

**MEMORANDUM OF AGREEMENT
BETWEEN
SOLANO TRANSPORTATION AUTHORITY AND COUNTY OF SOLANO
FOR
STATE ROUTE (SR 37)/FAIRGROUNDS DRIVE IMPROVEMENT PROJECT**

This Agreement (“**Agreement**”) is entered into by the Solano Transportation Authority, a joint powers authority organized under Government Code §6500 et seq., consisting of the County of Solano and the cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun, Vacaville and Vallejo, (“**STA**”) and the County of Solano, a political subdivision of the State of California (“**County**”), each individually referred to as a “**Party**” and collectively as the “**Parties**” to be effective as of June 11,, 2024.

RECITALS

WHEREAS, STA was created in 1990 through a Joint Powers Agreement between the County of Solano and the cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo to serve as the Congestion Management Agency (“**CMA**”) for Solano County; and

WHEREAS, STA, County, and City of Vallejo entered into an Restated Funding Agreement (“**Agreement**”) in December 2016, in which the parties agreed to cooperate to prepare the Project Approval/Environmental Document (PA/ED), the Project Report, and the documentation for the environmental clearance for the selection of preferred alternative traffic improvements to realign the connection of Redwood Parkway with both Fairgrounds Drive and the westbound and eastbound I-80 off ramps and on-ramps; and

WHEREAS, STA, County, and City of Vallejo amended the Restated Funding Agreement (“**First Amendment**”) on July 27, 2021 for the SR 37/Fairgrounds Drive Improvement project (“**Project**”) to widen Fairgrounds Drive from east of Coach Lane to SR 37 and modify the interchange at SR 37/Fairgrounds Drive; and

WHEREAS, a new signal will be installed at the Fairgrounds Drive/Sage Street intersection, and the existing signal at Six Flags Discovery Kingdom exit/Fairgrounds Drive will be modified to accommodate additional through and turning lanes; and

WHEREAS, the Project will build a new Diverging Diamond Interchange (“**DDI**”) at the SR 37/Fairgrounds Interchange to reduce congestion, improve safety, consolidate the Solano Express bus stops and enhance both bicycle and pedestrian mobility in the Project area; and

WHEREAS, the widening on Fairgrounds Drive will transition back to the existing condition near the southerly Six Flags Discover Kingdom exit to avoid relocation of Rindler Creek (“**Creek**”), and the Creek relocation will be constructed as part of the Fairgrounds Development (Solano 360) because the channel required for the development has to provide additional capacity due to significant encroachment into the flood plain; and

WHEREAS, STA and County have agreed that the County will contribute certain County property to be used to facilitate construction of the Project and will contribute up to \$4M in funding for construction of the Project;

WHEREAS, STA has completed the Plans Specifications & Estimate (PS&E) and has determined the funding need for construction to be a total of \$25.2M; and

WHEREAS, current funding for the Project includes \$15M from Regional Measure 3 (RM 3), \$5.4M in STA project contingency funds, an anticipated \$800,000 in Regional Transportation Improvement Fund (RTIF) District 3 funds and \$4M from the County, as reflected herein.

AGREEMENT

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

A. County agrees to:

1. **Funding Commitment:** Pay **\$4 Million** for the State Route (SR 37)/Fairgrounds Drive Improvement Project (the “**Project**”), which amount shall be made available to STA as provided at Section C below for liquidity to ensure timely payments to the contractor. As provided in Section B below, to the extent there is a surplus in available funding at completion of the Project, said amount, up to the \$4 million contributed by County, shall be refunded to the County. Said amount shall not be refundable in the event that no surplus funding exists at the conclusion of the Project.

The County’s commitment to pay \$4M towards the project is expected to be comprised of the following fund sources:

- \$800,000 in State Transit Assistance Funds (STAF)
- \$800,000 in STA Letter of No Prejudice (LONP) funds
- \$1.5M in Transportation Development Act Article 4 (TDA 4) funds
- \$500,000 in Regional Transportation Impact Fee (RTIF) District 7 funds
- \$266,331 in Transportation Development Act Article 3 (TDA 3) funds
- \$133,669 in Transportation Funds for Clean Air (TFCA).

Due to the limited eligibility of various fund sources and the variability of costs for specific eligible expenses, these funding amounts may vary by fund source but will total \$4M. Should significant changes to this agreement be required, the parties agree to communicate information and provide direction as needed to limit impact to the project schedule.

2. **Right-of-Way Commitment:** Grant the right to STA to use Area 1, which includes that portion of Solano County Assessor's Parcel No. 0052-240-560 as shown on the map attached hereto as **Exhibit A**, incorporated herein by reference, ("Property") to facilitate Project construction. The permissions granted herein include the right of STA to enter upon the Property and to remove and dispose of any and all improvements within and/or straddling the Property, reconfigure the existing parking lot (within Area 1), construct bioswales and associated improvements as reflected in the Project plans (within Area 1), and for associated access for Project construction (within Area 1) (collectively, "Right-of-Way Commitment"). All permanent improvements constructed by STA on the Property shall be exclusively owned and maintained by the County upon completion of the Project. This permission is granted in consideration of the benefits which may accrue to the Property and in consideration of the location, improvement, and construction of such highway and incidents thereto. Any right to receive additional compensation for the right to use the Property as provided herein, except as provided in Paragraph F below, is hereby waived with a corresponding release of any obligation to appraise said rights. County hereby acknowledges that it has been fully informed of its rights under Federal law to receive just compensation for the Right-of-Way Commitment, and that County has also been informed of its right to have an appraisal made of the Right-of-Way Commitment along with an offer of just compensation. County hereby waives these rights and agrees to contribute said Right-of-Way Commitment to STA and the Project. This acknowledgement is made by the County freely and without coercion of any kind.

B. STA agrees to:

1. Provide management, design, utility relocations, construction management and construction in connection with the Project.
2. Obtain all permits and other governmental or regulatory approvals necessary to construct the Project.
3. Reimburse the County, as provided at Section A.1. above, in the event that STA receives funds in excess of the costs for construction and construction management whether by obtaining additional funds or reduced costs for the Project.
4. Indemnify, defend and hold the undersigned County harmless from and against any and all loss, damage, expense and/or liability which may be suffered or incurred by County and against any and all claims, demands, and causes of action that may be brought against County, caused by, or arising out of, or in any way connected with STA's operation under the rights granted herein and STA shall, at its option, either repair or pay for such damages.

C. It is Mutually Agreed:

1. The rights and privileges granted to STA, at the option of STA, may be exercised by any authorized agent or contractor of STA.

2. Notwithstanding other provisions in this Agreement, the right of possession and use of the Property as described herein, including the right to remove and dispose of improvements, shall commence upon the full execution of this Agreement or on June 1, 2024, whichever is later. The benefits accruing to the County and waiver of additional compensation provided herein includes, but is not limited to, full payment for such possession and use, including damages, if any, and interest from said date.
3. This rights and privileges granted over the Property shall terminate upon notice of completion of construction or October 10, 2026, whichever is earlier, ("Termination Date").
4. None of STA, its successors, assigns, contractors or agents shall have any continuing rights or duties with respect to the Property, including without limitation, any indemnification obligations, after the Termination Date.

D. Payments:

Payment shall be lump sum from County to STA within 60 days after execution of Agreement.

E. Term and Termination:

This Agreement shall remain in effect through the filing of the Notice of Completion on the Project.

F. Indemnification:

Except as otherwise provided in this Agreement, each Party shall indemnify, defend, protect, hold harmless, and release the other, their elected bodies, officers, agents, and employees, from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any negligent act or omission or willful misconduct of such indemnifying Party. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying Party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

G. Insurance:

1. Each Party agrees to maintain its status as a legally self-insured public entity for general, auto and professional liability insurance coverage with limits of no less than \$1,000,000 per occurrence and no less than fifteen million dollars (\$15,000,000) aggregate. Each Party's insurance will be considered primary for all claims arising out of acts of that Party. Each Party agrees to endorse the other Party, its officials, employees and agents, using standard ISO endorsement No. CG2010 or its equivalent for general liability coverage. Each Party also agrees to require all consultant, contractors and subcontractors engaged to work on this Project to name the other Party as an additional insured as well.

2. Each Party will maintain Workers' Compensation as required by law for all its employees with limits not less than \$1,000,000 per occurrence. Neither Party's insurance shall be called upon to satisfy any claim for workers' compensation filed by an employee of the other Party. Each Party will provide the other with a Waiver of Subrogation endorsement for Workers Compensation. Each Party also agrees to require all consultants, contractors and subcontractors engaged to work on this Project to carry the same Workers Compensation insurance limits and endorsements.

3. Each Party will require all consultants, contractors, and subcontractors engaged to work on this Project to carry insurance in levels commensurate with the exposure of the respective work provided by the consultant, contractor or subcontractor. of the respective work provided by the consultant, contractor or subcontractor.

H. Notices:

All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that a Party desires to give to the other Party shall be addressed to the other Party at the addresses set forth below. A Party may change its address by notifying the other Party of the change of address. Any notice sent by mail in the manner prescribed by this Paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

TO STA:

Daryl K. Halls, Executive Director
423 Main Street, Suisun City, CA 94585
Attn: Nick Burton, Director of Projects

TO COUNTY:

Bill Emlen, County Administrator
675 Texas Street, 6th Floor, Fairfield, CA 94533
Attn: James Bezek, Director of Resource Management

I. Access to Records and Retention:

All Parties, acting through their duly authorized representative, as well as any federal or state grantor agency providing all or part of the funding associated with this Agreement, the State Controller, the Comptroller General of the United States, and the duly authorized representatives of any of the Parties, shall have access to any books, documents, papers and records of any Party which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, the Parties shall maintain all required records for three years after final payment for any work associated with this Agreement, or after all pending matters are closed, whichever is later.

J. Severability:

If any provision or any part of any provision of this Agreement is, for any, reason, held to be invalid, unenforceable or contrary to any public policy, law, statute, regulation or ordinance, the remainder of this Agreement shall not be affected by it and shall remain valid and fully enforceable.

K. Interpretation:

Each Party has reviewed this Agreement and any question of doubtful interpretation shall not be resolved by any rule or interpretation providing for interpretation against the drafting Party. This Agreement shall be construed as if all of the Parties drafted it. The captions and headings contained herein are for convenience only and shall not affect the meaning or interpretation of this Agreement.

L. Non-Discrimination:

The parties hereto shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Parts 21 and 28 C.F.R. Section 50.3.

Further, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this permit to enter and construct.

The Parties have executed this Agreement on the day and year first written above.

COUNTY OF SOLANO

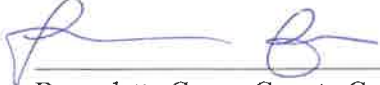
SOLANO TRANSPORTATION AUTHORITY

By: _____
Bill Emlen, County Administrator

By: _____
Daryl K. Halls, Executive Director

APPROVED AS TO FORM

APPROVED AS TO FORM

By:  _____
Bernadette Curry, County Counsel

By: _____
Megan J. Callaway, STA Legal Counsel

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COUNTY OF SOLANO

By: Bill Emlen
Bill Emlen, County Administrator

APPROVED AS TO FORM

By: _____
Bernadette Curry, County Counsel

SOLANO TRANSPORTATION AUTHORITY

By: Daryl K. Halls
Daryl K. Halls, Executive Director

APPROVED AS TO FORM

By: M. Callaway
Megan J. Callaway, STA Legal Counsel