cooperation between VTA and the City in connection with the Project. This Agreement also categorizes those portions of

the Project for which VTA shall seek FTA funding and those portions of the Project that VTA shall perform with non-FTA funds. The Parties shall enter into subsequent agreements or permits for specific sub-components of the Project as necessary.

SECTION 4: FUNDING AND ENVIRONMENTAL APPROVAL CONSTRAINTS

The parties acknowledge that VTA's ability to act in accordance with this Agreement is constrained by external factors, including but not limited to:

- The requirement for FTA to issue a Record of Decision (ROD) before VTA may take any actions regulated under the National Environmental Policy Act (NEPA); and
- Completion of a Full Funding Grant Agreement (FFGA) between VTA and FTA, which is a necessary component of the project's financial arrangements.

SECTION 5 SPECIFIC MITIGATION MEASURES

NEPA requires that each significant adverse environmental impact of a project be identified in the Project's Environmental Impact Statement and that feasible mitigation measures or alternatives be identified and implemented. The FEIS identifies each significant environmental impact of the proposed project. A comprehensive list of mitigations associated with the Project is set forth in the MMRP. VTA will comply with and implement the requirements of the MMRP.

SECTION 5: PROJECT FEATURES ELIGIBLE FOR FTA GRANT FUNDING

The Project features set forth in Paragraphs A through I, below, is intended to be an overview of Project work that VTA intends to seek FTA grant funding for. They are not intended to constitute a comprehensive list of project features, but are described in this Agreement because they are of particular concern and have a direct impact to the City. A comprehensive list of project features associated with the Project is set forth in the FEIS. Party obligations for work that VTA does not intend to seek FTA grant funding (i.e., Project-Triggered Facility Work) is set forth in Section 6.

VTA shall design and build the following:

- A. Dixon Landing Road—BART crossing: The Project definition includes a retained cut option for the Dixon Landing Road Crossing with Dixon Landing Road at grade.
- B. Milpitas Boulevard Extension: The Project definition includes right-of-way acquisition, design and construction for the Milpitas Boulevard Extension from Montague Expressway to Capitol Avenue as part of the Milpitas BART Station construction. VTA and the City shall enter into a cost sharing agreement to cover costs associated with the Milpitas Boulevard Extension. The City shall reimburse up to 50 percent of Milpitas Boulevard Extensions costs, not to exceed the amount set forth in the Milpitas Transit Area Specific Plan Impact Fee for the funding of such extension, provided that the City collects sufficient developer impact fees to cover this cost. The Milpitas Boulevard Extension is a required mitigation to reduce project impacts to levels of less than environmental significance under the Silicon Valley Rapid Transit Corridor Final EIR (2004) and shall serve as the main access way to the Milpitas BART Station.
- C. Milpitas BART Station: VTA intends to design and construct the Milpitas BART Station East Option alternative.
- D. Montague Expressway Widening - The proposed site plan for Milpitas Station includes the addition of a frontage road to serve the station along the south side of Montague Expressway. The details of the frontage road construction and all other Montague Expressway improvements are subject to approval by the County of Santa Clara.

Deleted: A separate agreement is anticipated to further define the roles of the Parties with respect to this roadway extension, including possible "cost share" participation.

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Deleted: The City of Milpitas endorses this alternative.

Deleted: <#>City Utility Crossings – Where the City’s Water, Sewer or Storm Drainage Master Plans indicate future construction of a pipeline across the BART corridor, VTA will attempt to design the Project so as to facilitate the future work by the City.¶

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Comment [JJM2]: Other than the frontage road and associated sidewalks, we’re not aware of any other widening of Montague that is required for the project. Is that correct?

Milpitas Response:

E. Piper Drive Improvements – VTA will restore Piper Drive to the condition in existence at the start of construction. Other improvements may include relocation of the railroad “Y” trackage across Piper Drive and final configuration of Piper Drive improvements are also dependent on CPUC and UPRR. Therefore, a separate agreement amendment may be required, to address unforeseen work and/or obligations on Piper Drive.

Comment [JJM3]: VTA will work with the City regarding Piper Drive but because the final configuration is heavily dependent on third parties such as CPUC and UPRR we need to leave some flexibility here.
City Response: agreed, and agreement amendment is City language revision.

F. Pedestrian Bridge at Grade connecting Piper Drive to Great Mall – VTA will design and construct the BART retained cut in a manner that does not preclude the construction of the proposed pedestrian bridge in the future by others.

Comment [JJM4]: The project design will not preclude this option but VTA has not agreed to construct the connection nor to obtain the required CPUC approval. The proposed bridge does not contribute in any way to the base functioning of the BART project.

G. BART Corridor improvements including soundwalls, storm pump stations, landscaping and other necessary street and utility infrastructure.

SECTION 6: PARTY OBLIGATIONS AS TO NON-FTA GRANT FUNDABLE WORK (PROJECT TRIGGERED FACILITY WORK) AND CREDIT OFFSETS

A. Exclusion from FTA Funding. The Parties acknowledge that the Project may cause the need for the upgrade, redesign or adjustment of City facilities that is nonetheless ineligible for FTA grant funding under FTA Circular 5010.1D, Section 5.1. (Nov. 1, 2008). Such work is referred to in this Agreement as Project-Triggered Facility Work. Likewise, the Parties acknowledge that the Project may displace planned development identified in the Transit Area Specific Plan for which the City was anticipating developer impact fees and other development-related fees for which the City is entitled to offsetting credits. However, such credits or offsets for foregone City development-related fees may likewise be ineligible for FTA grant funding. Accordingly, the Parties hereby commit to the following obligations as to such non-FTA funded work and financial disruptions.

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B. VTA shall design and construct all Project Triggered Facility Work. The costs of such design and construction work shall be funded by non-FTA grant fund sources.

1. City Master Plan Accommodation. The City has prepared Master Plans to describe long-term expansion of its sewer, water and storm drainage facilities. VTA will review locations where these Master Plans indicate City Facilities crossing the BART alignment that are proposed to be installed, replaced and/or

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upgraded. For each location, VTA will identify a method to facilitate the future construction by the City. The form of the accommodation may vary depending on the site characteristics and the nature of the BART guideway at the location (at grade, retained cut, etc.). The accommodation may include placement of sleeves, construction of short segments of pipe for future City connection, provision of access points, or other measures mutually agreed upon by the VTA and the City.

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C. Credits for Offsetting VTA and City Costs.

1. Transit Area Development Impact Fees for Public Infrastructure and Improvements. VTA shall provide to the City credits for displaced or lost Transit Area Development Impact Fees for Public Infrastructure and Improvements. These City of Milpitas fees were adopted by resolution of the City Council on September 2, 2008, and said schedule of fees (adjusted annually) shall apply to all new development in the Transit Area: as follows:

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Deleted: The Parties agree that for a _____ Project, the displaced Transit Area Impact Fee

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- a. Residential - \$23,800 per unit
- b. Commercial - \$16.70 per square foot
- c. Office - \$25.00 per square foot
- d. Hotel - \$9,000 per room

2. Credit for Project Triggered Facility Work. The City shall credit VTA for the value of any Project Triggered Facility Work constructed by VTA, up to but not exceeding the anticipated total displaced Transit Area Impact Fee amount set forth in subsection 1 above. As to each Project Triggered Facility Work, VTA and the City shall enter into a separate agreement or memorandum of understanding outlining the nature and extent of the work, including related Plans and Specifications, and the amount of credit due to VTA, prior to commencement of construction. Credit for any salvage value of facilities which were either removed or retained by the City during replacement, modification, enlargement or expansion shall be based on the resale value of these facilities, less selling expenses. The schedule of payment to be paid to VTA by City shall be defined in

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the cooperative agreement. The City shall reimburse VTA for all Project Triggered Facility Work within 30 days from the date a VTA invoice calculated according to the credit provisions provided above is received by the City. Notwithstanding the terms set forth in this Section, VTA and the City may agree in writing, with supporting documentation, on a case-by-case basis, that, where construction of the Project will preclude future economical access to or repair, improvement or construction of City utilities, inclusion of methods to mitigate such future detriment shall not be construed to be a Project Triggered Facility Work.

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SECTION 7: GENERAL VTA COMMITMENTS

A. Impacts on City Infrastructure and Construction of New City Infrastructure

1. The Parties recognize and agree that Project construction and delivery trucks may negatively impact public street surfaces. VTA acknowledges that the weight and operation of construction vehicles reduce the useful life of pavement sections and subbases without damage being readily visible. Accordingly, the Parties desire to ensure that such latent construction impacts be objectively measured and that the City not suffer a diminution in the value or useful life of such streets. Accordingly, the Parties agree to use as a baseline a pre-construction survey of City streets and infrastructure in order to determine Project impacts.
2. VTA shall pay for the construction, reconstruction, relocation and repair of City facilities associated or impacted by the Project and offer for dedication to the City all such improvements after the Project is completed, subject to the maintenance provisions in this Agreement and a one year limited warranty period. VTA shall provide as-built drawings in hard copy format and electronic AutoCAD format 2009 or latest edition.
3. The procedures for these processes are set forth in greater detail in Exhibit B.

B. City Private Job Account—VTA shall make payments to the City via the City’s Private Job (PJ) Account system for cost recovery of City plan check, inspection, and coordination directly associated with the Project. City and VTA will develop a work plan for the review services and develop a budget for the first year. The budget will then be re-assessed at annual intervals. VTA will deposit an initial amount of equal to the first year’s anticipated effort, prior to requesting the services covered by the workplan, and shall maintain a minimum positive balance of \$50,000 at all times until the end of the Project. The PJ account is to be used to fund the work of technical-level city staff; senior city management will continue to consult on the Project at no cost to VTA. The City may also use the PJ account to fund project-related services of its consultants. Consultant services shall be provided in accordance with a written work authorization which includes a defined scope of work, hourly rates and total task budget, and the work authorization must be approved in advance by VTA before the consultant begins work. VTA shall have the right to request changes in the personnel assigned to the project from either City staff or City’s consultants. Furthermore, VTA shall anticipate and provide additional funding to the City to pay for independent advice, overtime for plan reviews and input on design issues in the event the City determines that such advice is needed following the award of the design/build project. VTA shall ensure that the City has at least 30 days for initial plan submittal review and in a design/build delivery context. In the event that the assumptions underlining the work plan change, the City shall have the right to update City costs and response time requirements.

Comment [CoM5]: Per our last meeting discussion, minimum is raised to provide for non-stop of work.

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Comment [CoM6]: Such as staff layoffs.

C. City Permit Agreement and Encroachment Permits

1. VTA shall enter into a City Permit Agreement prior to issuing any Bid Package for portions of the SVRT Project affecting the City’s infrastructure. This City Permit Agreement shall require VTA, as the project owner, to comply with City encroachment requirements and regulations when working in City right of ways and/or engaging in work affecting City infrastructure. In addition, the City permit agreement shall require VTA to contractually require its chosen general contractors and its subcontractors to obtain City encroachment permits, prior to commencement of work, within the City right of way and prior to work on existing City infrastructure.

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2. VTA agrees to pay the customary sewer and water connection fees, treatment plant fee, and storm drain connection fees in accordance with the City Municipal Code.

3. VTA agrees to conduct a review process with and obtain permits from the City Fire and Building Departments for all building structures, including the BART station and parking garages and pay review fees at the same rate as the city customarily charges to projects requiring a Fire Department permit. Review timelines shall be as set forth in the Milpitas Municipal Code and resolutions.

4. VTA shall also ensure in it's various design and construction contracts, provisions for increased additional insured coverage for the City. City has minimum contract insurance provisions of \$2.0 million per incident, and based upon risk of construction work for public health and safety, additional amounts are required.

5. The City permit agreement shall include provisions which will require VTA to comply with all applicable regional, State and Federal regulations, including but not limited to San Francisco Bay Region Municipal Urban Runoff, State regulations on hazardous materials, and Federal (FEMA) Flood mitigation regulations.

D. Easements and Right of Ways—VTA shall acquire and transfer to the City all easements and right of ways necessary to relocate any City facilities within 12 months after VTA construction is completed, or prior to the opening of the Milpitas BART Station, whichever is sooner. VTA shall pay for all costs associated with the acquisition and transfer of any easements or new right of ways.

E. Transit Area Specific Plan Design Compliance—VTA shall comply with all land use policies and plan line features as adopted in the Transit Area Specific Plan, including but not limited to the following provisions of the Transit Area Specific Plan: (i) Section 3 – Land Use, Circulation and Parks; (ii) Section 4 – Development Policies for Plan Subdistricts; (iii) Section 5—Development Standards and Design Guidelines; (iv) Section 6 – Utilities and Public Facilities; and (v) Section 7- Implementation of Transit Area Specific Plan. If VTA engages in redevelopment of any property under its ownership that is not used for transit facilities, within the boundaries of the Transit Area Specific Plan, any such development shall comply with all requirements of the Specific Plan to the same extent that a private developer would be bound by the Plan. Flood Mitigation – VTA shall

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Comment [7]: Comment to VTA: Let's discuss City needs for this standard.

Comment [jjm8]: The situation regarding the Blvd is already addressed elsewhere in the document and will also be the subject of a side agreement. Eliminating it here to avoid redundancy.

City Response: The City agrees and therefore agrees to the deletion of the cited text.

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Comment [9]: City Comment to VTA: We have reinserted the previous language. Let's discuss.

Comment [jjm10]: The cost share agmt is already mentioned elsewhere in the document. To avoid having conflicts between agreements it seems cleaner to avoid going into too much detail about the arrangements here.

City Response: We agree that avoidance of redundancy is a virtue. We have moved the cited language to the project list. Some detail as to arrangement seems warranted.

Comment [jjm11]: VTA does not expect to pay TASP fees.

City Response: Agreed. We will instead pursue a credit for construction works approach.

Comment [jjm12]: This item is redundant, plus VTA has not yet obtained approval from FTA and therefore must maintain flexibility to adjust the project definition to meet federal requirements.

City response: Deletion agreed to here.

Deleted: If VTA engages in redevelopment of any property under its ownership that is not used for transit facilities, within the boundaries of the Transit Area Specific Plan, any such development shall comply with all requirements of the Specific Plan to the same extent that a private developer would be bound by the Plan.¶

construct storm drainage improvements across Montague Expressway at Piper Drive, and Wrigley Creek Improvements along Piper Drive downstream of Montague Expressway to carry the 100 year flood event to the closest feasible downstream point of connection with the City's existing system consistent with City's updated Storm Drainage Master Plan.

F. No Delayed Phasing of Important Community Improvements – VTA shall not phase any improvements as part of the project prior to obtaining City Approval for affected City facilities to avoid deferral of “incidental work” such as landscaping and final street paving.

G. Continuity of Service – The City is a municipal corporation including fire, police, water, sewer and storm drainage, responsible for essential community, public health and public safety services. Construction activities and the installation of permanent Project improvements will bisect the City of Milpitas from north to south. VTA and the City agree that the City must be able to continue to seamlessly provide those essential public health and public safety services throughout the entire construction and post-construction periods. VTA will therefore provide temporary and permanent provisions, as required, for the City to continue providing these essential services.

1. Emergency Contact Personnel—During construction of the Project, VTA shall provide the City with a list of VTA personnel to be contacted in the event of an emergency on the Project construction sites within the City. VTA shall also develop processes and procedures for continuous VTA response to health and safety emergencies. In the event of any project construction damage to the City's public health and life safety facilities and infrastructure (e.g. water, sewer, traffic signaling and safety equipment, and stormwater collection systems) or the creation of roadway hazards, the City shall conduct emergency repairs and be reimbursed by VTA.

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H. Public Utility Relocation—VTA and the City acknowledge that they intend to enter into a separate agreement relating to City-owned utilities that will be affected by the Project, allowing VTA to modify and/or relocate those City-owned utilities. Attached Exhibit A

identifies City-owned utilities currently known to be affected. The City further agrees to cooperate with VTA to identify said utilities, and to work cooperatively to identify possible cost-effective designs for the modified or relocated facilities. Notwithstanding the foregoing, the Parties agree that any cost-effective or value-engineered designs must comply with City engineering and infrastructure standards and conform to City planning and capital improvement plans for the placement, quality and character of City infrastructure, including but not limited to the Milpitas Transit Area Specific Plan and the City's master plans.

- I. Relocation of Private Utilities—The relocation of private utilities within City public right of ways and easements by VTA shall require separate permit agreements between the City, the private utilities, and VTA. Such permit agreements shall be reviewed and approved by the City prior to the start of construction. VTA shall also finalize and grant all necessary licenses, easements, and other property rights twelve months after the completion of the private utility relocation or the opening of the new Milpitas BART Station, whatever is sooner.

Comment [jjm13]: Granting of easements to private parties is not relevant to VTA-City agreement.

City Response: City concern is private utilities in public right of way.

- J. Federal Requirements—VTA is pursuing federal funding through the Section 5309 New Starts funding program. The requested New Starts funding is an essential component of the financial plan for the Project, and is also a pre-requisite to allow the collection of the Measure B sales tax increment that will fund operation of the BART extension. The parties acknowledge the necessity of complying with FTA requirements under the New Starts program, and agree to cooperate and act in good faith in the effort to secure said funding.

- K. City Review of Final Construction Documents—After development of final construction documents, VTA will provide the City with plan(s) addressing construction delivery routes for City review and approval, which approval shall not be unreasonably withheld. VTA will provide the City with plan(s) addressing storage areas, contractor employee parking, construction yard location, and construction site ingress and egress for review, comment and permitting, as it affects City facilities. Street cleaning on streets affected by construction of the Project will be performed in accordance with the Contract Documents. Site drainage and storm water pollution prevention shall be performed in

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accordance with the City’s stormwater quality protection program to ensure the City’s compliance with its NPDES discharge permit, also known as the San Francisco Bay Region Municipal Regional Permit, and the requirements of the Regional Water Quality Control Board.

L. VTA Minimization of Community Impacts VTA and its contractor shall work closely with the City of Milpitas to minimize disruptions to the local businesses and community. VTA and its contractor shall maintain access to all businesses within City boundaries for the duration of the Project construction.

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M. Community Outreach—Before and for the duration of Project construction, VTA shall assign a lead representative to perform outreach and handle Project-related complaints from City residents, City officials, and/or staff. VTA shall provide written notice to the City and shall publicize the telephone number, fax number, and E-mail address of the lead representative. City shall provide a list of City stakeholder groups. Before and during the Project, the VTA lead representative will perform outreach and hold informational meetings with said stakeholder groups. The lead representative shall also make an initial response to all complaints within 24 hours. Follow-up of complaints will be completed within a reasonable time following initial contact with the complainant. VTA will work in good faith and take reasonable actions to ensure resolution of complaints and take corrective actions within a reasonable period of time following the initial contact with the complainant, assuming the complaint is found to be valid and the necessary corrective action can be undertaken within the project’s schedule and budget constraints. It is VTA’s intent that its community liaison staff will effectively and satisfactorily meet the needs of the City staff and residents.

Comment [jjm14]: We want to make promises we can really keep. 24 hrs is a good goal but we may require more time for difficult or non-essential enquiries.

City response: All we’re asking for is a courtesy response here, not necessarily the actual cure or remedy of construction, noise reduction, etc.

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SECTION 7: CITY INFRASTRUCTURE

A. Construction Standards: VTA-administered construction of City Infrastructure will be in accordance with City Standard Specifications and City Standard Drawings in effect at the time the contract documents are prepared unless modification of the standards is necessary, and unless the City Engineer approves deviations or exceptions to the City Standard Specifications and City Standard Drawings to accommodate unique aspects of

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the Project and said exceptions are not intended for the purpose of providing the project with cost savings. Any such modifications will be approved in advance and in writing by the City Engineer.

B. City Review of Project Plans and Specifications:

1. During each major phase of Project design development (e.g., preliminary engineering and final engineering), VTA will provide the City with Plans and Specifications showing work to be performed on or directly affecting City Infrastructure for review and approval, which approval shall not be unreasonably withheld. Approval or disapproval of the Plans and Specifications will be delivered in writing to VTA no later than four (4) calendar weeks from the City's receipt of such Plans and Specifications. VTA and the City may agree in writing to mutually convenient time extensions or accelerated review periods through VTA payment of City overtime and other accelerated review costs. VTA will make reasonable efforts to provide the City with ten (10) working days notice prior to submission of plans pursuant to this Section 7(B)(1) in order to allow the City to mobilize review forces.
2. At the time of issuance of a Notice to Proceed to the construction contractor, VTA will provide the City with a construction schedule for review and comment. VTA will also provide periodic construction progress schedules as they are developed by the contractor for the City's review and comment.

Deleted: City approval will be limited to elements of the Project affecting City Infrastructure, and other facilities and appurtenances owned by, or which will be conveyed to, the City pursuant to the terms and conditions of this Agreement.

Comment [JJM15]: VTA's Master Schedule is dependent of review periods of 3 weeks. VTA is willing to work with the city to fund consultant time or other measures to help the City meet these timelines.

City response: We have attempted to balance party resources and concerns. Let's discuss further, if necessary. In addition, City is offering to participate in regularly scheduled design review meetings, to be held during the design process and plan preparation, as well and to reduce the number of plan submittals.

Comment [A16]: To VTA: Page: 18 City cannot agree to a single fixed review period, due to extensive variables with the different design packages. In some cases the City will need to have a consultant run hydraulic models of proposed revisions and alternatives....secondly, if plans are incomplete or insufficient, the City cannot complete thorough reviews

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C. Permits. The City will issue all necessary permits for work to be performed on City Infrastructure in accordance with the City of Milpitas Ordinance Code. VTA shall be responsible for payment of usual and customary fees charged by the City for such permits. The City will cooperate with VTA in identifying all City permits necessary for work to be performed under this Agreement.

D. Construction Management and Inspection:

1. VTA shall be responsible for all construction management, inspection and testing necessary to ensure that all construction of City Infrastructure is performed in accordance with the contract documents. VTA shall provide test results and construction documentation to the City on a timely basis to enable the City to review the adequacy of the work during construction and to permit timely acceptance of the completed work.
2. VTA will pay the usual and customary inspection fees charged by the City for any inspection, oversight services, and testing performed by City inspectors on City Infrastructure. Testing may include compaction for utility trenches, roadway backfill and structural sections, traffic control devices, inspection of sanitary sewer lines and storm drains, water discharge sampling and analysis to comply with State General Construction Permit or material testing to determine the quality of materials applied to the work performed by VTA.
3. The City retains the right to exercise control over the employment, compensation, and discharge of its personnel performing any inspection or testing services under this Agreement. The City agrees to coordinate all inspections and/or testing by city personnel through the VTA Resident Engineer. VTA retains the right to direct the contractor's construction activities.
4. Interim As-builts of City utilities – VTA to provide interim as-built submittals of City utilities, within 2 weeks of charging water, storm and sewer systems, in order for the City to provide emergency response to these facilities.

Comment [CoM17]: City needs revised as-builts as soon as facilities become part of the active utility for emergency purposes.

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E. Construction Impacts to City Infrastructure Other Than Streets:

VTA shall be responsible for the repair, relocation, or replacement, as appropriate under the terms set forth in this Agreement, of City Infrastructure other than streets affected by construction of the Project.

1. VTA, in consultation with the City, shall perform a pre-construction survey including photographs of all City-owned facilities other than streets which will be affected by constructions activities. VTA will repair any facilities determined by

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VTA to have been damaged by project construction to a condition reasonably satisfactory to the City and VTA, as supported by the pre-construction survey.

F. Construction Impacts to City Streets:

Repair and Reconstruction of City Streets: Both before and after construction, VTA, in consultation and cooperation with the City, will perform a pavement survey and videotape of City streets which may be affected by construction activities. Said pre-construction and post-construction pavement surveys will be performed in accordance with the December 1988 Metropolitan Transportation Commission Pavement Management System Users Guide (the "MTC PCI Index") VTA and the City agree that, in accordance with the MTC PCI Index, VTA will pay the City the Dollar Amount reflecting the decline in the PCI directly attributable to construction of the Project. The relevant pages of the MTC PCI Index and the methodology for determining any decline are attached hereto as Exhibit B. VTA and the City shall enter into a separate cooperative agreement ("MOU") implementing disbursement of funds to the City for any decline in the PCI attributable to construction of the Project.

G. Completion and Acceptance

Upon completion of construction, reconstruction, enlargement, expansion or relocation of any City Infrastructure and at such time as it is appropriate for the City to become responsible for operation of such City Infrastructure, VTA will notify the City that said infrastructure has been completed. The City will accept such infrastructure or any useable portion thereof in a timely manner and in accordance with the City's usual and customary practice for accepting such infrastructure, if, after inspection by the City, it is determined that the work, including any work performed pursuant to a change order, has been performed in accordance with the contract documents for each Contract for work to be performed within the City. If, after inspection by the City, it is determined that the work

Comment [Jjm18]: The definition of "betterments" is already established by FTA. FTA will not pay for upgrades of city facilities using dedicated transit funds solely because the city hopes to install them in the future.

City Response: This matter has been moved to the Non-FTA funded section.

Deleted: <#>Betterments:¶
If the City determines that any City Infrastructure should be improved beyond the existing condition, this shall constitute a Betterment. The City shall reimburse or credit VTA for the value of any such work or Betterment. In that event, VTA and the City shall enter into a separate cooperative agreement on the nature and extent of any Betterment, including related Plans and Specifications, and on the amount of credit due to VTA, prior to commencement of construction of any such Betterment. Credit for any salvage value of facilities which were either removed or retained by the City during replacement, modification, enlargement or expansion shall be based on the resale value of these facilities, less selling expenses. The schedule of payment to be paid to VTA by City shall be defined in the cooperative agreement. The City shall reimburse VTA for all Betterments within 30 days from the date a VTA invoice calculated according to the credit provisions provided above is received by the City. Notwithstanding the terms set forth in this Section 7, VTA and the City may agree in writing, with supporting documentation, on a case-by-case basis, that, where construction of the Project will preclude future economical access to or repair, improvement or construction of City utilities, inclusion of methods to mitigate such future detriment shall not be construed to be a Betterment.¶

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has not been so performed, the City shall notify VTA of any claimed deficiency within thirty (30) working days from City's discovery of the defect. Thereafter, VTA will investigate and if VTA agrees with the City's determination, VTA will correct the work prior to City acceptance. Except for warranty work, the City will become responsible for these facilities upon acceptance.

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H. As-Built Drawings:

Upon completion of work by VTA on City Infrastructure, and acceptance of such work by the City, VTA shall provide to the City, within twelve months after completion of the Project, electronic files compatible with Autocad and a set of reproducible plastic film As-Built Drawings, and any parts, operations, and maintenance manuals that are readily available for City Infrastructure showing the completed work in place. Such As-Built Drawings shall be in such detail as the City customarily requires of the City's own public works contractors.

SECTION 8: TRAFFIC MAINTENANCE AND DETOURS

VTA will assume responsibility for maintaining all traffic detours in service during construction of the Project in a manner reasonably satisfactory to the City, consistent with applicable California Department of Transportation standards. All traffic control, lane closure, and detour plans shall be submitted to the City for approval prior to commencement of any phase of construction requiring either traffic control or detour(s), which approval shall not be unreasonably withheld. The traffic control, lane closure, and detour plans shall specify the length of time that portions of City streets will likely be closed.

A. Although certain City streets will be, of necessity, partially closed for some period during construction of the Project, VTA will, to the greatest extent practicable, maintain all City streets and related City Infrastructure in service within the limits of the Project area in a manner reasonably satisfactory to the City.

Comment [jjm19]: VTA will of course accommodate access for emergency vehicles throughout construction. This statement as written could require almost unlimited expense to cure very minor or temporary diversions, which would not be acceptable to VTA.

City Response: our concern is only with substantive delays. Let's discuss.

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B. In its Contract Documents, VTA will require its contractor(s) to submit traffic plans showing haul routes, temporary closures, and the method of traffic maintenance and

staging to the City for approval, which approval shall not be unreasonably withheld. VTA will also require its contractor(s) to use reasonable efforts to provide the City with three working days notice prior to submitting traffic plans. The City shall approve or disapprove the plans no later than ten working days following the City's receipt of such plans.

C. In its Contract Documents, VTA will, prior to the temporary closure to traffic of all or part of any street, sidewalk, or other public access, require that its contractor(s) provide at least ten working days notice of such closure to the City. Deviation from this ten working day requirement may be permitted in bona fide emergency situations as determined by VTA and the City.

D. At least 72 hours prior to the temporary closure to traffic of all or part of any street, sidewalk, or other public access, VTA will post notice of such closure. VTA will also provide closure information fliers to residents, schools, and businesses within a 100 foot radius of any such closure.

Comment [jjm20]: VTA will of course accommodate access for emergency vehicles throughout construction. This statement as written could require almost unlimited expense to cure very minor or temporary diversions, which would not be acceptable to VTA.

City Response: Our concern is with substantive delays.

SECTION 9: STORM WATER POLLUTION CONTROL

VTA shall require its contractors to provide a Storm Water Pollution Prevention Plan (SWPPP) to retain sediments on site in accordance with Regional Water Quality Control Board requirements. City shall have an opportunity to review the Contract Documents prior to issuance of the construction bid package to confirm that the contract storm water requirements standards are at least as stringent as those of the City.

SECTION 10: DESIGNATED AGENT OF THE PARTIES

The City contact person for all matters related to this Agreement will be the City Manager or his or her designee. VTA's contact person for all matters related to this Agreement will be the General Manager or his or her designee.

SECTION 11: CONTRACT DOCUMENTS INDEMNITY

For any work performed on City Infrastructure, VTA will require in its general conditions of its contracts that all of the Project's construction contractors defend, indemnify and hold the City, its officers and employees harmless against any liability arising out of the acts or omissions of each such contractor and such contractor shall include the City, its elective and appointed officers, employees and agents as additional insured in any insurance policies obtained by them, at no cost to the City.

SECTION 12: INDEMNIFICATION

It is understood and agreed that neither the City nor any officer, agent or employee of the City is responsible for any damages or liability occurring by reason of anything done or omitted to be done by VTA, its directors, officers, agents and employees, under or in connection with any work, authority or jurisdiction delegated to VTA under this Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, VTA will indemnify, hold harmless and defend in any claim or litigation, the City, its officers, agents and employees from any damage or liability arising from the actions of VTA, its directors, officers, agents and employees in connection with any work, authority or jurisdiction delegated to VTA under this Agreement. The duty of VTA to indemnify and hold harmless, as set forth above, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein shall be construed to require VTA to indemnify the City, its officers, agents, and employees against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

It is understood and agreed that neither the VTA nor any officer, agent or employee of VTA is responsible for any damages or liability occurring by reason of anything done or omitted to be done by the City, its directors, officers, agents and employees, under or in connection with any work, authority or jurisdiction delegated to the City under this Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, the City will fully indemnify, hold harmless and defend in any claim or litigation, VTA, its officers, agents and employees from any damage or liability occurring by reason of anything done by the City, its directors, officers, agents and employees under or in connection with any work, authority or jurisdiction delegated to the City under this Agreement. The duty of the City to indemnify and hold harmless, as set forth above, shall include the duty to defend as set forth in Section 2778 of the California Civil

Code; provided, however, that nothing herein shall be construed to require the City indemnify VTA, its officers, agents, and employees against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

SECTION 13: INSURANCE

VTA shall include in its Contract Documents a requirement that the City be named an additional insured on all policies of insurance required of its contractors.

SECTION 14: WARRANTIES

VTA will require warranties from its contractors for work performed and for all contractor-installed equipment and materials supplied in connection with the Project. VTA acceptance of all work performed and for all contractor-installed equipment and materials supplied in connection with City Infrastructure shall be predicated upon City acceptance of such work, equipment, and materials. All VTA warranties to the City shall be for a period of 12 months from acceptance by the City, except where the manufacturer's usual warranty is for a longer period. In that event, the longer period, less 30 days, will apply. Upon written request by the City, VTA will pursue all of its available remedies under those warranty provisions for correction of any defects in materials and/or workmanship discovered within the warranty period. VTA will endeavor to commence correction of such defects in the work performed for the City within sixty working days of written notification to VTA by the City, so long as the notification is within the warranty period.

SECTION 15: RESOLUTION OF DISPUTES

If any dispute under this Agreement cannot be resolved by the Parties, upon the written request of either of the Parties, the matter shall be dealt with as described below:

A. First Level: Each party will designate project staff or individuals to be the initial person or persons to discuss any apparent dispute or disagreement between the parties and initiate this procedure. Each such designated first level person may contact his or her counterpart at the same level at any time to raise any apparent disagreement related to the Project. For the City the first level person shall be designated by the City at the time of execution of this Agreement. For VTA, the first level person, unless VTA shall designate otherwise in writing, shall be the _____.

Comment [jjm21]: Please advise why this entire section was deleted. Dispute resolution is one of the most important elements of this document and city has not proposed any alternative here.

City Response: We are amenable to Levels One through Level Three. The ADRB, however, seems more appropriate for a agency-contractor relationship, not the sister agency situation that we have here. We have therefore not reinserted that provision.

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1. Urgent Matter: For any matter designated by the initiating party as “urgent,” the other party shall make its first response within twenty-four hours, or within such other period as the first level persons may agree.

2. Non-Urgent Matters: Unless a matter is designated “urgent” by the initiating party, the other party shall respond within five working days, or within such other period as the first level persons may agree.

B. Second Level: Each party will designate individuals to whom matters not resolved at the First Level shall be referred. Each such designated second level person may contact his or her counterpart at the same level at any time to raise any apparent disagreement related to the Project. For the City, the second level person shall be designated by the City at the time of execution of this Agreement. For VTA, the second level person, unless VTA shall designate otherwise in writing, shall be the Chief SVRT Program Officer.

1. Urgent Matters: For any matter designated by the initiating party as “urgent,” the other party shall make its first response within twenty-four hours, or within such other period as the second level persons may agree.

2. Non-Urgent Matters: Unless matter is designated “urgent” by the initiating party, the other party shall respond within three working days, or within such other period as the second level persons may agree.

C. Third Level: Each party will designate individuals to whom matters not resolved at the second level shall be referred. These designated third level persons shall constitute the final internal level with VTA and the City for resolution of issues between the parties. Each such designated third level person may contact his or her counterpart at the same level at any time to raise any apparent disagreement related to the Project. For the City, the third level person shall be designated by the City at the time of execution of this Agreement. For VTA, the third level person, unless VTA designates otherwise in writing, shall be the VTA General Manager.

1. Response: The initiating third level person will request a response from his or her counterpart and that response will be made within a time period agreed between the third level persons.

D. Nonbinding Nature of Staff Level Consultations (First Level Through Third Level Consultations): Although both Parties should strongly consider the recommendations from First Level through Third Level consultations, such recommendations are not binding. The Parties expressly acknowledge that the foregoing provisions of this Section are the sole and exclusive administrative or non-judicial remedies which must be exhausted prior to seeking any remedy provided at law or equity for a default hereunder. Notwithstanding the above, nothing in this Section shall prevent either party from seeking an interim judicial remedy in extraordinary circumstances.

Comment [22]: City Comment to VTA: This is a modification of the ADRB nonbinding nature statement to reflect staff level consultations and ultimate right to seek judicial relief, if necessary. Our goal here is to use the Levels one through Three procedures to resolve disputes. We are partners and equals in this venture.

SECTION 16: NOTICES

All notices required hereunder may be given by personal deliver, US Mail, courier service (e.g. Fedex) or telecopier transmission. Notices shall be effective upon receipt at the following addresses:

To VTA by U.S. Mail: Santa Clara Valley Transportation Authority
3331 N. First St.
San Jose, CA 95134
Attention: Chief SVRT Program Officer
Phone: 408-321-5623
Telefax: 408-321-5715

To City by U.S. Mail:

SECTION 17: PARTIES NOT CO-VENTURERS

Nothing in this Agreement is intended to nor does it establish the Parties as partners, co-venturers or principal and agent with one another.

SECTION 18: FURTHER ASSURANCES, TIME PERIODS AND RECORDS

A. Each party shall work in good faith to execute and deliver to the other all such additional instruments or documents as may be necessary to carry out this Agreement or to assure and secure to the other party the full and complete enjoyment of its rights and privileges under this Agreement, subject to appropriate approvals of each party's governing body.

Notwithstanding the foregoing, the VTA shall be subject to all applicable City permitting and approval requirements.

Comment [jjm23]: VTA is unwilling to waive its statutory authority to construct transportation improvements. This authority is not generally bound by any requirement to obtain city approval.

City Response: Let's discuss.

B. Should unforeseen circumstances occur, VTA and the City shall negotiate in good faith to reach agreement on any amendment(s) that may be necessary to fully effectuate the Parties' respective intentions in entering into this Agreement.

C. The City agrees to establish and maintain records pertaining to the fiscal activities of the Project, which records shall show the actual time devoted and the costs incurred by the City with respect to any work performed under this Agreement. The accounting systems of the City shall conform to generally accepted accounting principles, and all records shall provide a breakdown of total costs charged to the Project, including properly executed payrolls, time records, invoices and vouchers. Upon written request, the City shall, at a mutually convenient time, permit VTA to inspect, examine, re-examine, and copy the City's books, records, accounts, and any and all data relevant to this Agreement for the purpose of auditing and verifying statements, invoices or bills submitted by the City pursuant to this Agreement, and shall provide such assistance as may be reasonably required in the course of such inspection. The City shall, at VTA's request, provide a letter of representation concerning its usual and ordinary charges for work similar to the work to be performed under this Agreement, as well as the accounting systems utilized by the City for work to be performed under this Agreement.

D. VTA reserves the right to examine and re-examine such books, records, payrolls, accounts and data during the three year period after final payment under this Agreement

and until all pending matters are closed, and the City shall in no event dispose of said books, records, payrolls, accounts and data in any manner whatsoever for three years after the final payment under this Agreement or until all pending matters are closed, whichever is later.

- E. Pursuant to California Government Code Section 8546.7, the Parties shall be subject to the examination and audit of the State Auditor, at the request of VTA or as part of any audit of VTA by the State Auditor, for a period of three years after final payment under this Agreement. The examination and audit shall be confined to those matters connected with the performance of this Agreement including, but not limited to, the cost of administering the Agreement.
- F. The Project financing includes significant federal funding. VTA may be subject to audits or requests for information from FTA and City agrees to cooperate in furnishing the required information.

SECTION 19: NON-LIABILITY OF OFFICIALS, EMPLOYEES, AND AGENTS

No director, member, official, employee or agent of the City or VTA shall be personally liable to any party to this Agreement or any successor in interest in the event of any default or breach of this Agreement or for any amount which may become due on any obligation under the terms of this Agreement.

SECTION 20: HEADING AND TITLES

Any titles of the Sections of this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any part of its provisions.

SECTION 21: APPLICABLE LAW

This Agreement shall be interpreted under and pursuant to the laws of the State of California and applicable federal law. The Parties agree that the jurisdiction and venue of any dispute between the Parties to this Agreement shall be the Superior Court of Santa Clara County.

SECTION 22: SEVERABILITY

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

SECTION 23: BINDING UPON SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the transferees, successors and assigns of each of the Parties to it, except that there shall be no transfer of any interest by any of the Parties to this Agreement except pursuant to the terms of the Agreement.

SECTION 24: REMEDIES NOT EXCLUSIVE

No right or remedy conferred upon or reserved to VTA or the City under this Agreement is intended to be exclusive of any other right or remedy, except as expressly stated in this Agreement, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter existing at law or in equity or by statute, except such rights or remedies as are expressly limited in this Agreement.

SECTION 25: FORCE MAJEURE

In addition to specific provisions of this Agreement, performance by either party shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, quarantine restrictions, casualties, acts of God, acts of the public enemy, epidemic, government restrictions on priorities, freight embargoes, shortage of labor or materials, unusually inclement weather, lack of transportation, court order, or any other similar causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other party within thirty days from the commencement of the cause and such extension is not rejected in writing by the other party within thirty days of receipt of the notice. Time of performance under this Agreement may also be extended by mutual agreement, signed by both Parties.

SECTION 26: INTEGRATION

This Master Agreement represents the general intent of the Parties with respect to the subject matter hereof. This Agreement may only be modified or amended, in whole or in part, in writing

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signed by an authorized officer or representative of each of the Parties hereto. Additional follow-on agreements referenced in this agreement, and necessary for the project, include City Permit Agreement, Cost Sharing Agreements and other amendments as required for work that is currently undefined or unknown.

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

SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY

By: _____

Michael T. Burns

General Manager

APPROVED AS TO FORM:

By: _____

General Counsel

CITY OF _____

By: _____

City Manager

APPROVED AS TO FORM:

By: _____

City Attorney

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[Exhibit A: Transit Area Specific Plan \(TASP\) development impact fee](#)

[Exhibit B: Pavement Evaluation Methodology](#)

[Exhibit C: City Private Job Account Account \(PJ\) Deposit](#)