

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

1. EFFECTIVE DATE AND PARTIES

Effective September 10, 2013, 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: First Amendment dated October 4, 1999 (added Oakley as additional party) and Second Amendment dated July 11, 2005 (coordinated activities of ECCRFFA and East County Transportation Improvement Authority (ECTIA) and revised ECCRFFA regional fee schedule). In addition, effective September 7, 2010, the City of Pittsburg withdrew as a party to ECCRFFA. The remaining parties (Antioch, Brentwood, Oakley, and the County) now wish to further amend the Agreement by re-admitting Pittsburg as a member of ECCRFFA, by revising the provisions for withdrawal from ECCRFFA and for the appointment of representatives to the ECCRFFA Board, and by providing for uniformity of the regional fees collected by Pittsburg and the other ECCRFFA members, including equalization of any fee shortfall between September 7, 2010 and the end of the current, two-year Pittsburg fee rebate program (December 31, 2014).

3. AMENDMENTS TO AGREEMENT

- A. In the first paragraph of the Agreement, add the CITY OF PITTSBURG, a municipal corporation duly organized and existing under the laws of the State of California, to the parties listed in that paragraph.

- B. In the Agreement, Section 1, DEFINITIONS, change or add the following definitions to read:

“City’ and ‘Cities,’ individually and collectively, mean the City of Antioch, the City of Brentwood, the City of Oakley, and the City of Pittsburg, each an existing municipal corporation under the laws of the State of California.

“Project Sponsor’ means the party that assumes responsibility for the implementation of a Project, including, as applicable, the securing of funding, environmental clearance, right-of-way acquisition, design, construction, and other necessary Project tasks.”

- C. Section 3.A is revised in its entirety to read:

“This Agreement shall become effective as of the date hereof and shall expire on December 31, 2030.”

- D. Section 3.B is revised in its entirety to read:

“Prior to the expiration date, no party to this Agreement may withdraw from the Authority without mutual written consent from all parties to this Agreement. Absent mutual consent, any purported withdrawal shall be void, and the party in question shall remain responsible for performing all obligations under this Agreement, including without limitation its obligation to levy, collect, and forward Regional Transportation-Development Mitigation Fees to the Authority in the amount approved by the Authority and its obligation to pay its proportional share of the cost of completing all existing and future projects approved by the Authority. Notwithstanding the expiration or termination of this Agreement, the indemnification and insurance provisions of Section B (last paragraph only) and Section D of Attachment 2 shall remain in full force and effect.

“Upon termination of this Agreement, all Authority assets will be transferred to the local jurisdiction in which they are located.”

- E. The first paragraph of Section 4.B is revised in its entirety to read:

“B. Governing Board. The Authority shall be administered by the Board, which shall be composed of elected board or council members from the Cities and the County. Each party shall have one representative appointed by the governing body of the party that such member represents. Alternate directors may be designated and appointed by each party from the membership of its respective governing body. An alternate shall be authorized to act only in the absence of his or her corresponding Board member. Board members and alternates shall serve at the pleasure of their respective governing bodies. In any event, the term of office of each Board member or alternate shall terminate when such member or alternate ceases to be an elected official of the governing body of the appointing party or when such member or alternate is replaced by the governing body of the appointing party.”

- F. Section 4.D(3) and (4) is revised in its entirety to read:

“(3) The County Treasurer is hereby designated as Treasurer of the Authority. Subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent, the Treasurer is designated as the depository of the Authority to have custody of all the money of the Authority, from whatever source, and, as such, shall have the powers, duties, and responsibilities specified in Section 6505.5 of the Law.

“(4) The County Auditor-Controller, who performs the functions of auditor and controller for the County, is hereby designated as Controller of the Authority, and, as such, shall have the powers, duties, and responsibilities specified in Section 6505.5 of the Law. The Controller shall draw checks to pay demands against the Authority when the demands have been approved by the Authority.”

- G. Attachment 1 (2005 Amendment) is replaced in its entirety with Attachment 1 (2013 Amendment) attached to this Amendment.
- H. Attachment 2 (2005 Amendment) is replaced in its entirety with Attachment 2 (2013 Amendment) attached to this Amendment.

4. **REMAINING PROVISIONS**

Subject to the changes made by this and previous Amendments, all provisions of the Agreement shall remain in full force and effect.

5. **COUNTERPARTS**

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

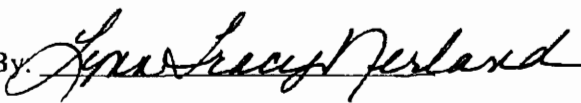
6. **SIGNATURES**

These signatures attest the parties' agreement to this Amendment:

CITY OF ANTIOCH

By: 
Jim Jakel, City Manager

FORM APPROVED:
Lynn Tracy Nerland, City Attorney

By: 

CITY OF BRENTWOOD

By: _____
Paul Eldredge, City Manager

FORM APPROVED:
Damien Brower, City Attorney

By: _____

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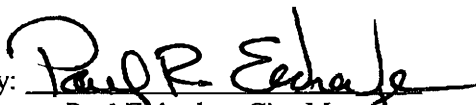
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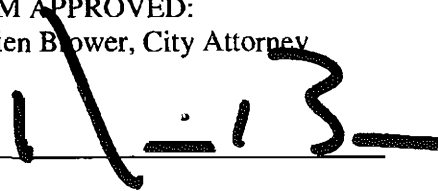
By: _____

CITY OF BRENTWOOD

FORM APPROVED:

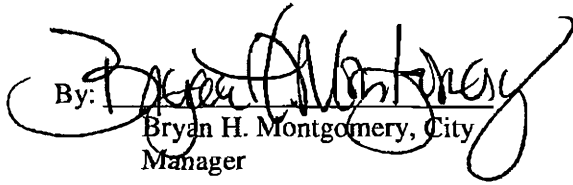
Damien Bower, City Attorney

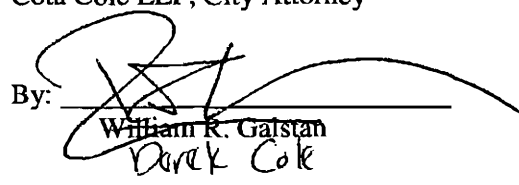
By: 
Paul Eldredge, City Manager

By: 

CITY OF OAKLEY

FORM APPROVED:
Cota Cole LLP, City Attorney

By: 
Bryan H. Montgomery, City
Manager

By: 
William R. Galstan
Derek Cole

CITY OF PITTSBURG

FORM APPROVED:
Meyers, Nave, Riback, Silver & Wilson,
City Attorney

By: _____
Joe Sbranti, City Manager

By: _____
Ruthann G. Ziegler

COUNTY OF CONTRA COSTA

FORM APPROVED:
Sharon L. Anderson, County Counsel

By: _____
David J. Twa, County
Administrator

By: _____
Thomas L. Geiger, Assistant
County Counsel

CITY OF OAKLEY

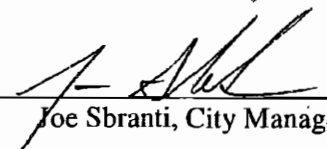
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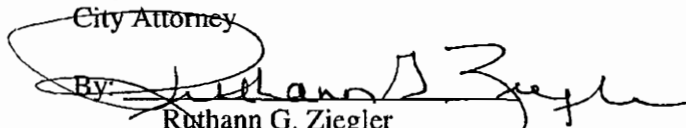
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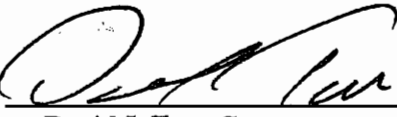
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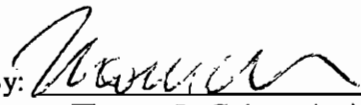
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COUNTY OF CONTRA COSTA

FORM APPROVED:
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By: 
David J. Twa, County
Administrator

By: 
Thomas L. Geiger, Assistant
County Counsel

Attachment 1 – 2013 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.

| Regional Transportation-Development Impact Mitigation (RTDIM) Fees | | | |
|---|-------------------------------------|--------------|-----------------------|
| Type of Use | Fee Units | Fee Schedule | |
| | | 2005 | 2013* |
| Single family residential units, duet homes, and residential condominiums | Per dwelling unit | \$15,000 | \$18,972 (\$9,486) |
| Multiple family residential | Per dwelling unit | \$9,207.92 | \$11,646 (\$5,823) |
| Commercial | Per square foot of gross floor area | \$1.25 | \$1.58 |
| Office | Per square foot of gross floor area | \$1.10 | \$1.38 |
| Industrial | Per square foot of gross floor area | \$1.10 | \$1.38 |
| Other | Per peak hour trip as determined | \$15,000 | \$18,972 |

* The 2013 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 under the Authority’s fee rebate program approved December 2011, which provides for a 50% rebate applicable to residential fee rates through December 31, 2013 (see Section B below).

The above fee schedule is based on the June 2005 East Contra Costa Regional Fee Program Update (referred to as the “Report”) prepared by Fehr & Peers, which has been approved by the Authority’s Board. The Report was previously adopted as the governing program of the Authority and is incorporated in this Agreement by reference. The fee schedule is subject to annual adjustment as provided below and in the fee ordinances and/or resolutions adopted by the parties. In addition to the listed amounts, each party may collect and retain an administrative charge up to 1% of the listed amounts.

B. Adoption of Revised RTDIM Fees by the Authority. On August 8, 2013, the Authority approved a revision to its current fee rebate program, which revision resulted in the following net residential fees payable for the period through December 31, 2015:

August 8, 2013 through December 31, 2013

Single family \$18,972 - 50% rebate = \$9,486

Multiple family \$11,646 - 50% rebate = \$5,823

January 1, 2014 through December 31, 2014

Single family \$18,972 + annual adjustment - 38% rebate

Multiple family \$11,646 + annual adjustment - 38% rebate

January 1, 2015 through December 31, 2015

Single family \$18,972 + annual adjustments - 29% rebate

Multiple family \$11,646 + annual adjustments - 29% rebate

C. Imposition of PRTDIM Fees by Pittsburg. In order to fund the Program and Projects of the Authority, the parties 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:

- (1) Within thirty days of the effective date of this Amendment, Pittsburg shall revise its commercial, office, and industrial fee rates to match and collect the Authority's commercial, office, and industrial fee rates listed in Section A above, including the annual adjustment specified in Section F below. Up to that time, Pittsburg shall collect at least the following amounts:

Commercial -- \$1.35/square foot of gross floor area

Office -- \$1.18/square foot of gross floor area

Industrial -- \$1.18/square foot of gross floor area

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.

- (2) Pittsburg shall revise its residential fee collection 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). Up to that time, Pittsburg shall continue collecting the following residential fees: Single family residential -- \$16,176/dwelling unit; and multiple family residential -- \$9,934/dwelling unit.
 - (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 Authority Members, 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(2) shall apply uniformly to all development in Pittsburg, except as provided otherwise for MOUs in Subsection C(3) below.
- (3) During the current Pittsburg fee rebate program, which ends on or before December 31, 2014, should a valid Memorandum of Understanding (MOU) signed prior to September 11, 2010 prevent Pittsburg from collecting residential fees at the rates specified in Subsection C(2) above, Pittsburg may collect the rebated fees specified in the MOU, in which case Pittsburg's collection of such rebated fees shall be subject to Subsection C(4) below. Following termination of the current Pittsburg fee rebate program on or before December 31, 2014, Pittsburg shall apply fee rebates and collect the same net residential fee amounts approved by the Authority pursuant to Section B above, which rates shall apply uniformly to all development in Pittsburg, without exception for MOUs or otherwise.
- (4) The Authority and Pittsburg will calculate the total fees collected by Pittsburg between September 7, 2010 and the end of the current, two-year Pittsburg fee rebate program (December 31, 2014) and compare it with the total fees that Pittsburg would have collected during that same period if Pittsburg had charged the same fee rates as the other Member Agencies. If there is a shortfall, Pittsburg shall eliminate the shortfall by collecting increased fees (up to \$16,176/single family dwelling unit and \$9,934/multiple family dwelling unit, subject to the annual adjustment specified in Section F below) for the next 150 single family residential and/or multiple family residential permits issued by Pittsburg after

December 31, 2014, or if the shortfall has not been eliminated through Pittsburg collecting the maximum rates for 150 permits, for such additional permits as are required to completely eliminate the shortfall.

- (5) 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(3) or C(4) 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(3) or C(4) 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 may approve a revised fee schedule or a new or revised fee rebate program, 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 at least 50% of the maximum rates listed in Subsection D(1) above.

Within 60 days of such approval, each of the parties (Antioch, Brentwood, Oakley, Pittsburg, and the County) shall adopt a fee ordinance or resolution implementing the revised fee schedule or shall promptly apply 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.

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 approval of the Authority Board, credit may be granted against the payment of the fee for construction of a usable portion of any Project. The amount of credit shall be the cost of construction of the portion of the Project and the cost of the land acquired to complete the portion as determined by the Authority Board. No 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 parties, together with any separate funds and increased fees to eliminate a shortfall (see Subsections C(1) and (4) above), shall be disbursed monthly by the parties 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 parties, the total obligation of each party shall be the contribution of fees collected by that party 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 – 2013 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.

Regional Transit Projects

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

B. Funding Commitments and Eligible Costs. Program revenues shall be available for all necessary Project costs through completion of construction. Costs include, but are not limited to, 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).

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 ECCRFFA 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 this Amendment (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.”