

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
CONTRA COSTA TRANSPORTATION AUTHORITY

FOR THE VASCO ROAD SAFETY IMPROVEMENTS PROJECT

This MEMORANDUM OF UNDERSTANDING (“MOU”), dated as of the _____ day of _____, 2009, is entered into by Contra Costa County, a political subdivision of the State of California (hereinafter referred to as the “COUNTY”), and the Contra Costa Transportation Authority, a local public entity (hereinafter referred to as “AUTHORITY”).

RECITALS

- A. Vasco Road is a commute corridor located in East Contra Costa County connecting the east county cities to the Interstate 580 corridor. The section of road located in Contra Costa County is approximately 11 miles in length and carries upwards of 22,000 vehicles per day.
- B. COUNTY intends to construct safety improvements which include the construction of a concrete median barrier and pavement widening for passing lanes for a project length of approximately one mile, as shown on Exhibit A, attached hereto and incorporated herein (hereinafter “PROJECT”). The project also includes bridge widening, retaining walls, clean water improvements, signing and striping, and environmental mitigations.
- C. COUNTY is eligible to receive federal stimulus funds as part of the American Recovery and Reinvestment Act of 2009 in the amount of \$10 million to fund a portion of the PROJECT. The remaining cost of the project is to be funded by COUNTY.
- D. Proposition 1B funds designated for the PROJECT are not currently available.
- E. The parties intend to define herein the understanding by which the AUTHORITY is to advance funds for the PROJECT.

NOW, THEREFORE, the parties do hereby mutually agree as follows:

SECTION I

AUTHORITY AGREES:

- A. To advance to the PROJECT up to \$8,000,000 from Measure C/J funds on behalf of COUNTY, subject to reimbursement as provided in Section II below.
- B. AUTHORITY’s total obligation for PROJECT is not to exceed \$8,000,000.
- C. To pay COUNTY within thirty (30) days after receipt of each monthly billing, and to continue making such payments until the earlier of the date the PROJECT is completed or until AUTHORITY’s “not to exceed” obligation has been met.

SECTION II

COUNTY AGREES:

- A. To act as PROJECT proponent and procuring agency responsible for the overall management (such as schedule, budget, and oversight of consultants), design, and preconstruction activities.
- B. To submit invoices to AUTHORITY, with specific details of all costs incurred during the invoice period.
- C. To retain all books, document papers, accounting records and other evidence pertaining to costs for at least three (3) years after the PROJECT is completed.
- D. Measure C/J funds advanced by AUTHORITY on behalf of COUNTY will be reimbursed from County's Proposition 1B and Measure J – Return to Source funds. Interest cost will be based on the actual County Pooled Investment Earnings Account rate in effect for the period.
- E. To fully fund PROJECT with COUNTY reimbursing AUTHORITY for the advancement of funds as set-forth in Article F of Section II of this MOU.
- F. To fully reimburse to AUTHORITY the entire balance of funds advanced for PROJECT plus interest by no later than June 30, 2014.

SECTION III

IT IS MUTUALLY AGREED:

- A. Purpose. The purpose of this MOU is to set forth the parties' goals and expectations with respect to advancement of AUTHORITY funding for PROJECT.
- B. Approval of MOU. This MOU is not effective unless approved by the governing bodies of COUNTY and AUTHORITY.
- C. Counterparts. The parties hereto recognize and agree that separate counterpart signature pages may be used to execute this MOU, but that all such pages constitute one and the same MOU.
- D. Construction. The section headings and captions of this MOU are, and the arrangement of this instrument is, for the sole convenience of the parties to this MOU. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this MOU. This MOU will 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 MOU and their respective counsel have read and reviewed this MOU and agree that any rule of construction to the effect that ambiguities are to be

resolved against the drafting party will not apply to the interpretation of this MOU. The recitals are, and will be enforceable as, a part of this MOU.

- E. No Third Party Beneficiaries. This MOU is intended solely for the benefit of the parties hereto, and no third party will have any right or interest in any provision of this MOU or as a result of any action or inaction of any party in connection therewith.
- F. Governing Law and Venue. This MOU will be governed and construed in accordance with California law. The venue of any litigation pertaining to this MOU will be Contra Costa County, California.
- G. Liability and Indemnification. County will indemnify and hold harmless Authority and its officers, agents, employees and volunteers from and against any and all claims, damages, losses and expenses to the extent caused by its negligent or intentional acts or omissions, including attorney fees arising out of the Project and the federal earmark requirements. Authority will indemnify and hold harmless County and its officers, agents, employees and volunteers from and against any and all claims, damages, losses, and expenses to the extent caused by its negligent or intentional acts or omissions, including attorney fees arising out of the Project and the federal earmark requirements.
- G. Each of the COUNTY and the AUTHORITY renders its services under this MOU as an independent agency. None of COUNTY'S or the AUTHORITY'S agents or employees shall be agents or employees of the other party to this MOU.
- H. No amendment, alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
- I. Any notices that may be required under this MOU shall be in writing and shall be delivered by hand delivery, electronic delivery with electronic confirmation of delivery or by certified or express mail, addressed to the other party as follows:

COUNTY:

Contra Costa County
255 Glacier Drive
Martinez, CA 94553
Attn: Public Works Director
FAX: 925-313-2333

AUTHORITY:

Contra Costa Transportation Authority
3478 Buskirk Avenue, Suite 100
Pleasant Hill, CA 94523
Attn: Executive Director
FAX: 925-256-4701

CONTRA COSTA COUNTY

CONTRA COSTA
TRANSPORTATION AUTHORITY

By: _____
Public Works Director

By: _____
Maria T. Viramontes, Chair

Approved as to form:
Silvano B. Marchesi
County Counsel

Attest: _____
Robert K. McCleary,
Executive Director

By: _____
Deputy County Counsel

Approved as to form:
Authority Counsel

Stanley S. Taylor III

