

**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**

**Thursday, September 11, 2025
6:30 p.m.**

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

This is an in-person meeting of the Board of Directors with the option for members of the public to appear in person or to participate via Zoom teleconference. Persons who wish to address the Board during public comment or with respect to an item on the agenda may comment in person or may call in or log in to the meeting via Zoom.

To participate by phone, dial +1 669 444 9171 US.

The meeting ID is 978 3197 1433 Passcode: 660238

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

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Meeting ID: 978 3197 1433 Passcode: 660238

If the Zoom connection malfunctions for any reason, the meeting may be paused while a fix is attempted. If the connection is not reestablished, the Board will continue the meeting in person without remote access.

Public comments will generally be limited to two minutes. The Board Chair may reduce the amount of time allotted for each public comment 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. At the discretion of the Board Chair, agenda items may be considered out of order.

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 Dale.Dennis@pw.cccounty.us. If you have difficulty emailing a public comment, please contact Dale Dennis at (925) 595-4587.

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.

To obtain a copy of a staff report or other written materials related to an open session item on the agenda, please contact Dale Dennis by email to Dale.Dennis@pw.cccounty.us, or by phone at (925) 595-4587.

Board of Directors:

Susannah Meyer, City of Brentwood – Chair
Aaron Meadows, City of Oakley – Vice Chair
Juan Banales, City of Pittsburg
Diane Burgis, Contra Costa County
Ron Bernal, City of Antioch

Authority Staff Office:

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

**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
September 11, 2025**

1. Call to Order
2. Public Comment
3. Consent
 - A. **APPROVE** minutes of the June 2025 Board of Directors meeting (July and August meetings cancelled).
 - B. **Vasco Road Safety Improvements – Phase 2 Project: APPROVE** the Joint Exercise of Powers Agreement among Contra Costa County, the East Contra Costa Regional Fee and Financing Authority, and the State Route 4 Bypass Authority for the Vasco Road Safety Improvements – Phase 2 Project, substantially in the form attached, and **AUTHORIZE** the Secretary or designee to execute, on behalf of the Authority, the Agreement inclusive of any non-substantive changes that are negotiated by the Secretary or designee and do not result in any increased cost or liability to the Authority.
4. Determination

No Determination Items.
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 Financing 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 the meeting location and at 255 Glacier Drive, Martinez, CA during normal business hours. To obtain a copy of any such materials by email after the meeting, please contact Dale Dennis at Dale.Dennis@pw.cccounty.us.

Board of Directors:

Susannah Meyer, City of Brentwood – Chair
Aaron Meadows, City of Oakley – Vice Chair
Juan Banales, City of Pittsburg
Diane Burgis, Contra Costa County
Ron Bernal, City of Antioch

Authority Staff Office:

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

JOINT EXERCISE OF POWERS AGENCY

June 12, 2025

The regular meeting of the EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY (ECCRFFA) was convened as an in-person meeting with the option for members of the public to appear in person or to participate via Zoom teleconference. 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 Dale.Dennis@pw.cccounty.us.

The regular meeting was called to order by Chair Susannah Meyer at 7:59 P.M.

ROLL CALL

PRESENT: Juan Banales (Pittsburg), Ron Bernal (Antioch), Diane Burgis (Contra Costa County), Vice Chair Aaron Meadows (Oakley), and Chair Susannah Meyer (Brentwood)

ABSENT: None

STAFF: Dale Dennis, Program Manager
Stephen Siptroth, Assistant County Counsel

PUBLIC COMMENT

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

CONSENT ITEMS

On motion by Director Banales, seconded by Director Bernal, the Authority adopted the Consent Calendar, as follows:

- A. APPROVED minutes of the March 2025, meeting (April and May 2025 meetings cancelled).
- B. APPROVED Fiscal Year 2024/25 End of the Year Budget.
- C. APPROVED Fiscal Year 2025/26 Budget.
- D. **West Leland Road Extension and Pittsburg-Antioch Highway Widening Projects:** The Board TOOK the following actions:

1. APPROVED an updated June 2025 ECCRFFA Strategic Plan No. 1 updating the funding amounts for the West Leland Road Extension Project and Pittsburg-Antioch Highway Widening Project;
 2. APPROVED the Cooperative Agreements with the City of Pittsburg related to providing ECCRFFA funding for the West Leland Road Extension Project and Pittsburg-Antioch Highway Widening Project; and AUTHORIZED the Secretary, or designee, to execute the Cooperative Agreements on behalf of the Authority substantially in the form attached to the staff report dated June 12, 2025, inclusive of any non-substantive changes negotiated by the Secretary or designee; and
 3. ADOPTED Appropriation Resolutions No. 25/03 and No. 25/04 appropriating \$33,380,000 for the West Leland Road Extension Project and appropriating \$38,080,000 for the Pittsburg-Antioch Highway Widening Project.
- E. APPROVED Amendment to Agreement with Anita L. Tucci-Smith – Minute Taking Services for the Authority, to extend the termination date from June 30, 2025 to a new termination date of June 30, 2026, with no change in payment limit.
- F. APPROVED an Amendment to the Consulting Services Agreement between the Authority and Fehr and Peers, to increase the payment limit by \$50,000, and to extend the termination date from June 30, 2025, to a new termination date of June 30, 2026, to provide technical support.
- G. APPROVED an Amendment to the Consulting Services Agreement between the Authority and L. Lucy Owens, to increase the payment limit by \$48,000, and to extend the termination date from June 30, 2025, to a new termination date of June 30, 2026, to provide right-of-way services and staff support to the Program Manager.
- H. APPROVED an Amendment to the Consulting Services Agreement between the Authority and PDM Group Inc., to increase the payment limit by \$189,020, and to extend the termination date from June 30, 2025, to a new termination date of June 30, 2026, for continued program management services, and AUTHORIZED the Secretary, or designee, to execute the Amendment on behalf of the Authority.

The motion carried by the following vote:

AYES:	Banales, Bernal, Burgis, Meadows, Meyer
NOES:	None
ABSTAIN:	None
ABSENT:	None

DETERMINATION

- A. **ECCRFFA Project Prioritization:** The Board was asked to take the following actions:
1. APPROVE the ECCRFFA Priority Projects, including funding allocations for project development activities, as well as construction funding for the Vasco Road – Phase 2 and California Avenue projects;
 2. APPROVE the updated June 12, 2025 ECCRFFA Strategic Plan No. 2 that includes the ECCRFFA Priority Projects;
 3. ADOPT Resolution No. 25/05 to approve ECCRFFA Interfund Transfer No. 2025-02 in the amount of \$9.0 million from ECCRFFA funds collected prior to October 22, 2024, to fund the project development activities for Priority Projects, and AUTHORIZE the Secretary or designee to sign Resolution No. 25/05 on behalf of the Authority;
 4. DIRECT the Program Manager to work with the Member Agencies to execute ECCRFFA standard cooperative agreements and ADOPT Appropriation Resolutions Nos. 25/06 through 25/11 to allocate funding for project delivery activities for ECCRFFA Priority Projects, and AUTHORIZE the Program Manager to sign the ECCRFFA standard cooperative agreements; and
 5. AUTHORIZE the Program Manager to negotiate and execute an ECCRFFA standard reimbursement agreement with the City of Pittsburg to reimburse the City \$3.56 million for ECCRFFA's share of the California Avenue project.

Program Manager Dale Dennis stated that the ECCRFFA Board of Directors had adopted the May 2024 East Contra Costa Regional Fee Program Update that had added 18 new projects to the ECCRFFA Project List mitigating regional transportation impacts of new development within ECCRFFA's jurisdiction, and had also approved the Fifth Amendment to the ECCRFFA Joint Exercise of Powers Agreement (JEPA) to prioritize the West Leland Road Extension and the Pittsburg-Antioch Highway Widening in lieu of the James Donlon Extension (JDE) Project. There was now a need to prioritize additional projects on the ECCRFFA Project List. The last member agency had approved the May 2024 Fee Program Update on October 22, 2024.

Mr. Dennis noted that ECCRFFA's primary focus over the past 30 years had been to deliver regional projects that included the SR4 Widening, eBART Extension to Hillcrest Avenue, SR4 Bypass and the James Donlon Extension (JDE) / JDE Replacement projects. He stated that all money collected after October 22, 2024 could be used to fund the 18 projects the ECCRFFA Board had added to the program as well as the previously listed projects. There was \$71.82 million in Category 1 projects to consider programming after accounting for the James Donlon Replacement projects.

For the new members of the Board, Mr. Dennis described the former James Donlon Extension Project, the problems implementing that project due to higher costs, and the discussions with the City of Pittsburgh to identify other projects to be delivered in lieu of the JDE, which had been approved by the ECCRFFA Board last summer. Two projects had been proposed and approved; the West Leland Road Extension and the Pittsburgh-Antioch Highway Widening, which would be funded with dollars collected before October 22, 2024.

Beyond those projects, staff was looking for an approach to deliver projects with additional funds and each member agency had been asked to identify projects other than regional projects that could be considered. The member agencies submitted those project priorities and staff had assembled them into two tables; a Category 1 table and a Category 2 table. Based on the requests from the member agencies, Category 1 projects were eligible for funds collected at any time and \$71.82 million was currently available to be programmed.

Mr. Dennis identified the projects on the Category 1 list and those on the Category 2 list, as included in the staff report. Category 2 included the 18 projects as part of the Comprehensive Plan approved by the Board in August 2024, to be funded by the dollars collected after October 22, 2024.

Mr. Dennis described the recommended approach to program project development funds for all of the Category 2 projects that could take two to five years to develop. The approach would ensure Category 2 projects move forward and would ensure the Authority would not be in a position where one project could hold up the rest of the ECCRFFA projects from proceeding. The member agencies could then start the project delivery process for the Category 2 projects simultaneously. After considering current RTDIM balances, another \$85 million of funding would be required to fund the allocation of \$25 million per member agency, which would take about six years to realize. Within that six years, Category 2 projects at the \$25 million allocation level could be funded. He added the Category 1 projects could also move forward now given the current balance of funds for Category 1 projects.

Director Burgis verified that the project numbers corresponded to those in the nexus study.

In response to comments, Mr. Dennis clarified some of the funding amounts for specific projects.

Director Banales referred to the SR4 Widening from Laurel Road to Sand Creek Road Project and asked why that project had been included in that while it benefitted a number of member agencies, it did not benefit the City of Pittsburgh. He expressed concern that the other agencies would get a greater dollar value than would the City of Pittsburgh, and he sought a balance to ensure each member agency was receiving the same amount of money over the next six-year period. He suggested what had been proposed was not equitable, and he asked whether the City of Pittsburgh could be apportioned an extra \$7.2 million to balance out what other member agencies were receiving.

Mr. Dennis described the difficulties in being able to balance the regional projects member agency by member agency.

Director Burgis commented that some of the projects offered benefits to the regional system as a whole and not so much to the benefit of one or more member agency.

Chair Meyer questioned the reference to six years for delivering the project allocations between Category 1 and Category 2 projects, and Mr. Dennis explained that the distinction was October 22, 2024 going forward where Category 2 projects were eligible for those funds. He stated there was nothing to say Pittsburg could not get a higher allocation, and he clarified that the SR4 Widening from Laurel Road to Sand Creek Road Project had been on the list prior to October 22, 2024. He emphasized that the existing funds were in need of allocation.

Director Burgis agreed with the need to move forward to use some of the money to avoid higher costs and she had no problem allocating more money to Pittsburg but emphasized the need to use the money as soon as possible to avoid delays that would increase the cost of projects.

Director Bernal also stressed the need to look out for the broader regional approach and suggested that trying to further balance the funding would be a step backward. He urged keeping in mind the traffic patterns east and west and recognized that some member agencies might have greater benefits than others given those traffic patterns.

On the discussion about how some of the East County projects affected some jurisdictions more than others, it was emphasized that improving the regional transportation system would help bring much-needed jobs to East County, which would benefit all of East County. Commenters emphasized the need for all member agencies in East County to work together to improve the economic development of the region, in partnership, to help every jurisdiction.

Mr. Dennis clarified some of the amounts identified for funding and noted that some projects were not fully funded. He agreed to break down the funding with respect to fully funded projects as opposed to partially funded projects as the projects moved forward, and when full funding might be available along with the status of environmental clearance.

Mr. Dennis added that more information could be provided of the total cost and what each cost would do for each member agency. He referred to the need to identify project development funds to be able to get the projects moving forward. He suggested that Category 1 projects could move forward now. Some of the Category 1 projects would need to have plans updated or developed, but could go to construction in approximately two years. He responded to comments about projects that related to landscape only and explained that because staff was trying to use the funds to get actual improvements in the ground some of the interchanges had not been landscaped. When asked why landscaping would come from the same money as transportation improvements, he explained that typically most projects included a landscape component.

Mr. Dennis verified that for Highway 4 Widening, funding from other sources would be sought and staff was working with the Contra Costa Transportation Authority (CCTA) to leverage funds, which leveraging was always pursued to be able to complete projects.

Director Bernal asked if Category 2 projects were shovel ready and whether they could be pursued prior to Category 1 projects.

Mr. Dennis clarified that the staff recommendation would be to approve an allocation for all of the Category 2 projects to allow them to move forward with project development funds, and the six-year funding had been based on current revenues.

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

On motion by Director Burgis, seconded by Director Meadows, the Authority took the following actions:

- A. APPROVED the ECCRFFA Priority Projects shown in Attachment B to the staff report dated June 12, 2025, including funding allocations for project development activities, as well as construction funding for the Vasco Road – Phase 2 and California Avenue projects.
- B. APPROVED the updated June 12, 2025 ECCRFFA Strategic Plan No. 2 that includes the ECCRFFA Priority Projects (Attachment C to the staff report.).
- C. ADOPTED Resolution No. 25/05 (Attachment D to the staff report) to approve ECCRFFA Interfund Transfer No. 2025-02 in the amount of \$9.0 million from ECCRFFA funds collected prior to October 22, 2024, to fund the project development activities for Priority Projects, and AUTHORIZED the Secretary or designee to sign Resolution No. 25/05 on behalf of the Authority.
- D. DIRECTED the Program Manager to work with the Member Agencies to execute ECCRFFA standard cooperative agreements and ADOPTED Appropriation Resolutions Nos. 25/06 through 25/11 (Attachment E to the staff report) to allocate funding for project delivery activities for ECCRFFA Priority Projects, and AUTHORIZED the Program Manager to sign the ECCRFFA standard cooperative agreements.
- E. AUTHORIZED the Program Manager to negotiate and execute an ECCRFFA standard reimbursement agreement with the City of Pittsburg to reimburse the City \$3.56 million for ECCRFFA's share of the California Avenue project.

The motion carried by the following vote:

AYES: Banales, Bernal, Burgis, Meadows, Meyer

NOES: None

ABSTAIN: None

ABSENT: None

BOARDMEMBER COMMENTS

There were no Boardmember comments

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ADJOURNMENT

Chair Meyer adjourned the meeting of the East Contra Costa Regional Fee and Financing Authority at 8:50 P.M. to Thursday, July 10, 2025, at 6:30 P.M. or other day/time deemed appropriate.

Respectfully submitted,

Anita L. Tucci-Smith
Minutes Clerk

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

DATE: September 11, 2025

TO: Board of Directors
FROM: Dale Dennis, Program Manager *DD*
SUBJECT: Approve Joint Exercise of Powers Agreement among Contra Costa County, East Contra Costa Regional Fee and Financing Authority, and the State Route 4 Bypass Authority

Recommendation: **APPROVE** the attached Joint Exercise of Powers Agreement by and among Contra Costa County, the East Contra Costa Regional Fee and Financing Authority, and the State Route 4 Bypass Authority for the Vasco Road Safety Improvements – Phase 2 Project, and **AUTHORIZE** the Secretary or designee to execute, on behalf of the Authority, the Agreement inclusive of any non-substantive changes negotiated by the Secretary or designee.

Discussion:

The attached Joint Exercise of Powers Agreement (Agreement) by and among Contra Costa County, the East Contra Costa Regional Fee and Financing Authority, and the State Route 4 Bypass Authority for the Vasco Road Safety Improvements – Phase 2 Project outlines the roles and responsibilities of all parties related to the Project. County is the Project Sponsor, the Bypass Authority is the Implementing Agency, and the East Contra Costa Regional Fee and Financing Authority is providing \$25M in funding for all phases of the Vasco Road Safety Improvements – Phase 2 Project. Staff is recommending the Authority approve the attached Joint Exercise of Powers Agreement.

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

**JOINT EXERCISE OF POWERS AGREEMENT
BY AND AMONG
CONTRA COSTA COUNTY,
EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY, AND
STATE ROUTE 4 BYPASS AUTHORITY,
FOR THE
VASCO ROAD SAFETY IMPROVEMENTS – PHASE 2 PROJECT**

Effective on _____, 2025 (“Effective Date”), this Joint Exercise of Powers Agreement (“Agreement”) is entered into by and among Contra Costa County, a political subdivision of the State of California (“COUNTY”), the East Contra Costa Regional Fee and Financing Authority, a joint exercise of powers agency (hereinafter referred to as “ECCRFFA”), and the State Route 4 Bypass Authority, a joint exercise of powers agency (hereinafter referred to as “SR4BA”). COUNTY, ECCRFFA, and SR4BA are sometimes referred to herein together as the “Parties,” and each as a “Party.”

1. Purpose: The Parties enter into this Agreement to exercise powers common to them with respect to the completion of the Vasco Road Safety Improvements – Phase 2 project (the “PROJECT”), pursuant to Government Code section 6500, et seq. The purpose of this Agreement is to specify the Parties that will be responsible for the design, project management, environmental clearance, utility relocation, right-of-way acquisition, construction management, construction, acceptance, and funding of the PROJECT. This Agreement also designates SR4BA as the Party to exercise the power of eminent domain within the Parties’ jurisdictions for the purpose of acquiring property and property rights necessary for the PROJECT, pursuant to Code of Civil Procedure section 1240.140.
2. Responsibilities of COUNTY, ECCRFFA, and SR4BA,:
 - A. COUNTY agrees:
 - 1) As the lead agency under the California Environmental Quality Act (“CEQA”), to complete any required subsequent or supplemental environmental review for the PROJECT, the reasonable cost of which will be reimbursed by SR4BA using ECCRFFA Funding following written demand for payment.
 - 2) To provide, at no cost, a designated representative to coordinate with ECCRFFA and SR4BA on all activities required to complete the PROJECT under this Agreement.
 - 3) To provide staff to review the PROJECT plans and specifications developed by the PROJECT design consultant, the reasonable cost of which will be reimbursed by SR4BA using ECCRFFA Funding following written demand for payment. COUNTY will cause its Board of Supervisors to consider approving the PROJECT final design plans and specifications for the PROJECT.

- 4) To authorize SR4BA and its contractors to construct the PROJECT on right(s) of way held in COUNTY's name, subject to the terms of this Agreement. Within seven (7) days after SR4BA's PROJECT construction contractor submits an application for an encroachment permit, COUNTY will issue to SR4BA's PROJECT construction contractor, at no cost, a COUNTY encroachment permit authorizing entry and occupancy within the PROJECT right of way owned by the COUNTY.
- 5) To cooperate with SR4BA to identify any additional right(s)-of-way required for the PROJECT.
- 6) To award a PROJECT construction management contract and assign the contract to SR4BA within 10 days following contract award.
- 7) To appoint a representative with authority to approve any necessary changes or extra work related to the PROJECT. COUNTY shall require its designated representatives to respond to any request for approval of a proposed change order within seven (7) working days after SR4BA delivers a change order to COUNTY. If COUNTY's representative does not respond within that period, COUNTY shall be deemed to have approved the proposed change order. COUNTY's representative shall not unreasonably withhold approval of a PROJECT change order.
- 8) Before the PROJECT is accepted as complete, to cause the COUNTY Public Works Director, or designee, to (a) perform a joint final inspection of the PROJECT, and (b) subject to the requirements of Section 6.A. of this Agreement, issue a Concurrence Letter (defined in Section 6.A., below).
- 9) Beginning on the Recording Date (defined in Section 6.A, below) and continuing thereafter, to operate and maintain the PROJECT and all PROJECT right(s)-of-way.
- 10) Within 60 days following a request by SR4BA to transfer PROJECT right(s)-of-way to COUNTY, to accept PROJECT right(s)-of-way acquired in the SR4BA's name; and to accept all PROJECT right(s)-of-way conveyed directly to COUNTY as part of any terms of acquisition negotiated by SR4BA.

B. ECCRFFA agrees:

- 1) To provide regional transportation demand impact mitigation ("RTDIM") fee funding allocated to the PROJECT in the ECCRFFA June 2025 Strategic Plan, in the amount of \$25.0 million of the PROJECT costs ("ECCRFFA Funding") to be used for the following phases of the PROJECT: any subsequent environmental review, project management, design, utility relocation, right-of-way acquisition, construction management, and construction. If PROJECT costs exceed the Regional Measure 3 ("RM3") Funding ("RM3 Funding") and the ECCRFFA Funding, combined, any excess costs will be paid first from funding secured by any other Party

under Section 4.A., and second from ECCRFFA funds as the PROJECT is eligible for funding from ECCRFFA in 100% of its actual cost. Within 60 days following the Effective Date, the entire amount of the ECCRFFA Funding (\$25 million) will be transmitted to SR4BA.

- 2) To take further actions reasonably necessary to ensure the PROJECT is completed in accordance with this Agreement.

C. SR4BA agrees:

- 1) To accept ECCRFFA Funding and to use ECCRFFA Funding for the following phases of the PROJECT: any subsequent environmental review, project management, design, utility relocation, right-of-way acquisition, construction management, and construction. SR4BA will coordinate with the Metropolitan Transportation Commission ("MTC") to cause MTC to provide all RM3 Funding allocated to the PROJECT, in the amount of up to \$15.0 million. It is anticipated that the RM3 Funding will be requested and used for the costs incurred during the construction phase of the PROJECT.
- 2) To act as the fiscal agent for the PROJECT and to account for all PROJECT expenses and all uses of ECCRFFA Funding, RM3 Funding, and, if required, additional ECCRFFA funds or other funds, used to pay for PROJECT costs.
- 3) To accept an assignment of the PROJECT construction management contract from COUNTY, and, thereafter, to act as the agency responsible for managing the construction management of the PROJECT. The SR4BA Program Manager, or designee, is hereby authorized to execute the assignment on behalf of SR4BA. SR4BA shall allow the COUNTY Public Works Director, or designee, to review and comment on all PROJECT plans and specifications at each design milestone and prior to advertising the PROJECT for construction bids.
- 4) To act as the agency responsible for PROJECT right-of-way acquisition, utility relocation, construction management, and construction. Right-of-way acquisition includes all legal, engineering, appraisal, relocation assistance, and related services required by SR4BA to acquire PROJECT right-of-way, and all right-of-way required for any utility relocation, whether through negotiated purchase and sale or through eminent domain, as well as all payments for the fair market value of the property and property interests being acquired, including all judgments entered by the court and all settlements negotiated by SR4BA and other parties to any eminent domain action.
- 5) To acquire, in the name of the SR4BA right(s)-of-way required for the PROJECT, after consulting with the COUNTY regarding the right(s)-of-way required for the PROJECT. At SR4BA's discretion, temporary construction easements required for the PROJECT may remain in the name of SR4BA through the completion of the PROJECT. SR4BA may, in its discretion,

negotiate terms requiring any permanent easements or fee interests required for the PROJECT to be conveyed directly to COUNTY.

- 6) To contract directly with a design consultant firm for PROJECT design following any required solicitation.
- 7) Following the COUNTY Board of Supervisors' approval of the PROJECT design, to cause the SR4BA Board of Directors to approve the design and approve advertising for bids, and to approve the award of a PROJECT construction contract to the lowest responsible bidder, in accordance with all laws and policies applicable to SR4BA and COUNTY.
- 8) To prepare PROJECT change orders, and to consult with COUNTY's Public Works Director, or designee, on any necessary changes and extra work required to deliver the PROJECT.
- 9) To cause to be prepared as-built drawings and deliver the final as-built drawings to COUNTY after the PROJECT is accepted as complete.
- 10) If the PROJECT is accepted as complete prior to the vesting of title to all required PROJECT right(s)-of-way in the name of COUNTY (e.g., where there is an order of possession in a pending condemnation action the SR4BA files), to license the use of said right(s)-of-way to the COUNTY. Once title to the right(s)-of-way vests in SR4BA, the right(s)-of-way will be transferred to the COUNTY and the license will be terminated.

3. Designation of Party to Exercise the Power of Eminent Domain. Pursuant to Code of Civil Procedure section 1240.140, the Parties hereby agree that SR4BA has, and shall continue to have, the authority relating to the PROJECT, to:

- A. Conduct all public hearings to the end of adopting a Resolution of Necessity, which shall be a discretionary decision for SR4BA's Board of Directors;
- B. Take whatever steps are necessary to initiate, conduct, and resolve or conclude such eminent domain proceedings as are necessary to obtain title to any and all real property interests that are required for the construction of the PROJECT, or otherwise necessary to protect or preserve the safety and usefulness of the PROJECT, or to mitigate the effects of the PROJECT, or as otherwise required to be acquired as a condition of any permit for the PROJECT; and
- C. In connection therewith, to enter into any and all contracts to obtain performance of all legal (including outside counsel), engineering, appraisal, right-of-way acquisition, relocation assistance, related services, and any required experts.

4. Funding and Financial Responsibility; Audit; Cooperation.

- A. Funding and Financial Responsibility. The PROJECT will be funded with the ECCRFFA Funding and RM3 Funding, and, if necessary, additional ECCRFFA or other funding required to complete the PROJECT. Provided, however, that if any Party is able to secure PROJECT funding from another source, such additional

PROJECT funding shall be used to reduce ECCRFFA's share of the cost to complete the PROJECT. SR4BA is designated as the fiscal agent for the PROJECT, will receive ECCRFFA Funding, and any additional ECCRFFA funds or other funds required to complete the PROJECT, will cooperate with MTC to obtain RM3 Funding to pay PROJECT expenses, and will be responsible for keeping all records related to the receipt and disbursement of funds required to complete the PROJECT.

- B. Audit. During the term of this Agreement and for a period of three (3) years following its expiration or termination (the "Audit Period"), each Party shall keep and maintain accurate financial accounts, in accordance with generally acceptable accounting principles, of all PROJECT-related costs. In order to make an audit, during the Audit Period each Party shall have the right of access to any books, documents, papers, and other records of all other Parties that are pertinent to the use of public funds for PROJECT-related costs. Within 10 days after a Party's written request to another Party, the receiving Party shall provide the requesting Party copies of accounting and financial records regarding the use of public funds for PROJECT-related costs, or shall make such records available for inspection and copying during the receiving Party's normal business hours, at the receiving Party's office or the office of its financial consultant. The requirements of this Section 4.B. shall survive for a period of three years following the expiration or termination of this Agreement.
- C. Cooperation. If any Party determines that additional activities are required beyond those contemplated in this Agreement, the Parties' authorized representatives will meet and confer to determine a course of action consistent with the purpose of this Agreement, which may require an amendment to this Agreement to memorialize the Parties' additional agreements and understandings. If any dispute arises under this Agreement, the Parties shall seek to resolve the dispute, first, informally through their authorized representatives, and, if not resolved, at mediation before an agreed upon mediator, the cost of which shall be paid by the Parties in equal shares.

5. Insurance and Hold Harmless:

- A. SR4BA shall require the PROJECT construction contractor to indemnify COUNTY and ECCRFFA, and their respective officers, employees, and agents, to the same extent as the construction contractor is required to indemnify SR4BA and its officers, employees, and agents.
- B. SR4BA shall require the PROJECT construction contractor to provide, for the benefit of SR4BA and COUNTY, a guarantee against defects in material and workmanship for a period of one year from the date the PROJECT is accepted as complete by COUNTY.
- C. SR4BA shall require the PROJECT construction contractor to provide a payment and performance bond, using standard COUNTY bond forms, guaranteeing 100% of the maximum construction contract price, and naming SR4BA and COUNTY as obligees under the bonds.

- D. SR4BA shall require the PROJECT construction contractor to maintain the following policies of insurance:
- 1) Workers' compensation insurance pursuant to state law.
 - 2) Commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners' and contractors' protective coverage, and broad form property damage coverage, per current Caltrans Standard Specifications at the time of bid. Said policy shall include a policy limit of \$5,000,000 individually and \$10,000,000 in the aggregate, and a waiver of subrogation for COUNTY, ECCRFFA, and SR4BA.
 - 3) Builders' risk insurance in an amount equal to the construction contract price, with a waiver of subrogation for COUNTY, ECCRFFA, and SR4BA.
 - 4) Except where already covered by the commercial general liability policy, vehicle liability insurance with a minimum combined single-limit coverage of \$1,000,000 per occurrence.
- SR4BA shall provide the other Parties certificates of insurance, copies of policies, or endorsements evidencing the above insurance coverage and requesting at least 30 days' advance written notice to SR4BA prior to policy lapse, cancellation, or material change in coverage. The above policies shall contain a provision that the policies are primary coverage to the full limits of the policies and that, if any additional insured has other insurance or self-insurance against a loss covered by any policy, the additional insured's insurance or self-insurance shall be excess insurance only.
- E. COUNTY shall defend, indemnify, save, and hold harmless ECCRFFA and SR4BA, and their governing bodies, officers, agents, and employees, from the proportion of any claims, demands, suits, costs, expenses (including attorney's fees and attorney's fee awards), and liabilities for any damages, injury, sickness, or death (collectively "Liabilities") that arise from the negligence or willful misconduct of the COUNTY, its officers, employees, or agents in the performance of COUNTY's obligations under this Agreement.
- F. ECCRFFA shall defend, indemnify, save, and hold harmless COUNTY and SR4BA, and their governing bodies, officers, agents, and employees, from the proportion of any Liabilities that arise from the negligence or willful misconduct of ECCRFFA, its officers, employees, or agents in the performance of ECCRFFA's obligations under this Agreement.
- G. SR4BA shall defend, indemnify, save, and hold harmless COUNTY and ECCRFFA, and their governing bodies, officers, agents, and employees, from the proportion of any Liabilities that arise from the negligence or willful misconduct of SR4BA, its officers, employees, or agents in the performance of SR4BA's obligations under this Agreement.
- H. Nothing in this Agreement is intended to affect any Party's legal liability to third parties by imposing any standard of care different from that normally imposed by law.

6. Joint Inspection, Acceptance, Maintenance & Operation, and Transfer:
- A. Joint Inspection and Acceptance. Upon completion of PROJECT construction, SR4BA's construction manager and COUNTY's Public Works Director, or designee, shall conduct a joint final inspection of the PROJECT to determine whether the PROJECT has been constructed in accordance with the PROJECT plans and specifications and approved PROJECT change orders to the reasonable satisfaction of SR4BA and COUNTY. If the COUNTY Public Works Director, or designee, determines that the PROJECT has been constructed in accordance with the PROJECT plans and specifications and any change orders: (1) within five days after the joint inspection, COUNTY's Public Works Director, or designee, shall provide SR4BA a letter concurring that the PROJECT has been so constructed ("Concurrence Letter"); (2) within 30 days after the date of the Concurrence Letter SR4BA's Board of Directors shall consider whether to accept the PROJECT as complete; and (3) after the PROJECT is accepted as complete, SR4BA shall cause a notice of completion to be recorded in the Official Records of the Contra Costa County Clerk-Recorder, the date of said recording being the "Recording Date." Within 5 days after the Recording Date, SR4BA will provide each other Party a copy of the recorded notice of completion.
- B. Maintenance & Operation. Effective upon the Recording Date, COUNTY shall be solely responsible for operating and maintaining the PROJECT and all PROJECT right(s)-of-way. From and after the Recording Date, COUNTY shall defend, indemnify, save, and hold harmless ECCRFFA and SR4BA, and their governing bodies, officers, agents, and employees, from any Liabilities that arise from the design, construction, operation, maintenance, or repair of the PROJECT, notwithstanding anything to the contrary in Section 5. The requirements of this Section 6.B. shall survive the termination or expiration of this Agreement.
7. Agreement Modification: This Agreement may only be amended in writing following the approval of the legislative bodies of all Parties hereto.
8. Accountability: As required by Government Code section 6505, all Parties to this Agreement shall provide strict accountability of all funds received for the PROJECT.
9. Agreement Expiration and Termination; Survival:
- A. The term of this Agreement begins on the Effective Date. This Agreement shall expire upon the last of the following to occur: (a) the Recording Date; (b) the date title to the last of all PROJECT right-of-way vests in COUNTY; (c) the date SR4BA is fully reimbursed for all PROJECT-related expenses SR4BA incurs under this Agreement.
- B. Any Party may terminate this Agreement for non-appropriation of funds at any time prior to SR4BA's award of a PROJECT construction contract by providing written notice of termination to all other Parties hereto. In the event of termination, costs incurred by SR4BA through the termination date will be paid using ECCRFFA Funding; and any remaining ECCRFFA Funding held by SR4BA will be returned to ECCRFFA.

- C. Notwithstanding the expiration or termination of this Agreement, the provisions of Sections 4.B., 5.E., 5.F., 5.G., 5.H., and 6.B. shall survive the expiration or termination of this Agreement.
10. Entire Agreement; Construction: This Agreement contains the entire understanding of the Parties relating to the subject of this Agreement. Any representation or promise of the Parties relating to the PROJECT shall not be enforceable unless it is contained in this Agreement or in a subsequent written modification of this Agreement executed on behalf of all Parties following the approval by the Parties' governing bodies. 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.
11. Notices: All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing.
- A. A notice shall be sufficiently given for all purposes as follows:
- 1) When delivered by first class mail, postage prepaid, notice shall be deemed delivered three (3) business days after deposit in the United States Mail.
 - 2) When mailed by certified mail with return receipt requested, notice is effective upon receipt if delivery listed on the return receipt.
 - 3) When delivered by overnight delivery by a nationally-recognized overnight courier, notice shall be deemed delivered one (1) business day after deposit with that courier.
 - 4) When personally delivered to the recipient, notice shall be deemed delivered on the date it is personally delivered.
- B. The place for delivery of all notices given under this Agreement shall be as follows:
- To COUNTY:
Contra Costa County Public Works Department
Attn: Steve Kowalewski, Chief Deputy Public Works Director
255 Glacier Drive
Martinez, CA 94553
- To ECCRFFA:
East Contra Costa Regional Fee and Finance Authority
Attn: Dale Dennis, Program Manager
255 Glacier Drive
Martinez, CA 94553

To SR4BA:
State Route 4 Bypass Authority
Attn: Dale Dennis, Program Manager
255 Glacier Drive
Martinez, CA 94553

Or to such other addresses as COUNTY, ECCRFFA, and SR4BA may respectively designate by written notice to the other Parties. Courtesy copies of any notices may be given by email, provided that the notice also is given in any manner authorized by this Section.

12. Governing Law. This Agreement will be governed and construed in accordance with California law.
13. No Third-Party Beneficiaries. Nothing in this Agreement express or implied confers on any person or entity other than the Parties any rights, benefits, or obligations under this Agreement.
14. Waiver. A waiver or breach of any covenant or provision in this Agreement will not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver will be valid unless in writing and executed by the waiving Party.
15. Severability. If any term or provision of this Agreement is, to any extent, held invalid or unenforceable by a court of competent jurisdiction, this Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
16. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original with all counterparts constituting but one and the same instrument.

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

CONTRA COSTA COUNTY

By: _____
Warren Lai, Public Works Director

Approved as to form:
Thomas L. Geiger, County Counsel

Michael George
Deputy County Counsel

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

By: _____
Secretary/Designee

Approved as to form:
Thomas L. Geiger, County Counsel

Stephen M. Siptroth
Assistant County Counsel

STATE ROUTE 4 BYPASS AUTHORITY

By: _____
Secretary/Designee

Approved as to form:
Thomas L. Geiger, County Counsel

Stephen M. Siptroth
Assistant County Counsel