


# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** John Ristow

**SUBJECT: BART PHASE I OPERATION  
AND MAINTENANCE AGREEMENT**

**DATE:** March 16, 2020

Approved 

Date  
3/27/20

**COUNCIL DISTRICT: 4**

## **RECOMMENDATION**

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the Santa Clara Valley Transportation Authority (VTA) and the City of San José for ongoing operation and maintenance of facilities constructed as part of the BART Silicon Valley Berryessa Extension Project.

## **OUTCOME**

Approval of the recommended agreement will establish the maintenance responsibilities between VTA and the City for facilities within the respective jurisdictions.

## **BACKGROUND**

BART Phase I is the first phase of the 16-mile BART Silicon Valley extension of the regional BART system to downtown San José and the City of Santa Clara. Phase I extends from Fremont (Warm Spring Station) south to the Berryessa/North José Station via Milpitas (see map on Attachment A).

In March 2013, the City and VTA jointly submitted a grant application through the One Bay Area Grant Program to secure funds for joint development of the Upper Penitencia Creek Trail from King Road to the Berryessa/North José BART Station. The grant was awarded, and VTA led design and construction of the trail improvements with planning, design and construction oversight by the City.

VTA also designed and constructed BART Phase I and various supporting projects including a brand-new roadway (Berryessa Station Way), the Berryessa BART/North José Station, and Upper Penitencia Creek Trail in accordance with cooperative agreements with the City.

The BART Phase I project construction is now near completion and BART train system testing is on-going with passenger service is expected to begin by the end of 2020. In addition, City and VTA staff are coordinating alterations to the related Upper Penitencia Creek Trail alignment to improve drainage along the pedestrian/bicycle corridor.

An Operations and Maintenance (O&M) agreement between the City and VTA is necessary to document the rights, obligations, and responsibilities for ownership, access, and ongoing operation and maintenance of facilities that were built as part of the project.

### **ANALYSIS**

Over the past two years, City and VTA staff have actively and collaboratively negotiated ownership, O&M roles and responsibilities, permitting requirements, notification requirements and access coordination protocols for street crossings, trails, and the Berryessa/North José BART Station.

In general, VTA or BART will maintain VTA-owned facilities constructed as part of VTA's BART Silicon Valley Extension, Phase I, under a separate agreement between these agencies. The City will maintain City-owned facilities, including roadway surfaces at BART street crossings, Berryessa Station Way (a new street) and the Upper Penitencia Creek Trail. The following table summarizes roles and responsibilities for each agency:

<b>AGENCY</b>	<b>ROLE &amp; RESPONSIBILITY</b>	<b>FISCAL IMPACT</b>
CSJ-DOT	<ul style="list-style-type: none"><li>• Street pavement, street markings, sidewalks, and CITY utilities at BART street crossings such as storm and sanitary sewers</li><li>• Street pavement, sidewalks, bike path, street markings, street lights and traffic signals along Berryessa Station Way (a new City street)</li></ul>	\$90,000 annually
CSJ-PRNS	<ul style="list-style-type: none"><li>• Upper Penitencia Creek Trail including trailheads, pavement, unpaved gravel shoulders, sub-base, markings, litter cans, and trail-specific signage</li><li>• Graffiti removal up to 10 feet above grade</li></ul>	\$5,500 annually  \$86,400 annually
VTA (or BART)	<ul style="list-style-type: none"><li>• BART structures, barriers and fences</li><li>• BART system sites</li><li>• VTA transit center and station parking</li><li>• Berryessa/North José Station Campus landscaping</li></ul>	N/A

Execution of the Agreement is contingent on the following items that are being resolved:

1) Resolution of construction punch-list items which are necessary for project acceptance; 2) the completion of a few right-of-way (real estate) transactions; and 3) confirmed plan for alterations to the Upper Penitencia Creek Trail to manage storm water. These pending matters are under negotiations and expected to be completed before the station opening date.

In anticipation of the start of BART revenue service at the end of this calendar year, the VTA Board of Directors has authorized the General Manager to execute the Agreement.

### **CONCLUSION**

City Council authorization for the City Manager to execute the Agreement will streamline the City's approval timeline once the above three conditions are met and enable the Agreement to be in place by the opening of the Berryessa/North José BART Station.

The City shall be responsible for issues arising from the maintenance obligations identified above, and VTA will be responsible for its maintained areas.

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

No additional follow-up is anticipated at this time.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the April 7, 2020 City Council Agenda.

### **COORDINATION**

This memorandum and agreement have been coordinated with the Department of Planning, Building and Code Enforcement, Department of Parks, Recreation and Neighborhood Services, Department of Public Works, City Manager's Budget Office, and the City Attorney's Office.

### **COMMISSION RECCOMENDATION/INPUT**

There is no commission recommendation or input associated with this action.

### **FISCAL/POLICY ALIGNMENT**

The recommended action is the final step to the completion of the BART Phase I project and aligns with the City's 2040 General Plan goal to facilitate increased travel by transit and the Transportation and Aviation Services CSA goal to provide transportation choices that support a strong economy.

### **COST SUMMARY/IMPLICATIONS**

Maintenance costs of \$90,000 annually associated with the BART Phase I project was added to the Department of Transportation's operating budget as new transportation infrastructure maintenance and operation costs and is included in the FY2019-2020 Adopted Operating Budget.

Staff estimates that the operations and maintenance impact of the 700 feet of trail and associated 0.21 acre of landscaped property will be approximately \$5,500 annually. This amount is based on the cost of trail maintenance at the rate of \$15,000/mile and \$15,000/acre, with \$2,200/mile for park rangers. There will be no operational costs until the City's acceptance of the trail, in association with operation of the BART Station. The additional funding will be requested as part of the annual budget process to supplement the Park Maintenance Budget.

Staff also estimates that the annual costs for the work associated with graffiti removal for the BART facility is \$86,400 (General Fund) which has been appropriated to the Anti-Graffiti Program budget.

### **CEQA**

BART Extension to Berryessa Final and Supplemental Environmental Impact Reports, adopted on January 24, 2012, under Resolution Number 76126.

/s/  
JOHN RISTOW  
Director of Transportation

For questions please contact Zahir Gulzadah, DOT Division Manager of Regional and Local Project Delivery Section at 975-3257.

Attachment



Source: <https://www.vta.org/sites/default/files/images/2019-05/Phase%20I%20Alignment%20Map.jpg>



Source: [https://www.vta.org/sites/default/files/images/2019-06/Berryessa\\_Mode%20of%20Access\\_061019.jpg](https://www.vta.org/sites/default/files/images/2019-06/Berryessa_Mode%20of%20Access_061019.jpg)