

WASHINGTON-STOCKTON CORRIDOR – DOWNTOWN TRANSIT & ACCESSIBILITY IMPROVEMENT PROJECT

MEMORANDUM OF AGREEMENT BETWEEN THE TUOLUMNE COUNTY TRANSPORTATION AGENCY AND CITY OF SONORA

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made and entered into this 15th day of April 2024, by and between the Tuolumne County Transit Agency (“Agency”), a joint powers authority formed pursuant to the laws of the state of California, and the City of Sonora (“City”), a California municipal corporation. Agency and City may herein be referred to individually as a “Party” and collectively as the “Parties.” There are no other parties to this MOA.

RECITALS

WHEREAS, the City has served as the project lead for the Washington-Stockton Corridor – Downtown Transit & Accessibility Improvement Project (the “Project”); and

WHEREAS, the State of California Department of Transportation has approved the Project plans and issued the Project’s Encroachment Permit; and

WHEREAS, the Project’s scope of work includes various pedestrian and transit related improvements within the Project area along Stockton Street (Highway 49), S. Washington Street, and Green Street; and

WHEREAS, the Encroachment Permit requires the City to enter into a Cooperative Agreement as well as a Maintenance Agreement for Project improvements within the State right-of-way prior to awarding the construction contract; and

WHEREAS, this MOA intends to assign maintenance, repair and replacement responsibilities for the transit related facilities, that will be operated by the Agency, to the City as the Project lead; and

WHEREAS, the Agency will be operating and utilizing the transit facilities included within the Project scope and desires to contract with the City to provide the enumerated services to the Agency as included under **Attachments A and B** (the “Services”); and

WHEREAS, the City is willing to provide said Services to the Agency pursuant to the terms and conditions of this MOA.

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the Parties hereto agree as follows:

AGREEMENT

I. PURPOSE

The purpose of this MOA is to establish an agreement between the City and the Agency for ongoing maintenance Services of the transit facilities within the Project area as set forth in **Attachments A and B**, attached and incorporated hereto. This MOA intends to assign the ongoing maintenance Services to the City, subject to reimbursement from the Agency, as set forth herein.

II. TERM & AMENDMENTS

The term of this MOA will commence on May 9, 2024 and continue until terminated by the written mutual consent of both Parties.

Should either Party be found deficient in any aspects of performance under this MOA or fail to perform under the agreed standards, the deficient Party will have the responsibility of submitting a proposed corrective action plan to the other Party. The corrective action plan shall identify specific actions to be taken to correct the deficient performance and shall be submitted within forty-five (45) days after written notification of deficiencies by the other Party.

This MOA may be amended by the written mutual consent of both Parties. No verbal statements shall be binding upon the Parties or construed as modifying the MOA in any way. Both Parties agree to execute amendments to this MOU whenever necessary to comply with new or revised Federal or State statutes or regulations.

III. CITY'S RESPONSIBILITIES

1. Provide the maintenance, repair and replacement Services for the Agency, as included under **Attachment A** and in the areas depicted in **Attachment B**. Services will be scheduled by the City in its sole discretion as needed to maintain the facilities in good condition, or upon the written request of the Agency.
2. Submit invoices to the Agency within thirty (30) days following the end of each calendar month for costs paid within that month. The itemized bill shall provide the Agency with sufficient information to show the Services provided and the costs thereof. All expenditures, to be eligible for Federal financial participation, must be actual and reimbursable according to the provisions of OMB Circular A-87, as it may be amended from time to time.
3. Maintain an accounting system and supporting fiscal records adequate to ensure that claims for Federal funds are in accordance with Federal and State requirements. All such records shall be made available during normal business hours to authorized representatives of City, Agency, State, and Federal governments during the term of this MOA, and during the period of record retention for the purpose of program review or fiscal audit.
4. Meet periodically, as requested by either Party, to discuss issues of mutual interest and concern that may arise in connection with Services being provided.

IV. AGENCY'S RESPONSIBILITIES

1. Reimburse the City for the Services provided under this MOA. Reimbursements will occur within thirty (30) days of receipt of the City's invoice, except for any charges which are disputed by the

Agency. In the event of such a dispute, the Agency's and City's representatives shall meet and confer to resolve the dispute. Upon resolution of the dispute, the Agency shall pay the agreed-upon amount. If the Parties are unable to agree on any disputed amounts, the Parties shall submit the matter to nonbinding mediation, with the Parties sharing the associated costs equally. The Parties shall mutually agree to a mediator within ten (10) business days after the disputed portion of the invoice has been identified in writing. If the Parties cannot agree upon a mediator, each Party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the invoice. Each Party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the invoice remaining in dispute shall be subject to judicial review pursuant to Section XVII of this MOU.

2. Monitor City services being provided to ensure such functions are being carried out properly, efficiently and effectively.
3. Maintain an accounting system and supporting fiscal records adequate to ensure that claims for Federal funds are in accordance with Federal and State requirements. All such records shall be made available during normal business hours to authorized representatives of City, Agency, State, and Federal governments during the term of this MOA, and during the period of record retention for the purpose of program review or fiscal audit.
4. Meet periodically, as requested by either party, to discuss issues of mutual interest and concern that may arise in connection with services being provided.

V. NON-ASSIGNMENT

Neither Party shall assign or transfer this MOA, nor their rights or duties under this MOA without the prior written consent of the other Party.

VI. COMPLIANCE WITH LAWS

The Parties shall comply with all applicable rules and regulations set forth in California and Federal law.

VII. CONFIDENTIALITY

The Parties shall act in strict conformance with all applicable Federal, State of California or local law and regulations relating to confidentiality, including but not limited to, California Civil Code section 56 et seq., Welfare and Institutions Code sections 827, 5328, 10850 and 14100.2, Health and Safety sections 11977 and 11812, 22 California Code of Regulations section 51009, and 42 Code of Federal Regulations section 2.1 et seq. The Parties shall ensure that no list of persons receiving services under this MOA is published, disclosed, or used for any other purpose except for the direct administration of the program or other uses authorized by law that are not in conflict with requirements for confidentiality.

VII. NON-DISCRIMINATION

During the performance of this MOA, the Parties shall not unlawfully discriminate against any employee, applicant for employment, sub-contractor, or recipient of services, because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or gender, pursuant to all applicable State and Federal statutes and regulations.

IX. RELATIONSHIP OF PARTIES

It is understood that this is a Memorandum of Agreement by and between two (2) separate public agencies and is not intended to, and shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture, or association.

X. INDEMNIFICATION

Each Party hereto agrees to be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent required by law.

XI. NOTICES

All notices or other communication herein required or permitted shall be in writing and given by personal delivery or sent by (i) registered or certified mail return receipt requested, postage prepaid, (ii) nationally recognized overnight courier service, or (iii) electronic mail transmission ("email"), to the addresses set forth below (unless changed in accordance herewith). Notice shall be deemed received on the earlier of (a) actual receipt; (b) three (3) business days after deposit in the U.S. Mail; (c) the first business day after deposit with an overnight courier; or (d) if by email, upon actual physical receipt of the entire document by the receiving Party's email server. Notices transmitted by email after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday, shall be deemed to have been given and received on the next normal business day. Any notice or communication not received because of a change of address or email address, without notice to the other Party thereof, or refusal to accept delivery, shall be deemed received, notwithstanding the same, as set forth above. The addresses of the Parties for notice and communication purposes are as follows:

Tuolumne County Transit Agency (TCTA)
Attn: Darin Grossi, Executive Director
975 Morning Star Drive, Suite A
Sonora, CA
Email: dgrossi@co.tuolumne.ca.us

City of Sonora
Attn: Melissa Eads, City Administrator
94 N. Washington Street
Sonora, CA 95370
Email: meads@sonoraca.org

XII. PUBLIC RECORDS ACT

Agency is aware that this MOA and any documents provided to the City may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Agency to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that the City agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

XIII. ENTIRE AGREEMENT

This MOA contains the entire agreement of the Parties relating to the subject matter of this MOA and supersedes all prior agreements and representations, with respect to the subject matter hereof. If there

are exhibits attached hereto, and a conflict exists between the terms of this MOA and any exhibit, such conflict shall be construed in such a manner consistent with the purposes of this MOA.

XIV. CAPTIONS

The captions of this MOA are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this MOA.

XV. CONTROLLING LAW

The validity, interpretation and performance of this MOA shall be controlled by and construed under the laws of the State of California.

XVI. ENFORCEABILITY AND SEVERABILITY

If any provisions of this MOA shall be held to be void or unenforceable for any reason, said provision shall be deemed modified so as to constitute a provision conforming as nearly as possible to said void or unenforceable provision while still remaining valid and enforceable, and the remaining terms or provisions hereof shall not be affected thereby.

XVII. DISPUTES

The Parties agree to use good faith efforts to resolve any disputes prior to bringing any action to enforce the terms of this MOA. Should it become necessary for a Party to this MOA to enforce any of the provisions hereof, the prevailing Party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney fees.

It is agreed by the Parties hereto, that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof, or for declaratory relief hereunder, shall be filed and remain in a court of competent jurisdiction in the County of Tuolumne, State of California.

XVIII. AUTHORITY

Each Party and each Party's signatory warrant and represent that each has full authority and capacity to enter into this MOA in accordance with all requirements of law. The Parties also warrant that any signed amendment or modification to the MOA shall comply with all requirements of law, including capacity and authority to amend or modify the MOA.

XIX. JOINT PREPARATION

The terms hereof shall not be construed in favor of or against any Party, but shall be construed as if the Parties jointly prepared the MOA.

XX. FURTHER ACTS

The Parties shall cooperate in good faith with each other, and execute and deliver any additional documents or instruments, and perform any further acts as may be reasonably necessary to carry out the purposes and objectives of this MOA.

XXI. COUNTERPARTS

This MOA may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

XXII. RECITALS

The Recitals set forth above are hereby incorporated and made part of this Agreement. In the event of any conflict between the Recitals and provisions contained herein, the provisions shall prevail.

IN WITNESS WHEREOF, the Parties, or their duly authorized representatives have executed this MOA.

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| Tuolumne County Transit Agency | City of Sonora |
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| Darin Grossi, Executive Director | Melissa Eads, City Administrator |
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| Approved As to legal Form: | |
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| Cody Nesper, County Counsel | Douglas L. White, City Attorney |