

**FOURTH AMENDMENT TO JOINT EXERCISE  
OF POWERS AGREEMENT FOR EAST  
CONTRA COSTA REGIONAL FEE AND  
FINANCING AUTHORITY**

**1. EFFECTIVE DATE AND PARTIES**

Effective \_\_\_\_\_, the CITY OF ANTIOCH, a municipal corporation duly organized and existing under the laws of the State of California (“Antioch”), the CITY OF BRENTWOOD, a municipal corporation duly organized and existing under the laws of the State of California (“Brentwood”), the CITY of OAKLEY, a municipal corporation duly organized and existing under the laws of the State of California (“Oakley”), the CITY OF PITTSBURG, a municipal corporation duly organized and existing under the laws of the State of California (“Pittsburg”), and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the “County”), mutually agree as follows:

**2. PURPOSE**

Effective August 9, 1994, Antioch, Brentwood, Pittsburg, and the County formed the East Contra Costa Regional Fee and Financing Authority (ECCRFFA), a separate joint powers agency, by entering into a written agreement entitled “EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT” (referred to as the “Agreement”). ECCRFFA was formed to assist in establishing and administering a uniform regional development fee program and in funding and implementing regional road improvement projects in the East County area. The Agreement has previously been amended as follows: a First Amendment, dated October 4, 1999, added Oakley as additional party; a Second Amendment, dated July 11, 2005, coordinated activities of ECCRFFA and East County Transportation Improvement Authority (ECTIA) and revised ECCRFFA regional fee schedule; and a Third Amendment dated September 10, 2013, readmitted Pittsburg after its withdrawal, revised provisions for withdrawal, provided for appointment of ECCRFFA Board members, and provided uniformity of ECCRFFA fees collected by member agencies, among other changes. Antioch, Brentwood, Oakley, Pittsburg, and the County now wish to enter into this Fourth Amendment to the Agreement (“Fourth Amendment”) to add the Sand Creek Road Extension to Deer Valley Road project (“Sand Creek Extension Project”) to the list of ECCRFFA projects in Attachment 2 to the Agreement, as previously amended. Attachment 1 to the Agreement also will be amended to refer to the nexus study for the Sand Creek Extension Project with no change to ECCRFFA’s Regional Transportation Development Impact Mitigation (“RTDIM”) fees.

**3. AMENDMENTS TO AGREEMENT**

- A. Attachment 1 (2013 Amendment) is replaced in its entirety with Attachment 1 (2020 Amendment) attached to this Fourth Amendment, with no changes to the fees in the

RTDIM fee schedule. Other changes included in Attachment 1 make it current and bring it up to date.

- B. Attachment 2 (2013 Amendment) is replaced in its entirety with Attachment 2 (2020 Amendment) attached to this Fourth Amendment, to add the Sand Creek Extension Project to the list of ECCRFFA projects.

4. **REMAINING PROVISIONS**

Subject to the changes made by this Fourth Amendment and all previous amendments, all provisions of the Agreement shall remain in full force and effect. If this Fourth Amendment is determined by a court to be invalid or unenforceable, the Agreement, as previously amended through the Third Amendment, shall remain unchanged and in full force and effect.

5. **COUNTERPARTS**

This Fourth Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original instrument.

6. **SIGNATURES**

These signatures attest the parties' agreement to this Fourth Amendment.

**[Remainder of page left blank. Signatures on next page.]**

CITY OF ANTIOCH

FORM APPROVED:  
Thomas Lloyd Smith, City Attorney

By: \_\_\_\_\_  
Ron Bernal, City Manager

By: \_\_\_\_\_

CITY OF BRENTWOOD

FORM APPROVED:  
Damien Brower, City Attorney

By: \_\_\_\_\_  
Tim Ogden, City Manager

By: \_\_\_\_\_

CITY OF OAKLEY

FORM APPROVED:  
Cota Cole LLP, City Attorney

By: \_\_\_\_\_  
Bryan H. Montgomery, City  
Manager

By: \_\_\_\_\_

CITY OF PITTSBURG

FORM APPROVED:  
Donna Mooney, City Attorney

By: \_\_\_\_\_  
Garrett Evans, City Manager

By: \_\_\_\_\_

COUNTY OF CONTRA COSTA

FORM APPROVED:  
Sharon L. Anderson, County Counsel

By: \_\_\_\_\_  
Monica Nino, County  
Administrator

By: \_\_\_\_\_  
Thomas L. Geiger, Assistant  
County Counsel

Attachment 1 – 2020 Amendment  
to  
East Contra Costa Regional Fee and Financing Authority  
Joint Exercise of Powers Agreement

**IMPLEMENTATION OF REGIONAL TRANSPORTATION-DEVELOPMENT IMPACT  
MITIGATION (RTDIM) FEE PROGRAM**

A. Imposition of RTDIM Fees by Antioch, Brentwood, Oakley, and County. In order to fund the Program and Projects of the Authority, the parties agree that the following Regional Transportation Development Impact Fees (“RTDIM Fees”), which were originally adopted in 2005, shall continue to be implemented by Antioch, Brentwood, Oakley, and the County (each agency and Pittsburg is sometimes referred to as a “Member Agency” and, together, as the “Member Agencies”).

| Regional Transportation-Development<br>Impact Mitigation (RTDIM) Fees     |                                     |              |                        |
|---|-------------------------------------|--------------|------------------------|
| Type of Use   | Fee Units                           | Fee Schedule |                        |
|   |                                     | 2005         | 2020*                  |
| Single family residential units, duet homes, and residential condominiums | Per dwelling unit                   | \$15,000     | \$22,920<br>(\$19,482) |
| Multiple family residential   | Per dwelling unit                   | \$9,207.92   | \$14,070<br>(\$11,960) |
| Commercial  | Per square foot of gross floor area | \$1.25       | \$1.90                 |
| Office  | Per square foot of gross floor area | \$1.10       | \$1.66                 |
| Industrial  | Per square foot of gross floor area | \$1.10       | \$1.66                 |
| Other   | Per peak hour trip as determined    | \$15,000     | \$22,920               |

\* The 2020 fee schedule includes the annual adjustments specified in the Authority’s Resolution No. 2005/06. The figures in parentheses reflect the net residential fee amounts payable after the Authority’s fee rebate last approved December 2019, which provides for a rebate applicable to residential fee rates, as further described in Section B, below. ECCRFFA fees for senior housing shall be calculated in accordance with ECCRFFA’s “Policy on Reduced Fees for Age-Restricted Senior Housing.” ECCRFFA fees for Accessory Dwelling Units (ADUs) shall be calculated in accordance with Government Code section 65852.2 and ECCRFFA’s “Policy for Accessory Dwelling Units.”

The above fee schedule is based on the June 2005 East Contra Costa Regional Fee Program Update (referred to as the “2005 Report”) prepared by Fehr & Peers, which has been approved by the Authority’s Board. The above fees are unchanged and are below the maximum fee rates calculated in the “East Contra Costa Regional Fee Program Update,” dated September 2020,

prepared by Fehr & Peers (“2020 Report”). The 2005 Report was previously adopted as the governing program of the Authority and is incorporated in this Agreement by reference. The 2020 Report was approved to add the Sand Creek Extension Project to the ECCRFFA project list, with no changes to the RTDIM Fees in the above fee schedule. The RTDIM fees in the above fee schedule are subject to annual adjustment, as provided below and as provided in the fee ordinances and/or resolutions adopted by the Member Agencies. In addition to the listed amounts, each Member Agency may collect and retain an administrative charge up to 1% of the listed amounts.

B. Adoption of Revised RTDIM Fees by the Authority. The Authority established an RTDIM Fee rebate program in 2013. The fee rebate program does not change the RTDIM Fees last adopted in 2005. Rather, the fee rebate program provides a rebate on the amount of the RTDIM Fees that are collected by the Member Agencies. Since 2013, the Authority Board of Directors has approved continuing the fee rebate. The Authority Board last approved to continue an RTDIM Fee rebate on December 12, 2019, when the Authority Board authorized a 15% rebate to all applicants who pay RTDIM Fees for residential uses (*i.e.*, single family residential units, duet homes, residential condominiums, and multi-family residential) during the period from January 1, 2020, through December 31, 2021. The fee rebate program is subject to reevaluation at any time by the Authority Board, and the Authority Board has sole discretion to terminate or modify the fee rebate program.

C. Imposition of PRTDIM Fees by Pittsburg. In order to fund the Program and Projects of the Authority, the Member Agencies agree that the following Pittsburg Regional Transportation Development Impact Fees (“PRTDIM Fees”), which were originally adopted in 2010, shall continue to be implemented by Pittsburg as follows:

Beginning October 10, 2013, Pittsburg shall ensure its commercial, office, and industrial fee rates match the Authority’s commercial, office, and industrial fee rates listed in Section A above, including the annual adjustment specified in Section F below.

Should a valid Memorandum of Understanding (MOU) signed prior to September 11, 2010, prevent Pittsburg from collecting commercial, office, or industrial fees at the rates listed above, Pittsburg shall make up the shortfall from its own separate funds and shall forward the full amount to the Authority per the terms of this Agreement.

- (1) Beginning September 10, 2013, Pittsburg shall ensure its residential fee rates are collected as follows:
  - (a) At the same time as the other Authority Members, Pittsburg shall apply fee rebates to match and collect the same net residential fee amounts collected by the other Member Agencies under the ECCRFFA fee rebate program (see Section B, above).

- (b) In the event that the Authority approves a revised fee schedule, or a new or revised fee rebate program pursuant to Section D below, at the same time as the other Member Agencies, Pittsburg shall adopt and collect the revised fee schedule, or shall apply the new or revised fee rebates, to match and collect the same net residential fee amounts as the other Member Agencies, including the annual adjustment specified in Section F below.
  - (c) The residential fees collected by Pittsburg under this Subsection C(1) shall apply uniformly to all development in Pittsburg, except as provided otherwise for MOUs between Pittsburg and developers.
- (2) Pittsburg shall defend (with counsel selected by Pittsburg), indemnify, save, and hold harmless the Authority, the other Member Agencies, and their officers, agents, and employees from any litigation, claims, costs, expenses, or liability arising from or in any way related to Pittsburg's fee rebate program or Pittsburg's collection of different fee rates pursuant to Subsection C(1) above. The Authority and the other Member Agencies shall not be required to defend, indemnify, save, or hold harmless Pittsburg under Section B of Attachment 2, or otherwise, for claims related to the Pittsburg fee rebate program or Pittsburg's collection of different fee rates pursuant to Subsection C(1) above.

D. Subsequent Approval of Revised Fee Schedule or New or Revised Fee Rebate Program by the Authority. Between January 1, 2016, and December 31, 2030, the Authority Board may, from time to time, approve revised fee schedules, or new or revised fee rebate programs, which shall be subject to the following limitations unless otherwise approved unanimously by the full Authority Board, with all Board members present:

- (1) Any revised residential fees shall not exceed the following maximum rates, subject to the annual adjustment specified in Section F below: Single family residential \$16,176/dwelling unit; Multiple family residential \$9,934/dwelling unit; Other \$16,176/peak hour trip.
- (2) Any new or revised residential fee rebates shall result in net residential fee amounts of at least 50% of the maximum rates listed in Subsection D(1) above.

Within 60 days after such approval, each Member Agency (Antioch, Brentwood, Oakley, Pittsburg, and the County) shall consider adopting a fee ordinance or resolution implementing the

revised fee schedule, or shall promptly consider applying the new or revised fee rebates. This procedure does not apply to annual fee adjustments, which are automatic and do not require further approval or action.

E. Fees for Uses Not Listed. The fees for uses not listed shall be determined by the Member Agency with land use authority through information generated by appropriate traffic studies conducted in accordance with ITE standards and applicable Authority policies. These traffic studies shall be approved by the Authority Board before the Member Agency imposes the fees.

F. Annual Fee Adjustment. Every January 1, the fee rates listed above, including any maximum fee rates, shall be automatically adjusted by the amount of the increase or decrease in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the one-year period ending September 30 of the preceding year.

G. Credit for Construction Costs or Land Acquisition. Subject to the priority order set forth in Section E of Attachment 2, with prior approval of the Authority Board, credit may be granted against the payment of the fee for a usable portion of any Project. The amount of credit shall be limited to the regional component of the Project, as determined by the Authority Board in its sole discretion. Notwithstanding anything to the contrary, no fee credit shall be granted for any lands that are required to be dedicated as specified in Attachment 2, Section B.

H. Fee Collection and Management. Except for approximately \$5.5 million of PRTDIM fees used by Pittsburg as described in the last paragraph of Section E of Attachment 2, all fee revenues received or collected by the Member Agencies, together with any separate funds and increased fees to eliminate a shortfall, shall be disbursed monthly by the Member Agencies to the Authority. Fees and other revenues shall be held by the Authority in a general fund account; bond proceeds shall be held in accordance with the applicable indenture and may be invested, consistent with the provisions of the applicable indenture, in accounts such as the CAMP or LAIF fund. Subject to any provision in an applicable indenture, interest accruing on funds held in such accounts and accrued interest on funds held in the general fund account shall be deemed general funds available for any lawful purpose of the Authority. Unless otherwise agreed by the Member Agencies, the total obligation of each Member Agency shall be the contribution of fees collected by that Member Agency from owners seeking issuance of building permits as provided for in this Section. The obligation to contribute fees to the Authority shall terminate on December 31, 2030 (*i.e.*, the termination date specified in Section 3 of the Agreement).

Attachment 2 – 2020 Amendment  
to  
East Contra Costa Regional Fee and Financing Authority  
Joint Exercise of Powers Agreement

**PROJECTS; FUNDING COMMITMENTS AND ELIGIBLE COSTS;**  
**IMPLEMENTATION SCHEDULE**

A. **Current List of Projects.** The fees provided for in the above fee schedule shall be used for project development, right-of-way acquisition, and construction for the following regional Projects:

- (1) State Route 4 freeway widening from Railroad Avenue to the State Route 4 Bypass, including reconstruction of interchanges as necessary.
- (2) State Route 4 Bypass, Segment 1 from State Route 4 to Lone Tree Way, including interchanges at Laurel Road and Lone Tree Way.
- (3) State Route 4 Bypass, Segment 2 from Lone Tree Way to Balfour Road, including an interchange at Sand Creek Road.
- (4) State Route 4 Bypass, Segment 3 from Balfour Road to Vasco Road, including interchanges at Balfour Road, Marsh Creek Road, and Vasco Road.
- (5) Laurel Road Extension from State Route 4 Bypass to Empire Avenue.
- (6) State Route 239/84 Connector, consisting of the Armstrong Road extension (formerly Byron Airport Road).
- (7) State Route 239 corridor study and preliminary design.
- (8) State Route 4 (Main Street or Brentwood Boulevard) widening from Vintage Parkway in Oakley to Marsh Creek bridge in Brentwood and Chestnut Street to Balfour Road in south Brentwood.
- (9) Balfour Road widening from Deer Valley Road to Brentwood city limits.
- (10) Marsh Creek Road and Deer Valley Road safety enhancements from Walnut Boulevard to Clayton and from Balfour Road to Marsh Creek Road.
- (11) Route 84/Vasco Road widening to County line.

***Northern Parallel Arterials***

- (12) Pittsburg-Antioch Highway from Somersville Road to Loveridge Road.



- (13) Ninth and Tenth Streets couple improvements from A Street to L Street.
- (14) California Avenue from Railroad Avenue to Loveridge Road.
- (15) Willow Pass Road from Range Road to Loftus Road and Bailey Road to city limits.

***Southern Parallel Arterials***

- (16) Buchanan Bypass (new arterial) or Buchanan Road from Railroad Avenue to Somersville Road.
- (17) West Tregallas Road/Fitzuren Road from Lone Tree Way to Buchanan Road.
- (18) West Leland Road or Evora Road from San Marco to Avila Road and from Willow Pass Road (Bay Point) to Willow Pass Road (Concord).

***New Regional Arterial Projects***

- (19) Wilbur Avenue from Minaker Drive to State Route 160.
- (20) Neroly Road from Oakley Road to Laurel Road.
- (21) Deer Valley Road from Antioch city limits to Balfour Road.
- (22) Walnut Boulevard from Brentwood city limits to State Route 4 Bypass.
- (23) John Muir Parkway (new roadway between Balfour Road and Fairview Avenue).
- (24) Byron Highway safety enhancements from Delta Road to State Route 4.
- (25) Sand Creek Road Extension from SR4 to Deer Valley Road project.

***Regional Transit Projects***

- (26) East County express bus.
- (27) Commuter rail (eBART).

**B. Funding Commitments and Eligible Costs.** Program revenues shall be available for necessary Project costs through completion of construction. Subject to prior approval by the Authority Board, Project costs paid from program revenues may include environmental clearance, conceptual engineering, traffic studies, design, right-of-way acquisition, utility relocation, litigation and settlement costs, and costs of construction. The commitment to each Project shall be considered complete when the Project is accepted by the sponsor or sponsors.

The Authority's administrative costs shall not exceed 1% of program revenues. Administrative costs include the development of the JPA as well as the administration of duties included in this Agreement.

Eligible Project costs will be determined by the Authority based on cost guidelines and other criteria to be developed by the Authority. Where the Authority deems it advisable in order to avoid undue burdens on Project sponsors, the Authority may advance fund Project expenses on a monthly, quarterly, or other basis. Project costs otherwise will be reimbursed pursuant to procedures to be determined by the Authority.

Project sponsors, as a condition of Project funding through regional fees, commit to protect Project rights-of-way, by, among other things, requiring dedication of right-of-way as a condition of land use entitlement approval or otherwise, pending Project commencement. Project sponsors further commit not to take actions that could adversely impact the cost of Projects, including, but not limited to, utility location or relocation, public development, and the granting of easements in a proposed right-of-way.

The right-of-way dedication policy for the State Route 4 Bypass is as follows. Properties along or fronting the Projects identified in this Agreement shall be required to dedicate right-of-way up to 110 feet wide as measured from the centerline of the adopted precise alignment with no credit or compensation from the regional fee. Any additional right-of-way in excess of the 110-foot width may be either credited toward the regional fee or compensated. However, in circumstances where the allowable density has been transferred off the right-of-way area, then no compensation or credit will be granted for the right-of-way dedicated. The Authority shall develop policies that will encourage the early dedication of lands that are required under this provision.

Any costs of defense and any liability incurred in connection with implementation of the regional fee proposal shall be borne by the Authority. The Authority agrees to the fullest extent permitted to indemnify and hold harmless the parties to this Agreement from any liability, loss, costs, and claims related to the adoption or implementation of the regional fee program. Fee revenues and any other revenues transferred to the Authority by the parties pursuant to this Agreement may be used for this purpose.

**C. Implementation Schedule.** Subject to environment clearance, right-of-way acquisition and dedication, utility relocation, and other factors, the timing of which may be beyond the control of the Authority, and subject to the availability of regional fee and other funding sources as may be required, the following implementation guidelines shall apply to Project development:

(i) The parties intend that funding will be provided to support steady progress in construction of the State Route 4 Bypass.

(ii) The Authority shall prepare, adopt, and periodically update a Strategic Plan for implementation of the Projects, reflecting current information on Project costs and schedules, the Project sponsor(s) for the various Projects, the availability of other

revenue sources, the pace of fee collection, the schedule for and the costs associated with the sale of bonds to advance funds, and other relevant factors.

**D. Indemnification.** As a condition of funding for Projects in this Program, Project sponsors shall enter into an agreement with the Authority that shall provide indemnification and insurance coverage for the Authority and the parties to this Agreement during design and construction. The indemnification and insurance shall be subject to approval by the Authority.

**E. Project and Funding Priorities.** The following priority order shall hereafter apply to funding and implementation of the Authority's regional Projects:

First Priority:

Initial projects and ECCRFFA existing commitments:

- (a) SR4 East widening (for project description, see CCTA's Measure J Strategic Plan);
- (b) eBART extension to Hillcrest Avenue, which excludes Railroad Avenue station, with ECCRFFA to provide \$1.2 million to BART by 12/31/2013 (for project description, see CCTA's Measure J Strategic Plan);
- (c) SR4 Bypass projects, including the following:
  - (1) SR4/SR160 Connector Ramps (project involves constructing direct connectors between SR4 Bypass and SR160);
  - (2) Sand Creek Road Interchange (project includes a partial cloverleaf configuration on west side and a tight diamond on east side);
  - (3) Balfour Road Interchange – Phase 1 (project includes partial cloverleaves on both east and west sides and a single bridge over Balfour Road with two-directional traffic);
  - (4) 4-Laning between Lone Tree Way and Balfour Road; and
- (d) Outstanding ECCRFFA commitments (\$13.0 million), consisting of the following:
  - (1) Reimburse Contra Costa County Proposition 1B funds – \$3.0 million;
  - (2) John Muir Parkway – Brentwood: \$2.9 million;
  - (3) Vasco Road – Alameda County: up to \$3.0 million (final amount to be determined based on actual bids received); and
  - (4) Old SR4 relinquishment costs: \$4.1 million.

Second Priority:

eBART extension beyond Hillcrest Avenue – environmental review for the eBART extension (up to \$3.0 million).

Third Priority:

James Donlan Extension (JDE; project includes a 2.7-mile (approximate) extension from Somersville Road to Kirker Pass Road, consisting of a four-lane

road for approximately 0.72 mile through Black Diamond Estates and Sky Ranch II Subdivisions (western edge), then a two-lane road for approximately 1.7 miles through an undeveloped area, then expanded to four lanes for the remaining 0.28 mile (approximate) near Kirker Pass Road (east end), and realignment of a portion of Kirker Pass Road to match project grades and to conform the project to existing topography).

Other Projects:

The priority and funding for all other ECCRFFA Projects will be determined by the Authority Board.

The above priority order cannot be changed unless both of the following conditions are met: (1) there are extenuating circumstances regarding regional priorities or difficulties in implementing one of the priority projects listed above, and (2) there is a unanimous vote by the full Authority Board, with all Board members present, to change the above priority order.

Pittsburg shall use PRTDIM fees collected between September 7, 2010 and the effective date of the Third Amendment to the Agreement (approximately \$5.5 million) as follows: approximately \$5.3 million for JDE (i.e., environmental clearance, right-of-way acquisition, and project design) and the Railroad Avenue eBART station; and up to \$196,000 for legal fees incurred by Pittsburg in the TRANSPLAN/ECCRFFA lawsuit.”

**F. Cooperation among ECCRFFA Member Agencies.** ECCRFFA and each of its Member Agencies agree to cooperate so as to maximize all regional, state, and federal funding available to complete construction of the Priority Projects, as set forth in Section E above, as soon as reasonably possible, unless the Priority Projects would not compete as well as other candidate projects in East County, due to project readiness or other funding criteria required for project selection. For clarity, the intent is to ensure that the Priority Projects receive priority for available outside funding, while balancing the goal of maximizing funding/delivery of all transportation projects in East County.