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FIFTH AMENDMENT TO JOINT EXERCISE
OF POWERS AGREEMENT FOR CONSTRUCTION
OF THE STATE ROUTE 4 BYPASS

1. Effective Date and Parties: Effective _____, 1994, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California organized and existing under the laws of the State of California (herein called the "County"), the CITY OF BRENTWOOD, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (herein called "Brentwood"), and the CITY OF ANTIOCH, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (herein called "Antioch"), mutually agree as follows:

2. Purpose: The parties desire to further amend the agreement they entered into effective February 28, 1989, entitled "JOINT EXERCISE OF POWERS AGREEMENT FOR ROUTE ADOPTION OF THE DELTA EXPRESSWAY." The original agreement covers the preparation and certification of an environmental document and the adoption of a precise alignment for the State Route 4 Bypass (also known as Delta Expressway). The original agreement has previously been amended as follows: First Amendment, dated October 23, 1990; Second Amendment, dated May 28, 1991; Third Amendment, dated August 25, 1992; and Fourth Amendment, dated April 30, 1993. The parties mutually wish to expand the original agreement to include additional project development activities related to the finance, design, and construction of the State Route 4 Bypass.

3. Amendments to Original Agreement:

A. Revise the title of the agreement to reflect changes in project name and additional project development as follows:

JOINT EXERCISE OF POWERS AGREEMENT FOR CONSTRUCTION OF THE
STATE ROUTE 4 BYPASS

B. Revise all references in the agreement to "Delta Expressway" to read "State Route 4 Bypass".

C. Revise paragraph nine of Witnesseth to read as follows:

NOW, THEREFORE, County, Brentwood, and Antioch propose to construct the Project. The purpose of this agreement is to empower the Participants to jointly form a separate joint powers agency for the purpose of preparing and certifying an environmental document; preparing, identifying and adopting a precise alignment on the preferred alignment (subject to approval or concurrence by each of the Participants); designing and constructing the

the Project; participating in activities relating to funding of the Project; protecting and acquiring right of way; and advocating on behalf of the Project.

- D. Revise Section 1.j to read as follows:

'Project' means the preparation and certification of an environmental document, adoption of a precise alignment, planning, coordination, project development/management, right of way acquisition/preservation, preliminary and final design, surveying, construction, inspection, and acceptance of: (1) the State Route 4 Bypass from the State Route 4/160 interchange in Antioch to the northern end of the Vasco Road relocation project; and (2) the east-west connection between the State Route 4 Bypass and existing State Route 4 south of Brentwood.

- E. Revise Section 3 (Term) to read as follows:

This agreement shall expire: January 1, 2015 and after all payments and reimbursements are made by and to each party; or two years after assumption of maintenance or ownership by the State, whichever comes first. Participation by any party to this agreement may be terminated upon thirty (30) days' written notice to the others; provided, however; that upon execution of a contract with any consultants or contractors, each party shall remain responsible for payment for completion of work pursuant to the terms of the contract, notwithstanding its termination. Notwithstanding the expiration or termination of this agreement, the provisions of Section 13 shall remain in full force and effect unless and until modified or terminated by mutual written consent of the parties.

- F. Revise paragraph 1 of Section 5 (Powers) to read as follows:

The Authority shall have the power to certify environmental documents, to acquire and preserve right of way, to plan, engineer, manage and construct the Project and to finance such Project through deposits by the Participants, and/or from the Eastern Contra Costa Transportation Regional Fee and Financing Authority, from public/private grants, or by private construction subject to the conditions and restrictions contained in this Agreement.

- G. Revise Section 6 (Specific Powers) to read as follows:

SECTION 6. SPECIFIC POWERS

The Authority is hereby empowered to:

- a. Prepare and develop studies and plans for a precise alignment on the preferred alignment of the Project.
- b. Hold public hearings and provide a public forum for discussion of the environmental document and other issues related to the Project.
- c. Authorize preliminary engineering and alternative studies for a precise alignment.
- d. As lead agency, certify environmental documents on the Project.
- e. Adopt a precise alignment for the Project.
- f. Advocate and represent the interests of the Project.
- g. Acquire and hold right of way necessary or convenient for the Project, and may require right of way dedication as development occurs as mutually agreed by the Participants.
- h. Negotiate and enter into agreements for financing the design, construction, and acceptance of the Project, subject to approval or concurrence by each of the Participants.
- i. Serve as Project Sponsor for right of way acquisition, design and construction of the Project as designated in the "Joint Exercise of Powers Agreement By and Among The City of Antioch, The City of Brentwood, and The City of Pittsburg, and the County of Contra Costa Relating to the East Contra Costa Regional Fee and Financing Authority."
- j. Provide technical assistance on issues related to the Project.
- k. Act as liaison with agencies responsible for issuing permits or approvals for the Project, including Participants.
- l. To be responsible for engineering, including contracting with qualified consultants, for preparation of construction plans and specifications, surveying, and any other necessary design engineering.
- m. To manage construction of the Project in accordance with plans and specifications approved by the County, Antioch, and Brentwood and in accordance with Caltrans standard plans and specifications.
- n. To accept the Project on behalf of the Participants upon completion of construction work.
- o. Arrange for the maintenance and operation of the Project facility.

- H. Revise Section 7 (Scope of Work) by adding Task 3 to read as follows:

Task 3 - Design and Construction of the Project: In accordance with the JEPAs for the Eastern Contra Costa Regional Fee and Financing Authority, the Participants are designated as the Project Sponsor for the Project. The authority shall act on behalf of the Participants as the Project Sponsor. Project Sponsor responsibilities include: right of way acquisition or preservation of the Project Corridor as specified on the Precise Alignment Maps for the Project; design, construction, and acceptance of the Project; coordination with responsible agencies; and assistance in financing for the Project.

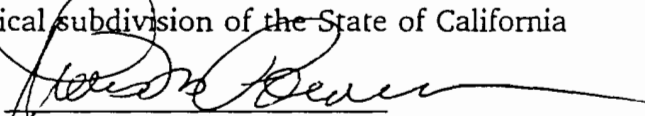
- I. Revise Section 10 (Budget) to read as follows:

A budget shall be prepared and approved annually. A five year strategic plan shall be prepared and reviewed annually.

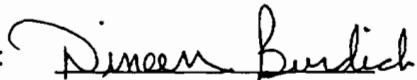
- J. Section 11 (Cost Sharing) is deleted.

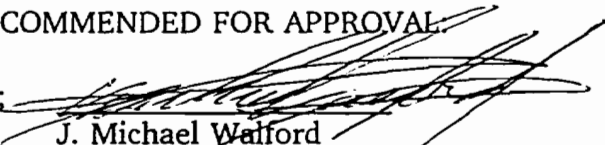
4. Effect: Except as modified by this Amendment and previous amendments, all provisions of the original agreement shall remain in full force and effect.

CONTRA COSTA COUNTY
a political subdivision of the State of California

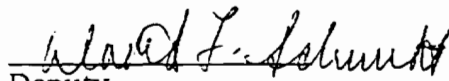
By: 
Tom Powers, Chairman
Board of Supervisors

ATTEST:
Phil Batchelor, Clerk of the Board
of Supervisors and County Administrator

By: 
Deputy

RECOMMENDED FOR APPROVAL:
By: 
J. Michael Walford
Public Works Director

FORM APPROVED:
Victor J. Westman, County Counsel

By: 
Deputy

CITY OF ANTIOCH
a municipal corporation

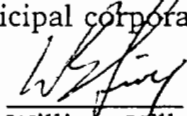
By: _____
Joel Keller, Mayor

ATTEST:
By: _____
Florence V. Rundall
City Clerk

APPROVED AS TO FORM:
By: _____
William R. Galstan
City Attorney

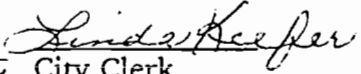
CITY OF BRENTWOOD
a municipal corporation

By:


William Hill, Mayor

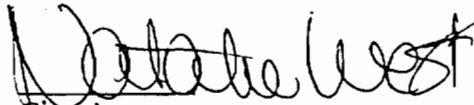
ATTEST:

By:


Deputy City Clerk

APPROVED AS TO FORM:

By:


City Attorney

LT:MH:

c:\fee\jepa.t5
May 25, 1994

- . Review Aerial Consultants' Proposals - Selection Committee
- . Rate and Rank Proposals Based on Established Criteria - Selection Committee
- . Select Aerial Consultant - Selection Committee
- . Negotiate Contract with Selected Aerial Consultant
- . Prepare Agenda Item for State Route 4 Bypass Authority
- . Review Contract and Recommend Approval - TAC
- . Prepare Revised Cost Estimates Based on JEPA Cost Sharing Percentages
- . Approve Contract - State Route 4 Bypass Authority
- . Execute Contract with Aerial Consultant
- . Prepare Draft P.A. based on Findings in FEIR
- . Circulate Draft P.A. to TAC
- . Revise Draft P.A. as necessary
- . Hold workshops with Board of Directors, Planning Commissions, City Councils, Board of Supervisors
- . Public Input Meeting
- . Public Notice of Availability of Draft P.A.
- . Public Review Period
- . Prepare Final P.A.
- . Report to Board of Supervisors, City Councils
- . 65402 Approval (Consistency with General Plan)
- . Consideration and Approval of Final P.A. -Planning Commissions/State Route 4 Bypass Authority
- . File Notice of Determination