

**EAST CONTRA COSTA
REGIONAL FEE AND FINANCING AUTHORITY**

Antioch – Brentwood – Contra Costa County – Oakley – Pittsburg

A JOINT EXERCISE OF POWERS AGENCY

255 Glacier Drive, Martinez, CA 94553

**AGENDA
Board of Directors
Meeting
(No In-person Meeting)**

**Thursday, September 8, 2022
6:30 p.m.**

Tri-Delta Transit Meeting Room
801 Wilbur Avenue
Antioch, California

To slow the spread of COVID-19, in lieu of a public gathering, the East Contra Costa Regional Fee and Financing Authority Board of Directors meeting will be accessible via Zoom to all members of the public as permitted by Government Code Section 54953(e). Members of the public may participate in the meeting online, or by telephone. To participate in the meeting please use the information.

To participate by phone, dial **+17207072699 US.**

The meeting ID is **842 1510 9864** Passcode: **540952**

To participate online using Zoom, hold down CTRL + click the following:

[Join Zoom Meeting Here](#) Meeting ID: **842 1510 9864 (Passcode: **54092**).**

In lieu of making public comments at the meeting, members of the public also may submit public comments before or during the meeting by emailing comments to Program Manager Dale Dennis at dodennis@theycyberjungle.com. If you have difficulty emailing a public comment, please contact Nancy Wein, Contra Costa County Public Works Department, at (925) 313-2275.

All comments submitted by email to the above email address before the conclusion of the meeting will be included in the record of the meeting. When feasible, the Board Chair, or designated staff, also will read the comments into the record at the meeting, subject to a two-minute time limit per comment.

The Board Chair may reduce the amount of time allotted to read comments at the beginning of each item or public comment period depending on the number of comments and the business of the day. Your patience is appreciated. A break may be called at the discretion of the Board Chair.

Board of Directors:

Holland White, City of Pittsburg – Chair
Diane Burgis, Contra Costa County – Vice Chair
Lamar Thorpe, City of Antioch
Joel Bryant, City of Brentwood
Aaron Meadows, City of Oakley

Authority Staff Office:

Contra Costa County
255 Glacier Drive
Martinez, CA 94553
(925) 313-2000

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To obtain a copy of a staff report or other written materials related to an open session item on the agenda, please contact Nancy Wein, at the Contra Costa County Public Works Department, by phone at (925) 313-2275, or by email to Nancy.Wein@pw.cccounty.us.

**Agenda
September 8, 2022**

1. Call to Order
2. Determination
 - A. **Teleconference Meetings: CONSIDER and ADOPT Resolution No. 2022/03** to authorize the Board of Directors to conduct teleconference meetings under Government Code section 54953(e), and make related findings set forth in the resolution; **DETERMINE** that the Authority will hold virtual meetings for the next 30 days; and **DIRECT** the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.
 - B. **ECCRFFA Comprehensive Nexus Study Project List:** Staff recommends the Board **CONSIDER** and **APPROVE** the List of Proposed Projects to be included in the new comprehensive nexus study for the ECCRFFA Fee Program.
3. Public Comment
4. Consent Items
 - A. **APPROVE** minutes of the July 14, 2022 Board of Directors meeting. (August 11, 2022 meeting cancelled).
 - B. **Sand Creek Extension Project: APPROVE** the Reimbursement, Waiver and Release Agreement between ECCRFFA and DeNova Homes, Inc., for reimbursement of \$2,499,912 for constructing a portion of the Sand Creek Road Extension Project, and **AUTHORIZE** the Secretary or designee to execute the Agreement on behalf of the ECCRFFA.
 - C. **APPROVE** an amendment to the Consulting Services Agreement with L. Lucy Owens to increase the payment limit by \$75,000 to a revised payment limit of \$174,900 for staff support services for ECCRFFA and extend the term to December 31, 2023; and **AUTHORIZE** the Secretary or designee to sign the amendment on behalf of the Authority.

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5. Boardmember Comments
6. Adjournment

The Authority will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Staff at least 24 hours before the meeting, at (925) 595-4587. Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the East Contra Costa Regional Fee and Finance Authority to a majority of members of the Board of Directors less than 72 hours prior to that meeting are available for public inspection at 255 Glacier Drive, Martinez, CA during normal business hours.

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Authority Staff Office:

Contra Costa County
255 Glacier Drive
Martinez, CA 94553
(925) 313-2000

EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY

DATE: September 8, 2022

TO: Board of Directors

FROM: Dale Dennis, Program Manager 

SUBJECT: Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e))

Recommendation: Staff recommends the Board take the following actions:

1. **Consider and Adopt Resolution No. 2022/03** to authorize the Board of Directors to conduct teleconference meetings under Government Code section 54953(e), and make related findings set forth in the resolution;
2. **Determine** that the Authority will hold virtual meetings for the next 30 days; and
3. **Direct** the Program Manager and/or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

Discussion:

When the COVID-19 pandemic began, Governor Newsom issued an executive order that allowed local agencies to meet remotely without complying with all teleconferencing requirements of the Brown Act. Executive Order N-29-20 suspended certain non-emergency teleconferencing rules, including the requirements that each teleconference location be listed on the agenda and be physically accessible to the public during the meeting and that the public must be given an opportunity to comment at each teleconference location. Since March 2020, the Board of Directors has met virtually, as authorized by Executive Orders N-29-20, N-35-20, N-08-21 and N-15-21. This authority expired September 30, 2021.

New legislation known as Assembly Bill 361, amended the teleconferencing provision of the Brown Act, Government Code section 54953. Effective October 1, 2021, section 54953, subsection (e), authorizes a local agency to use special teleconferencing rules when a legislative body of a local agency holds a meeting during a state of emergency declared by the state and either A) state or local health officials have imposed or recommended measures to promote social distancing, or B) the legislative body is meeting to determine whether, or has determined, by majority vote, that meeting in person would present imminent risks to the health or safety of meeting attendees.

When a legislative body uses the emergency teleconferencing provisions under section 54953(e), the following rules apply:

- The agency must provide notice of the meeting and post an agenda as required by the Brown Act, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the meeting or of the call-in or internet-based meeting service, the legislative body must stop the meeting and take no further action on agenda items until public access and ability to comment is restored.
- Local agencies may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- The body must reconsider the circumstances of the state of emergency and the findings in support of emergency teleconference meetings every 30 days.
- AB 361 sunsets on January 1, 2024.

A Board resolution authorizing teleconferencing under section 54953(e) is attached. It would determine that the State has declared a state of emergency related to COVID-19 and find that social distancing recommendations are in place and that there is an imminent risk of harm to the public, staff, and officials if live meetings are conducted. If adopted, for the next 30 days the resolution would require the Board of Directors to hold teleconference meetings consistent with the above-described rules.

If the Board wishes to continue teleconferencing under section 54953(e), every 30 days after adopting the attached resolution the Board must reconsider the circumstances of the state of emergency and find that one or both of the following circumstances exists: the state declared emergency continues to directly impact the ability of members to safely meet in person, or state or local officials continue to impose or recommend measures to promote social distancing. If the state-declared emergency no longer exists, or if the Board does not make these findings by majority vote, then it will no longer be exempt

from the Brown Act's teleconferencing rules. The attached resolution directs the Program Manager and/or Secretary to return no later than 30 days after the resolution is adopted with an item for the Board to consider whether to continue meeting under the provisions of Government Code section 54953 (e). If the resolution is not adopted, the Board, would not be permitted to conduct teleconference meetings under the provisions of Government Code section 54953(e), added by Assembly Bill 361, and this meeting would need to be adjourned and rescheduled as an in-person meeting.

RESOLUTION NO. 2022/03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY AUTHORIZING TELECONFERENCE MEETINGS UNDER ASSEMBLY BILL 361

Recitals

- A. On March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Gov. Code § 8550 et seq.
- B. On March 10, 2020, the Board of Supervisors found that due to the introduction of COVID-19 in the County, conditions of disaster or extreme peril to the safety of persons and property had arisen, commencing on March 3, 2020. Based on these conditions, pursuant to Government Code section 8630, the Board adopted Resolution No. 2020/92, proclaiming the existence of a local emergency throughout the County.
- C. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the Brown Act), provided certain requirements were met and followed.
- D. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which clarified the suspension of the teleconferencing rules set forth in the Brown Act and further provided that those provisions would remain suspended through September 30, 2021.
- E. On September 16, 2021, Governor Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislative body subject to the Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing.
- F. On September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings that include recommended measures to promote social distancing.
- G. Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are strongly recommended as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of an/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed,

and it is recommended that the protocol require social distancing – i.e., six feet of separation between attendees – and face masking of all attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.

- H. The California Department of Public Health (CDPH) and the federal Centers for Disease Control and Prevention (CDC) caution that the Omicron variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations.
- I. As of August 30, 2022, the CDC-reported seven-day rolling average of new cases in the County was 185.08 cases per day, per 100,000 of population, a case rate that remains in the “high” community transmission tier, the most serious of the CDC’s community transmission tiers. According to the Contra Costa County Health Officer, the predominant variant of COVID-19 being identified continues to be the Omicron variant, which has been shown to dramatically increase COVID-19 transmission.
- J. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the East Contra Costa Regional Fee and Financing Authority Board of Directors intends to invoke the provisions of Assembly Bill 361 related to teleconferencing.

NOW, THEREFORE, the Board of Directors of the East Contra Costa Regional Fee and Financing Authority resolves as follows:

1. The Board of Directors finds that the Contra Costa County Health Officer continues to recommend that public meetings be held by teleconferencing as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19.
2. The Board of Directors finds that meeting in person for meetings of the East Contra Costa Regional Fee and Financing Authority Board of Directors would present imminent risks to the health or safety of attendees because (a) as of August 30, 2022, the County remains in the “high” community transmission tier, with a case rate of 185.08 cases per day, per 100,000 of population, and (b) the Omicron variant has been shown to dramatically increase COVID-19 transmission.
3. As authorized by Assembly Bill 361, the East Contra Costa Regional Fee and Financing Authority Board of Directors will use teleconferencing for its meetings in accordance with the provisions of Government Code section 54953(e).
4. The Program Manager and/or Secretary is authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all

other applicable provisions of the Brown Act.

5. The Program Manager and/or Secretary is directed to return no later than 30 days after this resolution is adopted with an item for the Board of Directors to consider whether to continue meeting under the provisions of Assembly Bill 361.

PASSED AND ADOPTED on September 8, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced, passed and adopted by the above vote of the East Contra Costa Regional Fee and Financing Authority Board of Directors, at a meeting of said Board of Directors on the date indicated above.

Date: _____

Brian Balbas, Secretary
East Contra Costa Regional Fee and
Financing Authority

By: _____



Recommendations for safely holding public meetings

Each local government agency is authorized to determine whether to hold public meetings in person, on-line (teleconferencing only), or via a combination of methods. The following are recommendations from the Contra Costa County Health Officer to minimize the risk of COVID 19 transmission during a public meeting.

1. Online meetings (i.e. teleconferencing meetings) are encouraged, where practical, as these meetings present the lowest risk of transmission of SARS CoV-2, the virus that causes COVID 19. This is particularly important when community prevalence rates are high. Our current trends as of August 9, 2022 in Covid-19 case rate, test positivity, Covid-19 hospitalizations, and Covid-19 wastewater surveillance are stable, but still remain high at this time. In addition to this, the predominant variant of Covid-19 being identified continues to be the Omicron variant and it's subvariants the impact of which on the spread of Covid-19 has shown to dramatically increase COVID-19 transmission.
2. If a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended, when possible, to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person.
3. A written safety protocol should be developed and followed. It is recommended that the protocol require social distancing, where feasible – i.e. six feet of separation between attendees; and consider requiring or strongly encouraging face masking of all attendees and encouraging attendees to be up-to-date on their COVID-19 vaccine.
4. Seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.
5. Consider holding public meetings outdoors. Increasing scientific consensus is that outdoor airflow reduces the risk of COVID-19 transmission compared to indoor spaces. Hosting events outdoors also may make it easier to space staff and members of the public at least 6 feet apart. If unable to host outdoors, consider ways to [increase ventilation and flow](#) of the indoor space to reduce the risk of COVID-19 while indoors.
6. Current evidence is unclear as to the added benefit of temperature checks in addition to symptom checks. We encourage focus on symptom checks as they may screen out individuals with other Covid-19 symptoms besides fever and help reinforce the message to not go out in public if you are not feeling well.
7. Consider a voluntary attendance sheet with names and contact information to assist in contact tracing of any cases linked to a public meeting.

Revised 8-9-2022

Sefanit Mekuria

Sefanit Mekuria, MD, MPH
Deputy Health Officer, Contra Costa County



**EAST CONTRA COSTA
REGIONAL FEE AND FINANCING AUTHORITY**

DATE: September 8, 2022

TO: Board of Directors

FROM: Dale Dennis, Program Manager



SUBJECT: Comprehensive Nexus Study Update for the East Contra Costa Regional Fee and Financing Authority Fee Program

Recommendation: Staff recommends the Board **CONSIDER** and **APPROVE** the List of Proposed Projects to be included in the comprehensive nexus study update for the ECCRFFA Fee Program.

Discussion:

In March 2021, the Board directed the Program Manager to proceed with conducting a comprehensive nexus study, to support updating of the ECCRFFA fee program to reflect the region's current transportation infrastructure priorities.

Over the past year, staff has been working with our consultant, Fehr and Peers and member agency staff to develop the comprehensive nexus study update for the ECCRFFA fee program. The focus of the work to date has been developing a list of capital projects that might be considered for inclusion in the ECCRFFA fee program (see **Attachment 1**). This work has been undertaken in close coordination with the staff from each member agency, involving several meetings of the entire group as well as individual meetings with individual member agencies. Also, for reference, see **Attachment 2** that shows the current list of capital projects that are in the ECCRFFA fee program.

The work started with the current list of projects in the ECCRFFA fee program and researched updated the information about each project's current status, current estimated cost, and any changes in project definition that may have occurred as the project sponsor has moved ahead with more detailed planning and design.

Then, input was solicited from the member agencies about projects they propose to add to the program. The focus is on projects that are aligned with the purpose of the ECCRFFA fee program, which is to support the construction of transportation infrastructure needed to serve regional travel demand within and through the East County area. ECCRFFA staff and consultants, with support

ACTION OF BOARD ON _____

APPROVED AS RECOMMENDED ___ **OTHER** ___

VOTE OF DIRECTORS

_____ **UNANIMOUS (ABSENT** _____)

AYES: _____ **NOES:** _____

ABSENT: _____ **ABSTAIN:** _____

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

ATTESTED _____

Secretary to the Authority

from the County Counsel's office, reviewed and evaluated the proposed projects to assess each project's alignment with the program purpose; some of the proposed projects were screened out at this stage.

ECCRFFA staff and consultants supported the member agencies by preparing cost estimates for some projects that did not otherwise have that level of information, and worked closely with member agency staff to ensure that the project descriptions are accurate.

Once the Board approves a project list, the next steps will be to evaluate each project and determine the proportion of project cost, if any, that would meet the nexus requirements and if met, allow the project to be included in the ECCRFFA fee program. This will first involve determining whether the project addresses any existing deficiencies, in which case the ECCRFFA fee program could be used to cover only the portion of the project costs not associated with addressing that deficiency. Then modeling will be conducted to determine the extent to which each project contributes to serving future travel demand related to the anticipated growth in population and employment in the East County area.

The draft nexus study will be reviewed by ECCRFFA staff and the County Counsel's office, and will be brought to the Board for review and eventual approval.

ATTACHMENTS:

Attachment 1 – Proposed Projects for Updated ECCRFFA Fee Program

Attachment 2 – Current Projects in the ECCRFFA Fee Program

PROPOSED PROJECTS
FOR
UPDATED
ECCRFFA FEE PROGRAM

ECCRFFA Project List (Working Draft - For Discussion Purposes Only)

Number	Project	Description/ Project Limits	Jurisdiction	Estimated Cost, \$ millions
Projects Proposed for Updated ECCRFFA Program				
24B	Byron Highway Extension	Extend road between Delta Road and Rock Slough Bridge	County	\$24.34
28	Empire Avenue Widening and Rail Crossing	Construct four-lane arterial and railroad overcrossing, between Wicklow Way and Neroly Road	Oakley	\$41.59
29	Laurel Road Extension	Extend Laurel Road as a four-lane arterial from Teton Road to Sellers Avenue; includes a railroad crossing.	Oakley	\$38.40
30	Kirker Pass Road Truck Climbing Lane	Construct a southbound truck climbing lane along Kirker Pass Road and a modified left turn pocket at South Hess Road.	County	\$35.30
31	Camino Diablo Safety Improvements	Safety improvements between Vasco Road and Byron Highway: widen road to 45 feet, add two-way left-turn lane, add recovery zones/wider shoulders, install street lighting and rumble strips.	County	\$6.80
32	Slatten Ranch Road Extension, South Segment	New 4-lane roadway from Wicklow Street to Wild Horse Road	Antioch	\$25.60
33	Slatten Ranch Road Extension, North Segment	New 4-lane roadway from Wild Horse Road to existing terminus at the Antioch BART station	Antioch	\$15.80
34	Viera Avenue Extension	New 2-lane roadway from Oakley Road to Slatten Ranch Road	Antioch	\$10.00
35	Standard Oil Avenue	New 2-lane road from Delta Fair Boulevard to James Donlon Boulevard	Pittsburg	\$15.22
36	Loveridge Road Improvements	Widened sidewalks and improved bicycle facilities between SR 4 and Pittsburg-Antioch Highway	Pittsburg	\$2.70
37	Bailey Road Improvements	Between Southern City Limits and W Leland Road, add turn lanes, sidewalks, and intersection upgrades.	Pittsburg	\$56.84
38	Lone Tree Way Rail Crossing	Union Pacific undercrossing widened from Fairview Avenue to Gann Street	Brentwood	\$30.00
39	SR-4 Operational Improvement Project	Packages A-D (Eastbound) and Packages E-F (Westbound): Improve operations along SR 4 between 0.3 miles west of the SR 4/SR 242 interchange to the Bailey Road interchange. Improvement alternatives include, widening to accommodate new auxiliary lanes and mixed flow lanes, or converting the shoulder to add travel lanes.	CCTA	\$177.00
40	SR-4 Integrated Corridor Management	East County share (i.e., one-half the total cost) of Countywide SR-4 ICM development (similar to Innovate 680).	CCTA	\$10.00

41	High Capacity Transit from Antioch BART to Brentwood	Express bus along SR 4 between Antioch and Brentwood	CCTA	\$12.87
42	Brentwood Intermodal	Construct an 800-space park and ride lot south of the Lone Tree Way/SR-4 interchange. Long term, the site would be adjacent to a future BART station.	Brentwood	\$10.60
43	Sellers Avenue Safety Improvements	Upgrade Sellers Avenue to current design standards between Delta Road and Chestnut Road, and between Main Canal and Marsh Creek Road. Improvements include adding shoulders, widening travel lanes, and upgrading intersections with traffic signals and turn lanes at Marsh Creek Road, Sunset Road, Chestnut Road, and Balfour Road.	County	\$24.87
Total for Proposed Projects				\$513.58

CURRENT PROJECTS
IN
ECCRFFA FEE PROGRAM

Number	Project	Description/ Project Limits	Jurisdiction	Estimated Cost, \$ millions	Status
Current List of Projects in ECCRFFA Fee Program					
Freeway Improvements					
1	SR 4 Freeway widening	Railroad Avenue to Loveridge Road, widen to 8 lanes Loveridge interchange Loveridge to Bypass (8 lanes to Hillcrest, 6 lanes to Bypass) Hillcrest interchange expansion Phase 1, 0 lanes to Laurel, interchanges at Laurel and Lorie	CCTA CCTA CCTA CCTA Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority	\$101.00 \$157.80 \$374.70 \$10.00 \$113.70 \$50.10 \$1.00 \$33.30 \$16.00 \$36.54 \$43.80 \$77.80 \$12.60 \$74.21 \$98.36 \$46.87 \$39.06	Completed Completed Completed Completed Completed, with exception of landscaping Completed, with exception of landscaping Completed, with exception of landscaping Phase 1 Completed, with exception of landscaping
2	SR 4 Bypass Segment 1	Phase 2, SR 160 interchange Laurel interchange, phase 2 Phase 1, 2 lanes	Bypass Authority Bypass Authority Bypass Authority	\$50.10 \$1.00 \$33.30	Completed, with exception of landscaping
3	SR 4 Bypass Segment 2	Phase 2, 4 lanes, Sand Creek Road to Balfour Road Widen to 6 lanes, Laurel Road to Sand Creek Road Sand Creek interchange and 4 lanes, Laurel to Sand Creek Balfour to Marsh Creek (2 lanes) plus Marsh Creek east-west connector	Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority	\$16.00 \$36.54 \$43.80 \$77.80	Completed, with exception of landscaping
4	SR 4 Bypass Segment 3	Marsh Creek to Vasco, 2 lanes Segment 3, widen to 4 lanes (Balfour to Marsh Creek Road) Balfour interchange Marsh Creek Interchange Walnut Blvd Interchange at Vasco Road	Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority Bypass Authority	\$12.60 \$74.21 \$98.36 \$46.87 \$39.06	Phase 1 Completed, with exception of landscaping
Arterial Improvements					
5	Laurel Road extension	SR4 Bypass to Empire, 6 lanes	Antioch, Oakley	\$22.60	Completed
6	SR239: Vasco Road – Byron Highway Connector	New 2-lane roadway between Vasco Road and Byron Highway and associated local improvements	County, CCTA	\$161.00	Environmental Phase
7	SR 239	Pre-construction activities for complete corridor (Contra Costa segment): includes environmental review, design, and right-of-way protection. No construction costs. Excludes elements covered under Project #6.	County, CCTA	\$101.00	Environmental Phase
8	SR 4 (Main St or Brentwood Blvd) widening	Close gaps and create consistent four-lane arterial between Fifth Street and Delta Road in Oakley, and between Chestnut Street and Balfour Road in south Brentwood	Oakley, Brentwood	\$24.48	Partially complete
9	Balfour Road widening	Deer Valley to Brentwood city limits, widen to 4 lanes	County	\$13.00	
10	Marsh Creek Road/Deer Valley Road Safety Enhancements	Marsh Creek: Walnut Boulevard to Clayton City Limits; Deer Valley: Balfour Road to Marsh Creek Road	County	\$26.80	
11	Route 84/Vasco Road	Widen to 4 lanes to County line	County	\$290.00	

12	Pittsburg-Antioch Highway	Widen to 4 lanes, Auto Center Drive to Loweridge. Improve intersection at Loweridge to accommodate two through lanes and turn lanes on all approaches.	Antioch, Pittsburg	\$54.67	
13	Ninth and Tenth Streets	Couplet improvements, A St to L St	Antioch	\$8.82	
14	California Avenue	Widen to 4 lanes, Railroad to Loweridge. Prior phase has completed some widening. Current phase involves adding bike lanes, widening sidewalks, adding parking for Pittsburg Center eBART station.	Pittsburg	\$6.55	Partially complete
15	Willow Pass Road	Widen to 4 lanes, Range to City Limits (within Pittsburg) and Bailey to City Limits (within County)	Pittsburg, County	\$13.48	
16	James Donlon Blvd Extension	New 2- to 4-lane arterial, Somersville to Kirker Pass Road	Pittsburg	\$105.80	
	or Buchanan Road Improvements	Improve traffic flow between Railroad Avenue and Somersville Road; improve intersections at Harbor, Loweridge, and Ventura with additional turn lanes; add bike lanes; widen sidewalks to achieve current design standards; install signal interconnect and adaptive signals.	Pittsburg	\$14.05	
17	West Tregallas/Fitzuren	Widen to 4 lanes, Lone Tree to Buchanan	Antioch	\$48.76	
18	West Leland Road	Extend West Leland from current terminus westward to Avila Road; construct as four-lane divided arterial with landscaped median, sidewalks, traffic signal at Santa Teresa Drive.	Pittsburg	\$12.51	
	or Evora Road	Willow Pass Rd (Bay Point) to Willow Pass Rd (Concord), widen to 4 lanes	County	\$9.85	
19	Wilbur Avenue	Widen to 4 lanes, Minaker Drive to SR 160	Antioch	\$39.06	
20	Neroly Road Widening	Widen to 4 lanes, Oakley Rd to Laurel Rd	Oakley	\$9.70	
21	Deer Valley Road Widening	Widen to 4 lanes, Antioch City Limits to Empire Mine Road within the County, and from Empire Mine Rd to Balfour Rd within Antioch	County, Antioch	\$28.50	
22	Walnut Boulevard Widening	Widen to 4 lanes, Brentwood city limits to Vasco Road	County	\$27.00	
23	John Muir Parkway	New Roadway between Balfour Road and Fairview Avenue	Brentwood	\$17.70	ECCRFFA commitment completed
24A	Byron Highway	Safety Improvements between SR 4 and Delta Road	County	\$18.30	
27	Sand Creek Road	Extension of 4-lane roadway between SR 4 and Deer Valley Road	Antioch	\$34.90	
Regional Transit Projects					
25	East County Express Bus	Planning and design of regional rapid bus program	Tri-Delta Transit	\$8.30	
26	Commuter Rail	eBART extension to Antioch	CCTA	\$513.00	Completed
Total for Existing Projects				\$2,896.68	

**EAST CONTRA COSTA
REGIONAL FEE AND FINANCING AUTHORITY
Antioch - Brentwood - Oakley - Pittsburg and Contra Costa County**

JOINT EXERCISE OF POWERS AGENCY

July 14, 2022

To slow the spread of COVID-19, in lieu of a public gathering, the EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY (ECCRFFA) Board of Directors meeting was accessible via Zoom to all members of the public as permitted by Government Code Section 54953(e). Members of the public were permitted to participate in the meeting online, or by telephone, and in lieu of making public comments at the meeting, members of the public could submit public comments before or during the meeting through dodennis@thecyberjungle.com.

Vice Chair Burgis called the meeting to order at 7:04 P.M.

ROLL CALL

PRESENT: Joel Bryant (Brentwood), Aaron Meadows (Oakley), Lamar Thorpe (Antioch), and Vice Chair Diane Burgis (Contra Costa County)

ABSENT: Chair Holland White (Pittsburg)

STAFF: Dale Dennis, Program Manager

DETERMINATION

Teleconference Meetings: CONSIDER adopting ECCRFFA Resolution No. 2022/02 to authorize the Board of Directors to conduct teleconference meetings under Government Code Section 54953(e) and make related findings; DETERMINE that the Authority will hold virtual meetings for the next 30 days; and DIRECT the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

No written comments were submitted, or oral comments made, by any member of the public.

On motion by Director Meadows, seconded by Director Thorpe, the Authority APPROVED Resolution No. 2022/02 authorizing the Board of Directors to conduct teleconference meetings under Government Code Section 54953(e) and make related findings; DETERMINED that the Authority will hold virtual meetings for the next 30 days; and DIRECTED the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

The motion carried by the following Roll Call vote:

AYES: Bryant, Meadows, Thorpe, Burgis
NOES: None
ABSTAIN: None
ABSENT: White

Updated ECCRFFA Strategic Plan: Consider approving the Sand Creek Extension Project as the next priority project for the ECCRFFA Program and approve the July 2022 ECCRFFA Strategic Plan and CCTA Measure J Funding Plan.

Dale Dennis, Program Manager, reported that staff had received a request from both the City of Brentwood and the City of Antioch to prioritize the Sand Creek Extension Project as the next priority project for the ECCRFFA Program. He noted that in September 2020, the Authority added the Sand Creek Extension Project into the program. He also noted as part of the Fourth Amendment to the ECCRFFA Joint Exercise of Powers Agreement (JEPA) in 2013, ECCRFFA had established project and funding priorities. The first priority was to complete the SR4 East Widening, the eBART Extension to Hillcrest Avenue, the SR4 Bypass projects, and the outstanding ECCRFFA commitments at that point in time. The second priority was the eBART Extension beyond Hillcrest Avenue for environmental review up to \$3 million, and the third priority was the James Donlon Extension Project.

Mr. Dennis advised that beyond that the Fourth Amendment indicated the priority and funding for all ECCRFFA projects would be determined by the Authority Board. An evaluation of the request by the cities of Brentwood and Antioch was conducted and it had been determined that ECCRFFA could maintain the funding commitments for the first, second and third priorities if funding was provided for the Sand Creek Extension Project. Subsequently, a Draft Strategic Plan had been prepared and included in the Board packet to show that the Sand Creek Extension Project could be funded in the 2022/2023 Fiscal Year.

Mr. Dennis recommended that the Board approve the July 2022 ECCRFFA Strategic Plan that maintained commitments to the first, second and third priorities, and where the Sand Creek Extension Project was added as the next priority in FY 2022/23, with an estimated cost of \$12.5 million. He noted there was a provision in the Fourth Amendment to the JEPA that changing the priority would require a unanimous vote of all members with all members present but this would not constitute that type of requirement since all of the project and funding priorities had either been completed or funds had been set aside to complete them.

Vice Chair Burgis commented that not all current members of ECCRFFA had been part of the Authority in 2020 when the priorities had been re-established. She characterized the proposed change as a win-win.

Director Bryant thanked staff for all the work and stated the project would bring significant relief and traffic reduction at the borders of Brentwood and Antioch and create a life-saving thoroughfare to Deer Valley Kaiser, as requested by Brentwood residents for years.

Director Thorpe referred to “L” Street in Antioch and asked Mr. Dennis how to identify roads of regional significance.

Mr. Dennis advised that routes of regional significance were generally established by the Contra Costa Transportation Authority (CCTA) planning efforts and he would obtain that information and provide it to Director Thorpe.

Vice Chair Burgis reported that she and Director Meadows had been discussing Sellers Avenue and Byron Highway in East County in that same context.

Mr. Dennis advised that a Comprehensive Nexus Study Update for the ECCRFFA Program was underway and he had been working with member agency staff to put together a list of projects that could be added to the ECCRFFA Program. As such, this would be the time to look at those types of projects and the roads mentioned and others could be considered. Once the list of projects had been put together for the next Comprehensive Nexus Study Update that list would be brought to the Board for approval prior to preparing the Comprehensive Nexus Study Update.

No written comments were submitted, or oral comments made, by any member of the public.

On motion by Director Thorpe, seconded by Director Meadows, the Authority APPROVED the updated July 2022 ECCRFFA Strategic Plan and CCTA Measure J Funding Plan, which provided for the following:

1. Maintains funding commitments for projects with funding agreements between East Contra Costa Regional Fee and Financing Authority (ECCRFFA) and Project Sponsors: Bay Area Rapid Transit (BART), the Contra Costa Transportation Authority (CCTA) for the eBART – Extension to Hillcrest Avenue and the Balfour Road Interchange projects.
2. Maintains funding commitment for ECCRFFA to provide 68 percent of the James Donlon Extension project costs up to \$70.8 million as shown in the November 2020 Plan.
3. Programs the Sand Creek Extension Project as the next priority project in FY 2022/23 with an estimated cost of \$12.5 million.

The motion carried by the following Roll Call vote:

AYES: Bryant, Meadows, Thorpe, Burgis
NOES: None
ABSTAIN: None
ABSENT: White

PUBLIC COMMENT

No written comments were submitted, or oral comments made, by any member of the public.

CONSENT ITEMS

On motion by Director Meadows, seconded by Director Bryant, the Authority APPROVED the Consent Items, as submitted, which carried by the following Roll Call vote:

- A. APPROVED minutes of the January 13, 2022 Board of Directors meeting. (*February, March, April, May and June 2022 meetings cancelled.*)
- B. APPROVED Fiscal Year 2021/22 End of Year Budget.
- C. APPROVED Fiscal Year 2022/23 Budget.

AYES: Bryant, Meadows, Thorpe, Burgis
NOES: None
ABSTAIN: None
ABSENT: White

BOARDMEMBER COMMENTS

Director Bryant expressed appreciation for the work and looked forward to seeing all the transportation issues be addressed quickly to offer some improved quality of life for East County residents.

ADJOURNMENT

Vice Chair Burgis adjourned the meeting of the East Contra Costa Regional Fee and Financing Authority at 7:18 P.M. to Thursday, August 11, 2022, at 6:30 P.M. or other day/time deemed appropriate by the Board.

Respectfully submitted,

Anita L. Tucci-Smith
Minutes Clerk

**EAST CONTRA COSTA
REGIONAL FEE AND FINANCING AUTHORITY**

DATE: September 8, 2022

TO: Board of Directors

FROM: Dale Dennis, Program Manager 

SUBJECT: Reimbursement, Waiver and Release Agreement between ECCRFFA and DeNova Homes, Inc.

Recommendation: **APPROVE** the Reimbursement, Waiver and Release Agreement (Agreement) between the East Contra Costa Regional Fee and Finance Authority (ECCRFFA) and DeNova Homes, Inc., (Developer) for reimbursement of \$2,499,912 for a portion of the Sand Creek Road Extension Project (SCR Extension), and **AUTHORIZE** the Secretary or designee to execute, on behalf of the ECCRFFA.

Discussion:

RTDIM fees fund projects on ECCRFFA's project list based on the priority given to the projects in the ECCRFFA joint exercise of powers agreement among the Member Agencies, as amended (the "JEPA"). From time to time, the Board of Directors updates the ECCRFFA strategic plan ("Strategic Plan") to allocate RTDIM fee revenues to ECCRFFA projects consistent with funding priorities in the JEPA and any funding priorities approved by the Board of Directors.

Effective February 16, 2021, the Member Agencies entered into a fourth amendment to the JEPA to add the SCR Extension to the ECCRFFA project list. The SCR Extension will extend Sand Creek Road westerly, from a point near State Route 4 ("SR 4"), to the road's intersection with Deer Valley Road, in Antioch. Subsequently, in July 2022, ECCRFFA's Board of Directors approved an updated Strategic Plan that prioritizes the SCR Extension for funding.

ACTION OF BOARD ON _____

APPROVED AS RECOMMENDED ___ OTHER ___

VOTE OF DIRECTORS

_____ UNANIMOUS (ABSENT _____)

AYES: _____ NOES: _____

ABSENT: _____ ABSTAIN: _____

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

ATTESTED _____

Secretary to the Authority

The nexus study for the SCR Extension determined that, for the project as a whole, 69% of the cost of the SCR Extension would be the responsibility of local developers, and the remaining 31% of the project cost would be attributable to regional vehicle trips. As further described in the nexus study, the SCR Extension includes seven segments: 1) Western End; 2) Aviano – Phase II; 3) Aviano – Phase III; 4) Promenade – Segment 1; 5) Promenade – Segment 2; 6) Promenade – Segment 3; and 7) Brentwood Bridle Gate. The nexus study determined, for each of those segments, the proportion of the segment cost that would be the responsibility of local developers, and the proportion of the segment cost that would be attributable to regional vehicle trips.

The Developer is constructing its “Aviano” residential development, in Antioch (“Development”). Under the conditions of approval for the Development, the Developer is required to construct two segments of the SCR Extension, the Aviano – Phase II and Aviano – Phase III segments between an extension of Dozier-Libbey Road to the west and an extension of Hillcrest Avenue to the east (together, the two segments are referred to collectively as the “Roadway Segment”). The Developer has paid and will continue to pay RTDIM fees for all 533 single-family residential units within the Development, in addition to constructing the two segments of the SCR Extension. When the Roadway Segment is completed, the City of Antioch (“City”) will consider accepting the roadway into the City’s road system.

The SCR Extension nexus study determined that ECCRFFA RTDIM fee revenues can be used to fund 28.2% of the cost of the Roadway Segment. Consistent with the SCR Extension nexus study, the JEPA, and the Strategic Plan, the portion of the Roadway Segment costs that are eligible for funding from ECCRFFA RTDIM fees amounts to \$2,499,912 (the “Reimbursable Costs”). The amount includes 28.2% of the Developer’s cost for soft costs and construction of the Roadway Segment.

Staff recommends the Board approve the attached Agreement between ECCRFFA and Developer which provides for the Reimbursable Costs to be paid to developer following completion and acceptance of the Roadway Segment into the City of Antioch’s road system.

**REIMBURSEMENT, WAIVER, AND RELEASE AGREEMENT BETWEEN THE
EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY AND
DENOVA HOMES, INC., RELATING TO A PORTION OF THE
SAND CREEK EXTENSION PROJECT**

This Reimbursement Agreement (“Agreement”) is entered into as of August 30, 2022, (“Effective Date”) by and between the East Contra Costa Regional Fee and Financing Authority, a joint exercise of powers entity (“ECCRFFA”), and Civic Aviano, LLC, a California limited liability company (“Developer”). ECCRFFA and the Developer are sometimes referred to herein together as the “Parties,” and each as a “Party.”

RECITALS

- A. ECCRFFA is a joint exercise of powers entity among the cities of Antioch, Brentwood, Oakley, and Pittsburg, and Contra Costa County (“Member Agencies,” and each a “Member Agency”). ECCRFFA receives revenues from regional transportation development impact mitigation (“RTDIM”) fees that the Member Agencies impose on new developments under fee ordinances adopted by those agencies.
- B. RTDIM fees fund projects on ECCRFFA’s project list based on the priority given to the projects in the ECCRFFA joint exercise of powers agreement among the Member Agencies, as amended (the “JEPA”). From time to time, the Board of Directors updates the ECCRFFA strategic plan (“Strategic Plan”) to allocate RTDIM fee revenues to ECCRFFA projects consistent with funding priorities in the JEPA and any funding priorities approved by the Board of Directors.
- C. Effective February 16, 2021, the Member Agencies entered into a fourth amendment the JEPA to add the Sand Creek Road Extension Project (“SCR Extension”) to the ECCRFFA project list. The SCR Extension will extend Sand Creek Road westerly, from a point near State Route 4 (“SR 4”), to the road’s intersection with Deer Valley Road, in Antioch. The proposed alignment of the SCR Extension is shown on Exhibit A, attached hereto. Subsequently, in July 2022, ECCRFFA’s Board of Directors approved an updated Strategic Plan that prioritizes the SCR Extension for funding.
- D. The nexus study for the SCR Extension determined that, for the project as a whole, 69% of the cost of the SCR Extension would be the responsibility of local developers, and the remaining 31% of the project cost would be attributable to regional vehicle trips. As further described in the nexus study, the SCR Extension includes seven segments: Western End, Aviano – Phase II, Aviano – Phase III, Promenade – Segment 1, Promenade – Segment 2, Promenade – Segment 3, and Brentwood Bridle Gate (see Appendix A of the nexus study). The nexus study determined, for each of those segments, the proportion of the segment cost that would be the responsibility of local developers, and the proportion of the segment cost that would be attributable to regional vehicle trips.

- E. The Developer is constructing its “Aviano” residential development, in Antioch (“Development”). Under the conditions of approval for the Development, the Developer is required to construct two segments of the SCR Extension – the Aviano – Phase II and Aviano – Phase III segments – between an extension of Dozier-Libbey Road to the west and an extension of Hillcrest Avenue to the east (together, the two segments are referred to collectively as the “Roadway Segment”). The Roadway Segment is shown on Exhibit B, attached hereto. The Developer has paid and will continue to pay RTDIM fees for all 533 single-family residential units within the Development, in addition to constructing the two segments of the SCR Extension. When the Roadway Segment is completed, the City of Antioch (“City”) will consider accepting the roadway into the City’s road system.

- F. The SCR Extension nexus study determined that ECCRFFA RTDIM fee revenues can be used to fund 28.2% of the cost of the Roadway Segment. Consistent with the SCR Extension nexus study, the JEPA, and the Strategic Plan, the portion of the Roadway Segment costs that are eligible for funding from ECCRFFA RTDIM fees amounts to \$2,499,912 (the “Reimbursable Costs”). The calculation of the Reimbursable Costs is more particularly shown in Exhibit C, and the amount includes 28.2% of the Developer’s cost for soft costs and construction of the Roadway Segment.

- G. The Developer and ECCRFFA desire to enter into this Agreement to allow the Reimbursable Costs to be paid to developer following completion and acceptance of the Roadway Segment.

AGREEMENT

Now, therefore, ECCRFFA and the Developer agree as follows:

- 1. **Recitals.** The Parties agree that the above recitals are true and are incorporated in and made a part of this Agreement.

- 2. **Term.** The term of this Agreement begins on the Effective Date, and it expires upon the date on which the Reimbursable Costs are fully repaid to the Developer.

- 3. **ECCRFFA’s Reimbursement Commitment; Adjustments.**
 - (a) ECCRFFA will reimburse the Developer for the Reimbursable Costs within 60 day after the City accepts the completed Roadway Segment into the City’s road system.

 - (b) Beginning January 1, 2024, and on each January 1 thereafter, the amount of the Reimbursable Costs remaining unreimbursed to Developer as of that January 1 will be adjusted by the lesser of (i) three percent (3%), or (ii) the percentage change in the Consumer Price Index, San Francisco Area during the 12-month period ending

on the September 30 immediately preceding the January 1 when the adjustment takes effect.

4. **Developer's Waiver and Release of Claims.** Effective upon the date on which ECCRFFA fully reimburses Developer for the Reimbursable Costs, the Developer, on behalf of itself and any parents, subsidiaries, and related entities, however formed, does hereby release and discharge ECCRFFA and its Member Agencies, and their officers, employees, agents, contractors, attorneys, successors, and assigns (collectively, "Released Entities"), from any and all claims, demands, causes of action, obligations, damages, and liabilities, which the Developer has or could assert against any Released Entities, in any manner related to or arising from (1) the Developer's design, construction, management, right of way acquisition, and dedication of the Roadway Segment, and (2) the Released Entities' obligation to reimburse the Developer for costs that the Developer incurred to design, construct, manage, and acquire right of way for, the Roadway Segment, including any Reimbursable Costs. The Developer knowingly waives its right to make any claim against the Released Entities for such damages and expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

The requirements of this Section 4 shall survive the termination or expiration of this Agreement.

5. **Audit.** In order to make audits, ECCRFFA shall have the right of access to any books, documents, papers, and other records of the Developer that are pertinent to ECCRFFA's reimbursement of Reimbursable Costs under this Agreement. During the term of this Agreement and for a period of three (3) years following its expiration (the "Audit Period"), the Developer shall keep and maintain accurate financial accounts, in accordance with generally acceptable accounting principles, of all Reimbursable Costs. During the Audit Period, the Developer shall provide ECCRFFA copies of accounting records regarding the Reimbursable Costs and ECCRFFA's reimbursement of those costs within 10 days after ECCRFFA's written request, and the Developer shall make those records available for inspection during the Developer's normal business hours, at the Developer's offices, or the offices of its financial consultant. During the Audit Period, the Developer shall account for all Reimbursable Costs and shall provide ECCRFFA a written summary and current total of those costs within 30 days after a request by ECCRFFA. The requirements of this Section 5 shall survive the termination or expiration of this Agreement.
6. **Notices.** All notices, payments, and other correspondence required to be given under this Agreement shall be in writing, and shall be delivered in person, by overnight delivery, or by U.S. Mail, to the following:

To ECCRFFA:

Dale Dennis, Program Manager
c/o Contra Costa County Public Works Department
255 Glacier Drive
Martinez, CA 94553
Email: dodennis@TheCyberJungle.com

To Developer:

Civic Aviano, LLC (d.b.a. DeNova Homes, Inc.)
Attn: David B. Sanson, Dana C. Tsubota, Trent Sanson
1500 Willow Pass Court
Concord, CA 94520
Email: dave@denovahomes.com; dana@denovahomes.com; trent@denovahomes.com

or to such other address as each Party may respectively designate by written notice to the other Party. A notice or other correspondence shall be deemed given on the same day if it is personally delivered, on the next day if it is delivered by overnight delivery, or on the fifth (5th) day after the postmark date if it is given by U.S. Mail. A courtesy copy of a notice or other correspondence may be sent by email, as long as the notice or other correspondence also is given in a manner expressly authorized by this section.

7. **Assignment.** This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Parties hereto. This Agreement may not be assigned by either Party unless the assignment is approved in writing by the other Party.
8. **Modification.** This Agreement may not be modified or amended except in a writing signed by both Parties hereto.
9. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this Agreement is, for the sole convenience of the Parties to this Agreement. The section headings, captions, and arrangement of this Agreement do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if all Parties have prepared it. The Parties to this Agreement and their attorneys have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The recitals of this Agreement are, and shall be enforceable as, a part of this Agreement.
10. **No Third-Party Beneficiaries.** Except for Developer's release of Member Entities contained in Section 3, nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties and their successors and assigns, any rights or remedies by reason of this Agreement.

11. **Waiver.** A waiver of breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party.
12. **Specific Performance.** The sole remedy for violation of this Agreement shall be the specific performance of this Agreement.
13. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
14. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.
15. **Attorney's Fees.** In any action or proceeding to enforce or interpret any provision of this Agreement, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs, and expenses.

[Remainder of page intentionally left blank – signatures on next page.]

**EAST CONTRA COSTA REGIONAL
FEE AND FINANCING AUTHORITY**

CIVIC AVIANO, LLC

By: _____
Program Manager

By: _____
Its: *Ryan Parlett, Authorized Signor*

Date of Board Approval: _____

By: _____
Its: _____

Approved as to form:
Mary Ann McNett Mason
County Counsel

Approved as to form:

By: _____
Stephen M. Siptroth
Deputy County Counsel

By: _____

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Attachments:

- Exhibit A Map of the SCR Extension
- Exhibit B Map of the Roadway Segment
- Exhibit C Calculation of Developer's Reimbursable Costs

**EAST CONTRA COSTA REGIONAL
FEE AND FINANCING AUTHORITY**

DENOVA HOMES, INC.

By: _____
Program Manager

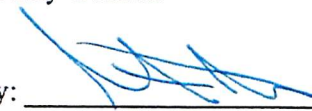
By:  _____
Its: President

Date of Board Approval: _____

By: _____
Its: _____

Approved as to form:
Mary Ann McNett Mason
County Counsel

Approved as to form:

By:  _____
Stephen M. Siptroth
Deputy County Counsel

By: _____

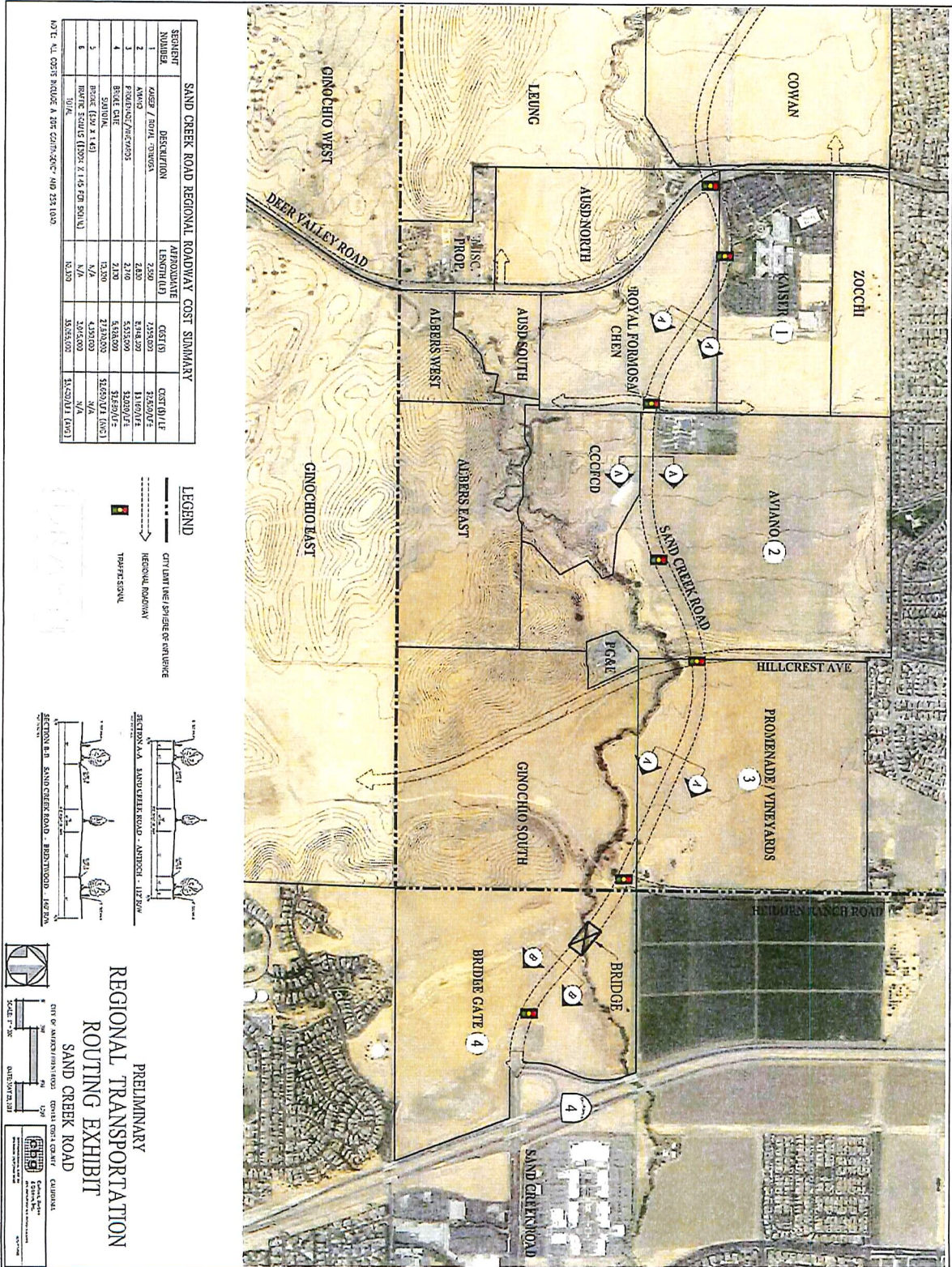
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Attachments:

- Exhibit A Map of the SCR Extension
- Exhibit B Map of the Roadway Segment
- Exhibit C Calculation of Developer's Reimbursable Costs

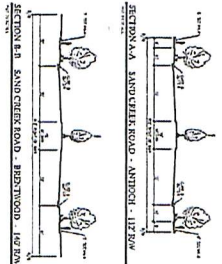
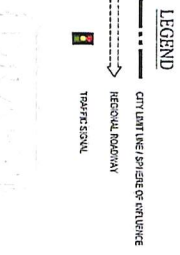
EXHIBIT A

MAP OF THE SCR EXTENSION



SAND CREEK ROAD REGIONAL ROADWAY COST SUMMARY

SECTION NUMBER	DESCRIPTION	APPROXIMATE LENGTH (FT)	COST/FT	COST/TOTAL
1	AVIAND / ROYAL FORMOSA	2,250	\$155,000	\$348,750
2	PROVENANCE / VINEYARDS	2,100	\$144,500	\$303,450
3	BRIDGE GATE	2,100	\$555,000	\$1,165,500
4	BRIDGE GATE	1,200	\$1,100,000	\$1,320,000
5	BRIDGE GATE (1,100' x 145' FOR 500' W)	N/A	\$1,100,000	N/A
6	BRIDGE GATE (1,100' x 145' FOR 500' W)	N/A	\$1,100,000	N/A
TOTAL		10,350	\$3,555,000	\$14,262,700 (14.3%)



PRELIMINARY
REGIONAL TRANSPORTATION
ROUTING EXHIBIT
SAND CREEK ROAD

CITY OF AVIAND / PROVENANCE / VINEYARDS / BRIDGE GATE / SAND CREEK ROAD

SCALE: 1" = 50'

DATE: 05/24/2011

DESIGNED BY: [Logo]

CHECKED BY: [Logo]

APPROVED BY: [Logo]

NOTE: ALL COSTS INCLUDE A 20% CONTINGENCY - 049 235 1030

EXHIBIT B

MAP OF THE ROADWAY SEGMENT

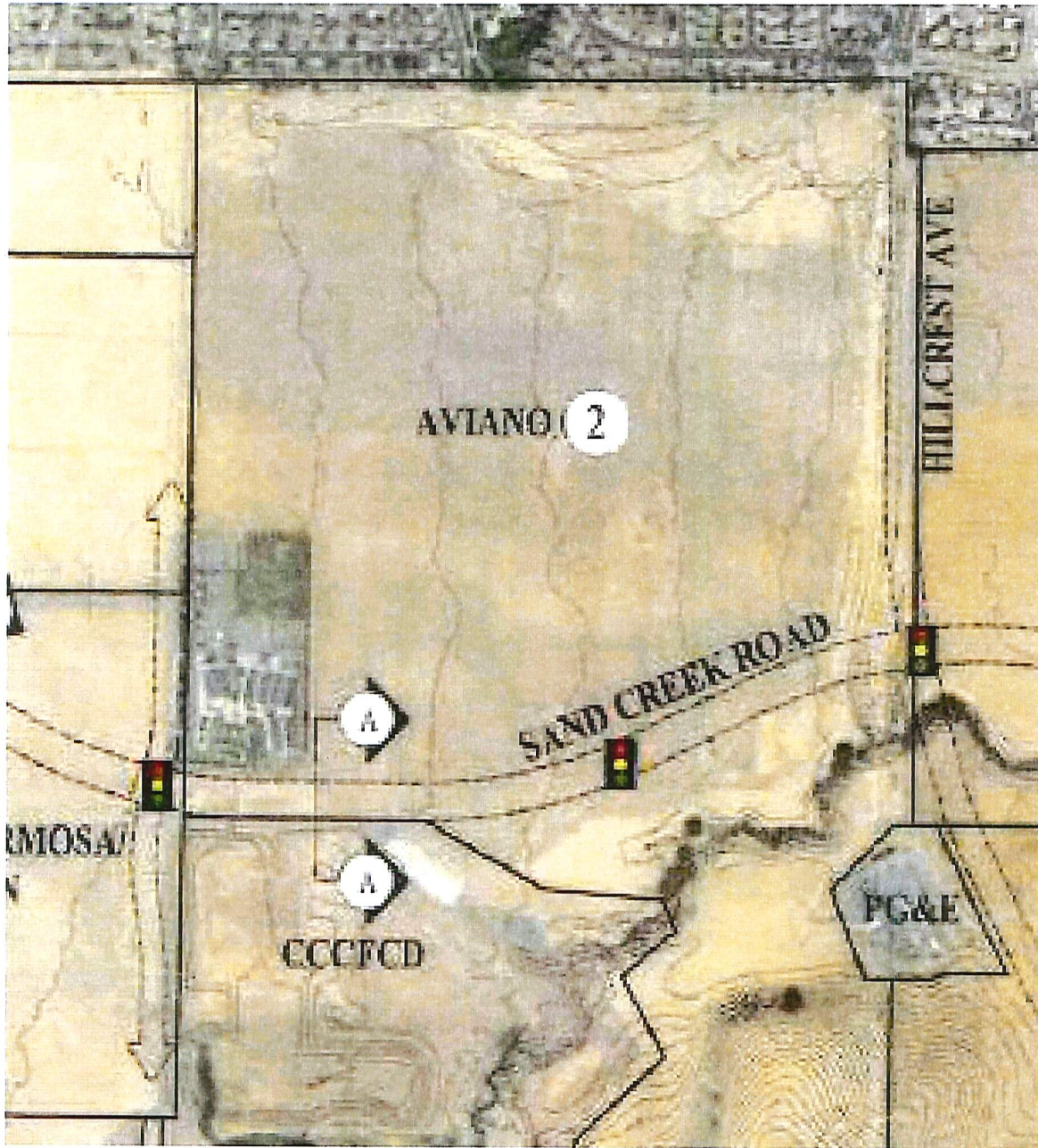


EXHIBIT C

DEVELOPER'S REIMBURSABLE COSTS

Total Reimbursable Costs: \$2,499,912

The Reimbursable Costs were calculated as follows:

Soft Costs and Construction. The attached table includes Developer's costs for soft costs and construction for the regional component of the Roadway Segment (\$8,864,935). The Reimbursement Limit under this Agreement includes ECCRFFA's share of those costs (28.2%), calculated as follows:

$$(\$8,864,935) \times (0.282) = \$2,499,912.$$

**EAST CONTRA COSTA
REGIONAL FEE AND FINANCING AUTHORITY**

DATE: September 8, 2022

TO: Board of Directors

FROM: Dale Dennis, Program Manager



SUBJECT: Approve Consulting Services Agreement Amendment with Lucy Owens for Staff Support and Right of Way Services

Recommendation: **APPROVE** an amendment to the Consulting Services Agreement with L. Lucy Owens to increase the payment limit by \$75,000.00 to a revised payment limit of \$174,900 for staff support and right of way services for ECCRFFA and extend the term to December 31, 2023; and **AUTHORIZE** the Secretary or designee to sign the amendment on behalf of the Authority.

Discussion:

Staff recommends the Board approve an amendment to the contract with Ms. Owens to continue to provide staff support and right-of-way services for ECCRFFA.

In addition to providing staff support to the ECCRFFA Program Manager, Ms. Owens will be providing right of way services to accomplish the following: 1) right of way transfer activities for the Balfour Road Interchange project; 2) right of way acquisition and transfer activities for the Mokelumne Trail Overcrossing project; 3) preparation and coordination of processing of documents such as consent to common use agreements, joint use agreements and grant deeds; 4) coordination with utility companies on CCUAs and JUAs; 5) coordination with RW engineering staff and Caltrans staff; 6) acquisition of necessary access rights for CCWD from Shea Homes; 7) close out of project acquisition files and transferring them to Caltrans and Brentwood; and 8) sale of Sand Creek Road excess property.

The right of way services outlined above are expected to be completed by December 2023. The attached letter dated September 1, 2022, provides the proposed scope and budget for the above-described effort.

ACTION OF BOARD ON _____

APPROVED AS RECOMMENDED ___ OTHER___

VOTE OF DIRECTORS

_____ UNANIMOUS (ABSENT _____)

AYES: _____ NOES: _____

ABSENT: _____ ABSTAIN: _____

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

ATTESTED _____

Secretary to the Authority

September 1, 2022

Mr. Dale Dennis
East Contra Costa Regional Fee and Financing Authority
255 Glacier Drive
Martinez, CA 94553

RE: Staff Support and Right of Way Services for the East Contra Costa Regional Fee and Financing Authority (ECCRFFA)

Dear Mr. Dennis:

As requested, attached is the scope/fee for a contract amendment to provide staff support to the ECCRFFA Program Manager and right of way services.

Right of way services will be provided to accomplish the following: 1) right of way transfer activities for the Balfour Road Interchange project; 2) right of way acquisition and transfer activities for the Mokelumne Trail Overcrossing project; 3) preparation and coordination of processing of documents such as consent to common use agreements, joint use agreements and grant deeds; 4) coordination with utility companies on CCUAs and JUAs; 5) coordination with R/W engineering staff and Caltrans staff; 6) acquisition of necessary access rights for CCWD from Shea Homes; 7) close out of project acquisition files and transferring them to Caltrans and Brentwood; and 8) sale of Sand Creek Road excess property.

Very truly yours,

L. Lucy Owens

ECCRFFA ESTIMATED HOURS AND BUDGET THRU December 31, 2023

TASKS	HOURS	COST
SEGMENTS 2 & 3, including Marsh Creek Road		-
Acquire access rights from SHEA Homes for CCWD.	10	1,830.00
Subtotal Transfer and Closeout Related Items	10	\$ 1,830.00

Excess Properties		
Sell Excess Property on Sand Creek Road	10	1,830.00
Subtotal Excess Properties	10	\$ 1,830.00

Balfour Road Interchange Project		
R/W Transfer to Caltrans	120	21,960.00
Subtotal Balfour Road Interchange Project	120	\$ 21,960.00

Mokelumne Trail Overcrossing Project		
R/W Acquisition Services	20	3,660.00
R/W Transfer to Brentwood & Caltrans	120	21,930.00
Subtotal Mokeulumne Trail Project	140	\$ 25,590.00

Staff Support to ECCRFFA Program Manager		
Staff Support to ECCRFFA Program Manager	130	23,790.00
Subtotal Excess Properties	130	\$ 23,790.00

Amendment Amount	410	\$ 75,000.00
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NOTE: Charge rates will be \$183 for 2022, \$192 for 2023