

Folsom City Council Staff Report

MEETING DATE:	5/10/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10845 – A Resolution Authorizing the City Manager to Execute an Amendment to the Memorandum of Understanding Agreement (Contract No. 174-21 20-062) with the Capital Southeast Connector Joint Powers Authority for the Southeast Connector Segment D3(A) Bike Trail and Appropriation of Funds
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department recommends that the City Council pass and adopt Resolution No. 10845 - A Resolution Authorizing the City Manager to Execute an Amendment to the Memorandum of Understanding Agreement (Contract No. 174-21 20-062) with the Capital Southeast Connector Joint Powers Authority for the Southeast Connector Segment D3(A) Bike Trail and Appropriation of Funds.

BACKGROUND / ISSUE

The Capital SouthEast Connector is a planned 34-mile limited-access roadway spanning from U.S. 50 at Silva Valley Parkway interchange in El Dorado County to Interstate 5 at the Hood-Franklin Interchange in Elk Grove. The Connector is planned to be constructed in segments as funding and priorities allow. Segment D3, referred to as the “Folsom segment,” includes the length of the Connector that borders the City of Folsom and Sacramento County from Prairie City Road to the El Dorado County Line. Segment E1 is the El Dorado County Segment that Segment D3 ties into.

Segment D3 has been further segmented into two additional segments: D3(A) and D3(B). Segment D3(A) will upgrade existing White Rock Road to a four-lane expressway beginning near the intersection of Prairie City Road and continuing through the intersection of East Bidwell Street. The project entails constructing four lanes between these two major

intersections, including a bridge over Alder Creek. The bridge also serves as a “wildlife crossing,” as contemplated in the South Sacramento Habitat Conservation Plan.

The project is a complete reconstruction that will create a new alignment of White Rock Road adjacent to and immediately south of the existing White Rock Road. The existing White Rock Road will remain open to traffic during construction. Currently under construction, Segment D(3A) is expected to be complete by the Summer of 2022.

The City is currently managing the SouthEast Connector Segment D3(A) on behalf of the Capital SouthEast Connector Joint Powers Authority (JPA) and in collaboration with Sacramento County. The City will also manage the Scott Road Realignment on behalf of the JPA in collaboration with Sacramento County.

During the design process, the Class 1 Bike Trail and Bridge was pulled from the project due to budgetary constraints, with an intent to construct it in a later phase. The project had the ability to add the rough grading for the bike trail and bike/pedestrian bridge through the contingency fund. In order to provide finish grade, base, paving, and shoulder backing an amendment with the JPA is required to provide additional funding.

POLICY / RULE

Execution of Amendments to the Memorandum of Understanding Agreement between Agencies require City Council approval.

ANALYSIS

The Memorandum of Understanding provides the framework for transactions between the City of Folsom and the JPA. Amendment two will allow for the project to complete the bike trail on Segment D3(A) which also completes the Segment D3(A).

The existing Memorandum of Understanding was approved by City Council at the October 27, 2020, Council Meeting. The First Amendment to the Memorandum of Understanding to add the Scott Road Realignment was approved by City Council on October 26, 2021.

FINANCIAL IMPACT

The Capital SouthEast Connector Segment D3(A) is eligible to receive funds from FAST Act funding based on a SACOG Regional Surface Transportation Program Grant and SB-1 Funding. Funding for construction and construction engineering is shown below:

Fund	Fund Type	Amount
FAST Act	Surface Transportation Block Grant to match SB-1 Funding 1 to 1 at \$10,000,000	\$15,000,000
SB1	Competitive	\$10,000,000
Local Transportation Fund (446)	To match Surface Transportation Block Grant of \$15,000,000 at 11.47%	\$1,720,500
Local Transportation Fund (446)	To Cover Balance of Project Funding	\$1,195,147
Local Transportation Fund (446)	SouthEast Connector Joint Powers Authority to provide funding for Pedestrian/Bike Trail through Invoicing	\$400,000
	Project Budget for Construction	\$28,315,396

The FAST Act funding requires a local match of 11.47%. The Transportation Fund (Fund 446) will be utilized to meet the required match of \$1,720,500. The SB1 funding requires a \$100% match, of which \$10,000,000 of the FAST Act funding will be utilized as the match.

The previously approved agreement with Goodfellow Brothers, LLC is for \$22,368,765 with a budgeted contingency of \$2,236,876.50 (10%) for a total contract budget amount of \$24,605,641.50.

The contract costs for construction and construction management have been previously approved by City Council in separate resolutions as follows:

Company	Description	Cost
Goodfellow Brothers, LLC	Construction	\$22,368,765.00
	10% Contingency for Construction	\$2,236,876.50
	Additional Contingency Funded by SouthEast Connector Joint Powers Authority	\$400,000
Salaber Associates, Inc.	Construction Engineering, Inspection and Materials Testing	\$2,992,848.00
Dokken Engineering, Inc.	Design Support and Environmental Services	\$317,157.28
	Project Budget for Construction	\$28,315,646.78

The Contract Change Order for the Pedestrian/Bike Trail will utilize the existing contingency in the amount of \$285,802. \$400,000 which has been appropriated through Amendment 2 of the Memorandum of Understanding with the SouthEast Connector Joint Powers Authority will be appropriated to the project. The total cost for the Pedestrian/Bike Trail is \$685,802 and the additional \$400,00 from the JPA will increase the project budget to \$28,443,000. No additional City of Folsom funding is needed.


ENVIRONMENTAL REVIEW

In 2016 the JPA approved a California Environmental Quality Act (CEQA) Tiered Initial Study with Mitigated Negative Declaration for the Capital Southeast Connector Segment D3/E1 which includes the Scott Road Realignment Project and the Class 1 Bike Trail. The project is not located in an environmentally sensitive area and would not result in potential impacts to the environment, including traffic, noise, air quality, and water quality.

ATTACHMENTS

1. Resolution No. 10845 – A Resolution Authorizing the City Manager to Execute an Amendment to the Memorandum of Understanding Agreement (Contract No. 174-21 20-062) with the Capital Southeast Connector Joint Powers Authority for the Southeast Connector Segment D3(A) Bike Trail and Appropriation of Funds
2. Second Amendment to Memorandum of Understanding Agreement
3. First Amendment to Memorandum of Understanding Agreement-Executed
4. Memorandum of Understanding Agreement-Executed

Submitted,



Mark Rackovan, PUBLIC WORKS DIRECTOR

Attachment 1

RESOLUTION NO. 10845

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING AGREEMENT (CONTRACT NO. 174-21 20-062) WITH THE CAPITAL SOUTHEAST CONNECTOR JOINT POWERS AUTHORITY FOR THE SOUTHEAST CONNECTOR SEGMENT D3(A) AND APPROPRIATION OF FUNDS

WHEREAS, the Capital SouthEast Connector Project is the Sacramento region's largest single transportation project, ultimately extending over 34 miles from Elk Grove to El Dorado County; and

WHEREAS, the City of Folsom is a Member Jurisdiction of the Capital SouthEast Connector Joint Powers Authority and will implement the Project; and

WHEREAS, the Capital SouthEast Connector Project has, to date, been funded primarily through a Sacramento County sales-tax measure approved in 2004 by 75 percent of voters; and

WHEREAS, the Capital SouthEast Connector Project has developed a program development budget that requires the use of Federal and State funds to advance the project towards timely construction; and

WHEREAS, the City of Folsom desires to construct the Capital SouthEast Connector Segment D3(A) Pedestrian/Bike Trail; and

WHEREAS, the Capital SouthEast Connector Joint Powers Authority has funding to assist the construction of the Capital SouthEast Connector Segment D3(A) Project Pedestrian/Bike Trail; and

WHEREAS, the balance needed of \$285,801.96 is within the project budget contingency to fully fund the Pedestrian/Bike Trail; and

WHEREAS, the City of Folsom and Capital SouthEast Connector Joint Powers Authority desires to amend the existing Memorandum of Understanding to add the Pedestrian/Bike Trail; and

WHEREAS, the Second Amendment to the Memorandum of Understanding will identify responsibilities and financial transactions between the City of Folsom and Capital SouthEast Connector Joint Powers Authority; and

WHEREAS, funds in the amount of \$400,000 are available in the Transportation Improvement Fund (Fund 446) for Fiscal Year 2021-22; and

WHEREAS, reimbursements received from the Joint Powers Authority will be credited to the Transportation Improvement Fund (Fund 446); and

WHEREAS, the agreement will be in a form acceptable to the City Attorney;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute an Amendment to the Memorandum of Understanding Agreement (Contract No. 174-21 20-062) with the Capital SouthEast Joint Powers Authority for the Capital SouthEast Connector Segment D3(A) Pedestrian/Bike Trail.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Finance Director is authorized to appropriate \$400,000 from the Transportation Improvement Fund (Fund 446) for the Capital Southeast Connector Segment D3(A) Pedestrian/Bike Trail, to be offset by an additional reimbursement from the JPA.

PASSED AND ADOPTED this 10th day of May 2022, by the following roll-call vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember(s):
ABSTAIN: Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 2

ITEM 14 b

**SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE CAPITAL SOUTHEAST CONNECTOR JPA AND THE CITY OF
FOLSOM RELATED TO A PORTION OF SEGMENT D3 OF THE CAPITAL
SOUTHEAST CONNECTOR EXPRESSWAY**

This Second Amendment (“Amendment”) to the November 10, 2020, Memorandum of Understanding (“MOU”) is made and entered into on this ___ day of _____, 2022 by and between the Capital SouthEast Connector Joint Powers Authority, a joint powers authority, (“JPA”) and the City of Folsom, a Municipal Corporation (“City”).

RECITALS

WHEREAS, the City and JPA entered into a MOU regarding a portion of Segment D3 of the Capital SouthEast Connector expressway beginning at the intersection of Prairie City Road and continuing to the intersection of East Bidwell Street (the “Project”); and

WHEREAS, the Project involves the construction of four lanes and a bridge over Alder Creek, which will result in a new alignment of White Rock Road adjacent and immediately south of its existing location; and

WHEREAS, the City and JPA entered into an amendment to the MOU on December 9, 2021 to provide funding for the realignment of existing Scott Road to the signalized intersection at White Rock Road/Prairie City Road within the City’s right of way (the “Scott Road Project”); and

WHEREAS, the City and JPA now desire to further amend the MOU to no longer provide for reimbursement of funds in connection with a Grant issued to the JPA by CalRecycle as the Project experienced significant cost savings, in excess of the grant award, by using alternate construction materials than those required by the Grant; and

WHEREAS, the City and JPA further desire to provide additional funding for the construction of Class 1 multi-use path improvements within the Project limits (the “Multi-Use Path”); and

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants, promises, and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, do hereby agree to amend the MOU as follows:

1. Recitals. The above recitals are true and correct and are hereby made a part of the MOU.
2. Term. The MOU shall terminate on March 1, 2023.
3. Elimination Grant Funding. The JPA and City hereby agree that Sections 4 and 5 of the MOU are hereby deleted in their entirety and that these Sections of the MOU shall now read “[RESERVED]”.

4. Funding for Multi-Use Path. The JPA will reimburse the City up to Four Hundred Thousand dollars (\$400,000.00) for the Multi-Use Path (“Multi-Use Path Funds”). The JPA shall reimburse the City for Multi-Use Path improvements within thirty (30) days of receipt of an invoice from the City.
5. City Obligations. The City agrees to include the JPA in Multi-Use Path related decisions affecting construction cost, including those related to any design revisions or contract change order requests. The City shall submit monthly invoices related to the Multi-Use Path. Invoices shall include dates and description of the work performed, summary of 1) total Multi-Use Path Funds; 2) amount of current bill; 3) amount billed to date; 4) amount of remaining Multi-Use Path Funds, and documentation of reimbursable expenses and billed items.
6. No Additional Funding. Except as otherwise provided in this MOU and the existing Federal Funding of the project, neither party shall be responsible for contributing additional funds.
7. Except as expressly amended herein, all terms and conditions of the MOU shall remain in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in the County of Sacramento, State of California, on the date set forth above.

CITY OF FOLSOM

Elaine Andersen, City Manager

Approved as to Form:

Steven Wang, City Attorney

Attest:

Mark Rackovan, Public Works Director

Stacey Tamagni, Finance Director

Christa Freemantle, City Clerk

CAPITAL SOUTHEAST CONNECTOR AUTHORITY

Derek Minnema, Executive Director

Approved as to Form:

Sloan Sakai Yeung & Wong, LLP
Legal Counsel to JPA

Attachment 3

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE CAPITAL SOUTHEAST CONNECTOR JPA AND THE CITY OF
FOLSOM RELATED TO A PORTION OF SEGMENT D3 OF THE CAPITAL
SOUTHEAST CONNECTOR EXPRESSWAY**

This First Amendment ("Amendment") to the November 10, 2020 Memorandum of Understanding ("MOU") is made and entered into on this 9 day of ~~November~~^{December}, 2021 by and between the Capital SouthEast Connector Joint Powers Authority, a joint powers authority, ("JPA") and the City of Folsom, a Municipal Corporation ("City").

RECITALS

WHEREAS, the City and JPA entered into a MOU regarding a portion of Segment D3 of the Capital SouthEast Connector expressway beginning at the intersection of Prairie City Road and continuing to the intersection of East Bidwell Street (the "Project"); and

WHEREAS, the Project involves the construction of four lanes and a bridge over Alder Creek, which will result in a new alignment of White Rock Road adjacent and immediately south of its existing location; and

WHEREAS, the City and JPA now desire to realign existing Scott Road to the signalized intersection at White Rock Road/Prairie City Road within the City's right of way (the "Scott Road Project"); and

WHEREAS, the City and JPA have met regularly throughout the design phase and are in agreement on the scope and nature of the work which will include a realigned roadway upgraded to current design standards, including shoulders and drainage improvements; and

WHEREAS, the JPA approved the final bid package on August 27, 2021 ("Final Bid Package") and the City and JPA now desire to advertise the project for construction and work collaboratively to ensure the successful completion of the Project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants, promises, and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, do hereby agree to amend the MOU as follows:

1. **Recitals**. The above recitals are true and correct and are hereby made a part of the MOU.
2. **Term**. The MOU shall terminate on March 1, 2023.
3. **Funding Contingency**. The City and JPA hereby acknowledge that the obligations of the parties in this Amendment are contingent upon the JPA's receipt of Construction Funds, as such term is defined in Section 4 herein, from the City of Elk Grove pursuant to a Memorandum of Understanding between the JPA and the City of Elk Grove Related to the Exchange of Funding.



4. JPA Obligations.

- a. The JPA will reimburse the City up to three million three hundred and fifty thousand dollars (\$3,350,000.00) for construction of the Scott Road Project ("Construction Funds"). The JPA shall reimburse the City for costs related to the construction of the Scott Road Project and for construction management services within thirty (30) days of receipt of an invoice from the City.
- b. During construction of the Project the JPA will provide engineering support and environmental monitoring services.

5. City Obligations. The City hereby agrees to the following:

- a. The City will publicly advertise for bids the Final Bid Package for construction of the Scott Road Project to allow for construction to commence in Spring of 2022.
 - b. The City will administer construction of the Scott Road Project and will release a request for proposals for construction management services for the Scott Road Project. The City will include the JPA in the request for proposal response review, evaluation, and selection process.
 - c. The City shall only award the Scott Road Project and execute a contract for construction management services if the total costs do not exceed the Construction Funds available for reimbursement by the JPA. The City agrees to include the JPA in Project related decisions affecting construction cost, including those related to any Project design revisions or contract change order requests. In the event bids for the Scott Road Project and the cost of construction management services exceed the amount of Construction Funds, the parties may agree in writing to provide additional funding to address any shortfall.
 - d. The City shall submit monthly invoices related to construction of the Scott Road Project to the JPA. Invoices shall include dates and description of the work performed, summary of 1) total Construction Funds; 2) amount of current bill; 3) amount billed to date; 4) amount of remaining construction funds, and documentation of reimbursable expenses and billed items.
6. No Additional Funding. Except as otherwise provided in this MOU, neither party shall be responsible for contributing additional funds.
7. Except as expressly amended herein, all terms and conditions of the MOU shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in the County of Sacramento, State of California, on the date set forth above.

CITY OF FOLSOM


Elaine Andersen, City Manager

Approved as to Form:

 12/8/21
Steven Wang, City Attorney

Attest:


Mark Rackovan, Public Works Director


Stacey Tamagni, Finance Director

 12/10/21
Christa Freemantle, City Clerk

CAPITAL SOUTHEAST CONNECTOR AUTHORITY


Derek Minnema, Executive Director

Approved as to Form:


Sloan Sakai Yeung & Wong, LLP
Legal Counsel to JPA

Attachment 4

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CAPITAL SOUTHEAST CONNECTOR JPA AND THE CITY OF
FOLSOM RELATED TO A PORTION OF SEGMENT D3 OF THE CAPITAL
SOUTHEAST CONNECTOR EXPRESSWAY

This Memorandum of Understanding (“MOU”) is made and entered into on this 10th day of November 2020 by and between the Capital SouthEast Connector Joint Powers Authority, a joint powers authority, (“JPA”) and the City of Folsom, a Municipal Corporation (“City”).

RECITALS

WHEREAS, the City and JPA have collaborated on the design of a portion of Segment D3 of the Capital Southeast Connector expressway beginning at the intersection of Prairie City Road and continuing to the intersection of East Bidwell Street (the “Project”); and

WHEREAS, the Project involves the construction of four lanes and a bridge over Alder Creek, which will result in a new alignment of White Rock Road adjacent and immediately south of its existing location; and

WHEREAS, on May 13, 2020, the California Transportation Commission authorized \$25 million for construction of the Project; and

WHEREAS, the City received construction authorization from the California Department of Transportation (“Caltrans”) on June 25, 2020 and subsequently released the Project for bid; and

WHEREAS, the City and JPA desire to address certain ancillary issues related to costs associated with preliminary grading for the Project and the use of funds awarded to the JPA in connection with the Department of Resources Recycling and Recovery (“CalRecycle”) Fiscal Year 2019-20 Rubberized Pavement Grant Program, Grant Number TRP12-19-0002 (the “Grant”).

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants, promises, and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, do hereby agree as follows:

1. **Recitals**. The above recitals are true and correct and are hereby made a part of this MOU.
2. **Term**. This MOU shall terminate on April 1, 2022 or upon completion of the Project, whichever is sooner.
3. **Project Utility Grading**. Within sixty (60) days of execution of this MOU, the JPA shall pay the City thirty thousand dollars (\$30,000.00) for use in connection with certain Project costs associated with preliminary grading related to utility relocations.
4. **Reimbursement of Grant Funds**. The parties acknowledge the JPA has been awarded Grant funds in an amount not to exceed two hundred twenty thousand dollars (\$220,000.00) and that the Grant is reimbursement based in accordance with rates established in the Grant agreement. In connection with the Project and consistent with the terms of the Grant



agreement, the JPA shall seek reimbursement of all eligible costs and expenses from Grant funds awarded to the Project and remit any such Grant reimbursement received to the City. The City shall provide all requisite information and supporting documentation necessary for the completion of any forms, reports and documents required in connection with seeking reimbursement of Grant funds. The JPA and City acknowledge that determination of eligibility of costs and expenses for reimbursement is made exclusively by CalRecycle in accordance with the terms of the Grant agreement and that the JPA is only obligated to remit to the City as reimbursement any Grant funds received by the JPA.

5. Eligibility for Receipt of Grant Funds. The City hereby certifies that California Labor Code Section 1782 does not prohibit the City from receiving state funds for the Project. The City further certifies that it complies with California Labor Code Section 1770-1782.
6. Amendment. This MOU and all of the covenants and conditions set forth herein, may be modified, amended or terminated only by a writing duly authorized and executed by both the City and the JPA.
7. Construction and Interpretation. It is agreed and acknowledged by the parties hereto that the provisions of this MOU have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this MOU and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this MOU.
8. Venue. This MOU and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this MOU shall be held exclusively in a state court in Sacramento County.
9. Severability. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this MOU shall not be affected, except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the parties.
10. Notices. All notices, requests, certifications or other correspondence required to be provided by the parties to this MOU shall be in writing and shall be personally delivered or delivered by first class mail to the respective parties at the following addresses:

CITY
City of Folsom
Attn: City Manager
50 Natoma Street
Folsom, CA 95630

JPA
Capital SouthEast Connector JPA
Attn: Executive Director
10640 Mather Blvd., Ste. 120
Mather, CA 95655

Notice by personal delivery shall be effective immediately upon delivery. Notice by mail shall be effective upon receipt or three days after mailing, whichever is earlier.

11. Counterparts. This MOU may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this MOU in the County of Sacramento, State of California, on the date set forth above.

CITY OF FOLSOM



Elaine Andersen, City Manager

11/10/2020

Approved as to Form:



Steven Wang, City Attorney

11/10/2020

Attest:



Dave Nugen, Public Works Director



Stacey Tamagni, Finance Director



Christa Freemantle, City Clerk

11/12/20

CAPITAL SOUTHEAST CONNECTOR JOINT POWERS AUTHORITY



Derek Minnema, Executive Director

Approved as to Form:



Sloan Sakai Yeung & Wong, LLP
Legal Counsel to JPA



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