

**COOPERATIVE AGREEMENT BETWEEN
CONTRA COSTA COUNTY AND
THE CONTRA COSTA TRANSPORTATION AUTHORITY
FOR THE EXERCISE OF THE POWER OF EMINENT DOMAIN
FOR THE I-680 NORTH EXPRESS LANES PROJECT**

This Cooperative Agreement ("AGREEMENT") is entered into effective this day of _____, 2016, by and between the CONTRA COSTA COUNTY, a political subdivision of the State of California (referred to herein as "COUNTY") and the CONTRA COSTA TRANSPORTATION AUTHORITY, a public entity (referred to herein as "CCTA"), pursuant to the provisions of Streets and Highways Code sections 114 and 130 and Code of Civil Procedure section 1240.140. COUNTY and AUTHORITY are sometimes referred to together as the "PARTIES," and each as a "PARTY."

RECITALS

- A. On September 17, 2014 CCTA approved the I-680 North Express Lanes Project ("PROJECT") and issued an Initial Study with Mitigated Negative Declaration pursuant to the California Environmental Quality Act.
- B. On _____, 2016, CCTA issued a Categorical Exemption/Categorical Exclusion for Conversion of the HOV Lanes to Tolloed Express Lanes pursuant to the California Environmental Quality Act and National Environmental Policy Act.
- C. To construct the PROJECT as planned, certain Pacific Gas and Electric Company ("PG&E") facilities will need to be relocated. Property rights will need to be acquired to complete that relocation.
- C. On April 1, 2016, COUNTY and CCTA entered into a Real Property Services Agreement under which COUNTY will provide, and CCTA will pay for, PROJECT-related right-of-way services, including appraisal, appraisal review, negotiation, land rights documentation preparation, right-of-way acquisition, and/or supervision of independent contractors providing those services. The original Real Property Services Agreement is maintained on file by COUNTY and by CCTA.
- D. The purpose of this AGREEMENT is to document COUNTY's authority to exercise the power of eminent domain for the acquisition of property for PROJECT on behalf of CCTA pursuant to Code of Civil Procedure section 1240.140. This AGREEMENT is, and at all times remains, relevant to the PROJECT, and it will continue to constitute the authorization for an exercise of the power of eminent domain as the work is processed by the COUNTY with respect to the acquisition of any real property or interest therein required (i) for the PROJECT; (ii) to protect and preserve the safety and usefulness of the PROJECT, or mitigate the effect of the PROJECT; or (iii) to be acquired as a condition of any permit for the PROJECT.

AGREEMENT

1. **Term:** The term of this AGREEMENT shall remain in effect until the COUNTY'S authorization to perform eminent domain and other services relating to PROJECT-related property acquisition is completed, unless it is earlier terminated by either party upon 30 days' written notice.

2. **Lead Agency:** COUNTY and CCTA hereby agree that, pursuant to the terms of this AGREEMENT, and notwithstanding anything to the contrary in the AGREEMENT, COUNTY is designated as the Agency to administer the portion of the AGREEMENT relating to the acquisition of real property for the PROJECT, through eminent domain or otherwise, by and through its Board of Supervisors, COUNTY officials and departments, and COUNTY attorneys.

3. **Powers:** COUNTY and CCTA hereby agree, at all relevant times, COUNTY has, and shall continue to have, the authority relating to the PROJECT, to:
 - A. Conduct all public hearings necessary to adopt a Resolution of Necessity;

 - 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 PROJECT, or otherwise necessary to protect or preserve the safety and usefulness of the PROJECT, or to mitigate the effects of the PROJECT, or 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, engineering, appraisal, right-of-way acquisition, relocation assistance and related services.

4. **Costs:** CCTA will reimburse the COUNTY for reasonable costs to acquire property interests required for the PROJECT as set forth in the Real Property Services Agreement. In addition to those costs, CCTA shall reimburse the COUNTY for all reasonable legal expenses by County Counsel and outside counsel, court costs, engineering costs, appraisal costs, and other costs that the COUNTY incurs to condemn property interests required for the PROJECT. CCTA shall also be responsible for issuing payment to property owners of just compensation for any and all property rights acquired by negotiation, settlement, condemnation award, or otherwise as required for the PROJECT. When reasonably requested by COUNTY, CCTA shall issue checks to make deposits required to obtain possession of property rights before judgment in eminent

domain actions for the purposes set forth in this Agreement. Notwithstanding anything to the contrary, in this Agreement, CCTA's total payments to COUNTY under this Agreement shall not exceed the Total Project Budget listed in Appendix "A" attached to the Real Property Services Agreement between CCTA and COUNTY, effective April 1, 2016, pertaining to the PROJECT, as may be amended in the future.

5. **Indemnification:** The COUNTY shall defend, indemnify, and hold harmless CCTA, its officers, and its employees for any claims, liabilities, damage, injury, or death of or to any person, or the property of any person, including attorney's and expert fees, (collectively, "Liabilities") that arise out of the willful misconduct or the negligent acts, errors, or omissions of the COUNTY, its officers, employees, agents, and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, COUNTY shall not be obligated to indemnify CCTA, its officers, and employees for any portion of Liabilities that arise out of CCTA's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

CCTA shall defend, indemnify, and hold harmless COUNTY its officers, and its employees for any Liabilities that arise out of the willful misconduct or the negligent acts, errors, or omissions of CCTA, its officers, employees, agents and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, CCTA shall not be obligated to indemnify COUNTY, its officers, and its employees for any portion of Liabilities that arise out of COUNTY's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

6. **Subject Property; Title:** COUNTY and CCTA hereby agree that COUNTY has the right to exercise the powers granted by eminent domain law to acquire any real property, any interest therein, and any appurtenance thereto, required for the PROJECT, or otherwise necessary to protect or preserve the safety and usefulness of the PROJECT, or otherwise required to be acquired as a condition of any permit for the PROJECT; and COUNTY shall transfer title to said properties to PG&E, unless otherwise directed by CCTA.
7. **Counterparts:** This AGREEMENT may be signed in counterparts and shall become effective upon its execution by the COUNTY and CCTA, each copy having the same force and effect as an original.

[SIGNATURES ON NEXT PAGE]

CONTRA COSTA COUNTY

Approved as to Legal Form:
Sharon L. Anderson, County Counsel

By: _____
Name: _____
Chair, Board of Supervisors

By: _____
Stephen M. Siptroth
Deputy County Counsel

**CONTRA COSTA TRANSPORTATION
AUTHORITY**

Approved as to Legal Form:
Legal Counsel for CCTA

By: _____
David E. Hudson
Chair

By: _____
Malathy Subramanian
Legal Counsel

Attest:

By: _____
Randall H. Iwasaki
Executive Director