

SPECIAL MEETING NOTICE AND AGENDA

DATE & TIME: November 1, 2024 • 9:00 AM – 9:30 AM

LOCATION: City of El Cerrito, Council Chambers
10890 San Pablo Avenue (at Manila Ave)
El Cerrito, California (Accessible by AC Transit #72, #72M & #72R)

*Commissioner Peeples may participate remotely from:
13328 San Pablo Ave. #38C
San Pablo, CA 94806*

REMOTE ACCESS:

<https://us02web.zoom.us/j/7321058840?pwd=c1dMVjJydIBoYk0yYWVlZWVlWHZ4Zz09>

Meeting ID: 732 105 8840

Phone: =

+Dial the following number, enter the participant PIN followed by # to confirm:

+1 669 900 6833

Meeting ID: 732 105 8840 / Password: 066620

Public Comment During the Meeting

Public comment during the meeting can be in person or via Zoom. Those wishing to comment in person should fill out a speak card. Participants wishing to comment via Zoom should indicate interest by using the hand raising function on Zoom or by physically raising their hands.

The ability to participate and observe via Zoom or teleconference is predicated on those technologies being available and functioning without technical difficulties. Should they not be available or become non-functioning or should the WCCTC Board encounter technical difficulties that make those platforms unavailable, the WCCTC Board will proceed with business in person unless otherwise prohibited by law.

Written Comment

Written comments are accepted until the start of the meeting, unless otherwise noted on the meeting agenda. Public comments received by 5:00 p.m. on the evening before the Board meeting date will be provided to the WCCTC Board. Comments may be submitted by email to mcarrasco@WestContraCostaTC.gov.

1. **Call to Order and Board Member Roll Call.** *(Rita Xavier – Chair)*
2. **Public Comment.** The public is welcome to address the Board on any item that is not listed on the agenda.

CONSENT CALENDAR

3. **Minutes of September 27, 2024, Board Meeting.** *(Attachment; Recommended Action: Approve).*
4. **STMP Funding Agreement with Contra Costa County.** In September 2023, the WCCTC Board allocated STMP funds to Contra Costa County for a complete streets project. As a follow-up to that allocation, County and WCCTC staff have prepared a funding agreement, which is included as part of Resolution 24-10. *(Attachment; Recommended Action: Adopt Resolution 24-10 authorizing the WCCTC Executive Director to execute a STMP funding agreement for \$1,200,000 with Contra Costa County to design and construct complete street improvements on San Pablo Avenue between Rodeo and Crockett).*

REGULAR AGENDA ITEMS

5. **Measure J Program 20b (Additional Transportation for Seniors and People with Disabilities) Allocation for FY24-25.** WCCTC staff will make a brief presentation on Measure J Program 20b funds, their relation to Program 15 funds, and the role of the Paratransit Coordinating Committee in reviewing programs. Staff will also provide their recommendations for allocating and disbursing Program 20b funds. *(Coire Reilly, WCCTC Staff, Attachment: Yes; Recommended Action: Approve Staff Recommendation)*
6. **Adjourn.** Next regular meeting is December 13, 2024 @ 8:00 a.m.

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- In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in the WCCTC Board meeting, or if you need a copy of the agenda and/or agenda packet materials in an alternative format, please contact Mia Carrasco at 510.210.5930 prior to the meeting.
 - If you have special transportation requirements and would like to attend the meeting, please call the phone number above at least 48 hours in advance to make arrangements.
 - Handouts provided at the meeting are available upon request and may also be viewed at WCCTC's offices.
 - Please refrain from wearing scented products to the meeting, as there may be attendees susceptible to environmental illnesses. Please also put cellular phones on silent mode during the meeting.
 - A meeting sign-in sheet will be circulated at the meeting. Sign-in is optional.

**West Contra Costa Transportation Commission
Board Meeting
Meeting Minutes: September 27, 2024**

COMMISSIONERS PRESENT: Rita Xavier, Chair (San Pablo), Eduardo Martinez (Richmond), Claudia Jiménez (Richmond), Chris Kelley (Hercules), Gabe Quinto (El Cerrito), Tom Hansen (WestCat), Rebecca Saltzman, (BART).

STAFF PRESENT: J. Nemeth, C. Reilly, L. Greenblat, M. Carrasco, K. Kokotaylo (legal counsel)

ACTIONS LISTED BY: WCCTAC Staff

MEETING CALLED TO ORDER: 8:04 am

PUBLIC COMMENT: Steve Price (in person) from El Cerrito Walk and Roll discussed the possibility of a Multimodal Mobility Fair, to take place in El Cerrito after Earth Day, to educate the public about various types of alternative transportation.

No Zoom Public Comment

CONSENT CALENDAR

Motion by **R. Saltzman**; seconded by **R. Xavier**

Yes- G. Quinto, R. Saltzman, C. Jiménez, E. Martinez, C. Kelley, T. Hansen

No- None

Abstention- None

Motion passed unanimously.

Item #3. *Approved:* Minutes of July 26, 2024, Board Meeting

Item #4. *Received:* Monthly Update on WCCTAC Activities

Item #5. *Received:* Financial Reports for July and August 2024

Item #6. *Received:* Payment of Invoices over \$10,000 - \$14,000 to Cubic Transportation Systems for Clipper cards for the on-going Try Transit TDM program.

REGULAR AGENDA ITEMS

ITEM/DISCUSSION	ACTION
<p>Item # 7 California Road Charge Program</p>	<p><i>Information Only</i></p> <p>Lauren Prehoda, Caltrans staff, explained the California Road Charge Program, which is a pilot effort that’s exploring a mileage-based user fee as a possible future alternative to the state gas tax. The shift from gasoline powered vehicles to EVs, while beneficial to air quality, will result in diminishing gas tax revenue.</p> <p>Numerous Board members asked questions about the program, include clarifications about the rationale, how the program worked it practice, and technical details about how an alternative VMT tax could be collected in a way that was practical and fair.</p> <p>There was a public comment from Steve Price suggesting that a mileage-based tax made environmental sense and could be more transparent.</p> <p>The Board took no action on this item.</p>
<p>Item #8 I-80 / Central Ave. Interchange Project, Phase 2 – Update</p>	<p><i>Information Only</i></p> <p>Jim Bui, a senior engineer with NCE, provided an update on the I-80 / Central Avenue Interchange Project. He began with a review of Phase I of the project and discussed upcoming work in Phase II. This project is a key priority of Measure J and has also received STMP funding from the WCCTC Board.</p> <p>Some Board members, and two members of the public, commented suggesting that the project was not doing as much as it could for bicycle and pedestrian safety. Matt Kelley, from CCTA, reminded the Board that Caltrans is expected to begin construction of a pedestrian undercrossing below I-80 in the summer of 2025.</p>

<p>Item #9 Rodeo to Crockett Bay Trail Update.</p>	<p><i>Information Only</i></p> <p>Mo Nasser, an engineer with the Contra Costa County Public Works, provided an update on the San Pablo Avenue Complete Streets Project, which will close a three-mile gap of the San Francisco Bay Trail between Rodeo and Crockett. This project has received STMP funding from the WCCTC Board. The Board asked several questions and thanked Mr. Nasser for the presentation.</p>
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MEETING ADJOURNED: 10:10am

TO: WCCTC Board

MEETING DATE: November 1, 2024

FR: Leah Greenblat,
Transportation Planning Manager

RE: **STMP Funding Agreement with Contra Costa County**

REQUESTED ACTION

Adopt Resolution 24-10 authorizing the WCCTC Executive Director to execute a STMP funding agreement for \$1,200,000, with Contra Costa County, to design and construct complete street improvements on San Pablo Avenue between Rodeo and Crockett.

BACKGROUND AND DISCUSSION

On September 29, 2023, the WCCTC Board allocated \$5,300,000 in STMP funding to eight projects. One of these projects is sponsored by the Contra Costa County Public Works Department and involves the design and construction of a complete streets project on San Pablo Avenue between Rodeo and Crockett. WCCTC and County staff, along with their legal counsels, have prepared the funding agreement referenced in the resolution as Exhibit A.

Once funding agreements are executed, the project sponsor can submit invoices to WCCTC requesting STMP fund reimbursements.

Please note, since originally published for October 25, 2024, WCCTC staff has modified the resolution to use "WCCTAC" throughout and modified the effective date of the funding agreement to reflect when the County's Board of Supervisors are intended to take action on the item.

ATTACHMENTS:

A. Resolution 24-10 with Exhibit A

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
DOING BUSINESS AS
THE WEST CONTRA COSTA TRANSPORTATION COMMISSION**

RESOLUTION NO. 24-10

**AUTHORIZING AN ALLOCATION OF SUBREGIONAL
TRANSPORTATION MITIGATION PROGRAM (STMP) FUNDS FROM WCCTAC
TO CONTRA COSTA COUNTY AND AUTHORIZING THE WCCTAC
EXECUTIVE DIRECTOR TO EXECUTE A COOPERATIVE FUNDING
AGREEMENT FOR THE PRELIMINARY ENGINEERING, DETAILED DESIGN
AND CONSTRUCTION OF THE SAN PABLO AVENUE RODEO TO CROCKETT
COMPLETE STREETS PROJECT TO COMPLETE IN A FORM APPROVED BY
GENERAL COUNSEL**

WHEREAS, the Board of Directors of WCCTAC is authorized to allocate STMP funds; and

WHEREAS, the Contra Costa County Public Works Department has provided information to the WCCTAC staff, WCCTAC Technical Advisory Committee (TAC), and WCCTAC Board about the need for these funds as outlined below; and

WHEREAS, the 2019 Update of the Subregional Transportation Mitigation Program's Nexus Study included Project 1a: San Pablo Avenue from Rodeo to Crockett Complete Streets Project ; and

WHEREAS, the Subregional Transportation Mitigation Program explicitly allows for funding for the preliminary engineering, detailed design and construction of the San Pablo Avenue from Rodeo to Crockett Complete Streets Project (the Project); and

WHEREAS, on September 29, 2023, the Board of Directors of WCCTAC approved an allocation of \$1,200,000 in STMP funds to Contra Costa County for the Project; and

WHEREAS, WCCTAC staff and Contra Costa County Public Works staff have prepared a Cooperative Funding Agreement to account for this allocation of STMP funds to the Contra Costa County Public Works Department;

WHEREAS, the Contra Costa County's Board of Supervisors plans to consider the Cooperative Funding Agreement at an upcoming meeting; and

WHEREAS, the Board of Directors of WCCTAC desires to approve the Cooperative Funding Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the West Contra Costa Transportation Advisory Committee:

1. Does hereby authorize the allocation of STMP funds to Contra Costa County in the amount of \$1,200,000 in STMP funds to partially fund the Project pursuant to the terms of the Cooperative Agreement attached hereto and incorporated herein by reference as Exhibit A.

2. The Executive Director is hereby authorized and directed, on behalf of the Board of Directors of the West Contra Costa Transportation Advisory Committee, to execute the Cooperative Agreement on behalf of the West Contra Costa Transportation Advisory Committee, in a form approved by the General Counsel.

3. The Executive Director is authorized to make all approvals and take all actions necessary or appropriate to carry out and implement the terms of the Cooperative Funding Agreement and to administer the West Contra Costa Transportation Advisory Committee's obligations, responsibilities and duties to be performed under the Cooperative Funding Agreement.

The foregoing Resolution was adopted by the WCCTAC Board at a regular meeting on October 25, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Rita Xavier, Chair

Attest:

John Nemeth, Executive Director

Approved as to Form:

Kristopher J. Kokotaylo, General Counsel

EXHIBIT A

COOPERATIVE FUNDING AGREEMENT BETWEEN WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE AND CONTRA COSTA COUNTY

San Pablo Avenue Rodeo to Crockett Complete Streets/Bay Trail Gap Closure

This AGREEMENT is made and entered into as of November 12, 2024, (the “Effective Date”) by and between the West Contra Costa Transportation Advisory Committee (“WCCTAC”), a Joint Exercise of Powers Agency organized pursuant to California Government Code Section 6500, *et. seq.*, among the cities of El Cerrito, Hercules, Pinole, Richmond, and San Pablo, the County of Contra Costa, and the transit agencies AC Transit, Bay Area Rapid Transit District, and Western Contra Costa Transit Authority, with offices located at 6333 Potrero Avenue, Suite 100, El Cerrito, CA 94530, and Contra Costa County, a political subdivision of the State of California (“Agency”). WCCTAC and Agency are sometimes referred to herein together as the “Parties,” and each as a “Party.”

RECITALS

WHEREAS, the members of WCCTAC signed a Master Cooperative Agreement pertaining to the 2019 Subregional Transportation Mitigation Fee Program Update (“2019 STMP”) in West Contra Costa County, including a list of twenty specific projects and the STMP funding commitments to those projects; and

WHEREAS, Agency’s Project, the San Pablo Avenue Complete Streets Projects, Project 1a (“Project”), as further described in the Scope of Work, attached as Exhibit A, which is incorporated herein (the “Scope of Work”), is one of the twenty projects identified in the 2019 STMP; and

WHEREAS, plans, studies, and cost estimates for Agency’s Project are eligible uses for the STMP funds; and

WHEREAS, at its September 29, 2023 meeting, the WCCTAC Board of Directors approved an appropriation of one million, two-hundred thousand dollars (\$1,200,000) in STMP funds to Agency towards the Project.

Now, therefore, the Parties hereby agree as follows:

SECTION 1 SCOPE OF WORK

- 1.1 **Scope of Work.** Subject to the terms and conditions set forth in this Agreement, Agency shall perform or cause the performance of the work described in the Scope of Work, at the time and place and in the manner specified therein. In the event of a conflict in, or inconsistency between, the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.2 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2028, and Agency shall complete the work described in the Scope of Work on or before that date, unless the term of the Agreement is otherwise terminated or extended. The time provided to Agency to complete the services required by this Agreement shall not affect WCCTAC’s right to terminate the Agreement in accordance with Section 3.4.
- 1.3 Standard of Performance.** Agency shall perform or cause to be performed all services required in the Scope of Work according to the standards observed by a competent practitioner of the profession in which Agency’s consultants or contractors are engaged.
- 1.4 Assignment of Personnel.** Agency shall assign only competent Agency personnel to oversee the completion of the Project. In the event that WCCTAC, in its sole discretion, desires the reassignment of any such persons, Agency shall, upon receiving notice from WCCTAC, of such desire of WCCTAC, reassign such person or persons to the extent permitted under applicable laws.
- 1.5 Time is of the Essence.** Time is of the essence. Agency shall devote such time to the performance of the Project pursuant to this Agreement as may be reasonably necessary to timely finish the Scope of Work.
- 1.6 Public Works and Department of Industrial Relations Requirements.** Because the Project and Scope of Work described in Exhibit A may include “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” the Project constitutes a public work within the definition of Section 1720(a)(1) of the California Labor Code. In accordance with California Labor Code Section 1773.2, WCCTAC hereby notifies Agency that this Project is subject to the general prevailing wages in the locality in which the services described in Exhibit A are to be performed. Agency shall cause to be paid prevailing wages for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which Agency shall make available on request by contractors and consultants. To the extent required by law, the Agency shall require its consultant and contractors engaged in the performance of the Scope of Work described in Exhibit A to pay no less than these rates to all persons engaged in performance of the services described in Exhibit A. Agency is also required to comply all applicable provisions of the Labor Code applicable to public works, including enforcement of the contractor registration requirements of the California State Department of Industrial Relations.

SECTION 2 FUNDING OBLIGATIONS

- 2.1 Funding.** In accordance with the WCCTAC Master Cooperative Agreement pertaining to the 2019 STMP, and subject to available funding, WCCTAC hereby agrees to fund Agency’s Project in a sum not to exceed one million, two-hundred thousand dollars (\$1,200,000) notwithstanding any contrary indications that may be contained in Agency or any third-party proposal for services to be performed and reimbursable costs

incurred under this Agreement. In the event of a conflict between this Agreement and Agency's Scope of Work, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail.

The payments specified herein shall be the only payments from WCCTAC to Agency pursuant to this Agreement. Agency shall submit all invoices to WCCTAC in the manner specified herein. Agency shall not bill WCCTAC for duplicate services performed by more than one person.

WCCTAC and Agency acknowledge and agree that funding paid by WCCTAC to Agency under this Agreement is based upon Agency's estimated costs of funding Agency's Project, including salaries and benefits of employees, consultants, and contractors of Agency. WCCTAC has no responsibility for such contributions beyond the amount set forth under this Section 2.1.

- 2.2 Invoices.** Agency shall submit invoices, not more often than once each month during the term of this Agreement, based on the cost it incurs for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:
- a. Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
 - b. The beginning and ending dates of the billing period;
 - c. A task summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
 - d. Such other information as reasonably requested by WCCTAC.
- 2.3 Monthly Payment.** WCCTAC shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. WCCTAC shall have 60 days from the receipt of an invoice that complies with all of the requirements above to pay Agency.
- 2.4 Total Payment.** In no event shall Agency submit any invoice for an amount in excess of the maximum amount of compensation provided in Section 2.1, above, either for a task or for the entire Project, unless the Agreement is modified in writing prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 Reimbursable Expenses.** Reimbursable expenses shall not include a mark-up and are billed as a direct cost. In no event shall expenses be advanced by WCCTAC to the Agency. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

- 2.6 Payment of Taxes.** Agency and its contractors and consultants are solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.7 Payment upon Termination.** In the event that WCCTAC or Agency terminates this Agreement pursuant to Section 3.4, WCCTAC shall compensate the Agency for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Agency shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.8 Authorization to Perform Services.** The Agency is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from WCCTAC's Executive Director or designee.
- 2.9 Funding Request.** Agency shall submit the request for funds for specific components of the Project, detailing Project scope, schedule, and proposed funding plan, at least four (4) months in advance of the initial anticipated cash flow need or reimbursement; to submit subsequent requests at least two (2) months in advance of anticipated need; and to apply any funds received under this Agreement to the Project consistent with the terms and conditions of an approved funding appropriation.
- 2.10 Progress Reports.** Progress reports shall be submitted along with the funding request in Section 2.9. Agency shall submit progress reports in a form satisfactory to WCCTAC based on the cost for services performed.
- 2.11 Records Keeping.** During the term of this Agreement and for three years following its expiration or termination, all reports, studies, plans, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Agency prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be made available to WCCTAC at WCCTAC's request. During the term of this Agreement and for three years following its expiration or termination, all records related to funds paid by WCCTAC under this Agreement or otherwise pertaining to this Agreement, including all electronic records, shall be made available to Agency at Agency's request. The Parties' obligations under this Section 2.11 shall survive for three years following the termination or expiration of this Agreement.
- 2.12 Agency Financial Records.** Each Agency shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements connected with the Project, including amounts charged to or disbursed by WCCTAC under this Agreement, for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Agency to this Agreement. The Parties' obligations under this Section 2.12 shall survive for three years following the termination or expiration of this Agreement.
- 2.13 Inspection and Audit of Records.** Any records or documents that Sections 2.11 and 2.12 of this Agreement requires Agency to maintain shall be made available for

inspection, audit, and/or copying at any time during regular business hours, upon oral or written request by either Party. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of WCCTAC or as part of any audit of WCCTAC, for a period of 3 years after final payment under the Agreement. The Parties' obligations under this Section 2.13 shall survive for three years following the termination or expiration of this Agreement.

SECTION 3 GENERAL PROVISIONS

- 3.1 Funding Limitations and Contingencies.** If, in response to the Request for Proposal(s), it appears that Project costs including contingency, will exceed available funding to Agency, which includes the funding set forth in Section 2.1, the Parties agree that they shall meet to revise Scope of Work to meet available funding. Funding of Agency's Project is strictly contingent upon WCCTAC having received, appropriated, and allocated sufficient STMP funds for the Agency's Project. Funding is also contingent upon this Agreement being fully executed by both WCCTAC and Agency. If the Scope of Work cannot be revised to meet available funding, then WCCTAC reserves the right to terminate this Agreement, or suspend funding, until such time that additional STMP funds are available and allocated to Agency's Project, or Agency secures additional funding other than STMP funds.
- 3.2 Acceptance.** Upon completion of the Project, Agency shall submit a report documenting that the Project is substantially complete. Agency shall be responsible for filing the appropriate notice of completion for the Project and shall provide a copy to WCCTAC for its records.
- 3.3 Alternative Dispute Resolution.** All disputes that arise in connection with interpretation or performance of the Agreement shall first attempted to be resolved informally by the Parties. If not resolved, prior to instituting legal action, the Parties agree to participate in mediation with a mediator jointly selected by the Parties. If the dispute is not resolved by mediation, then the Parties will retain any and all remedies that they otherwise would have at law or equity.
- 3.4 Termination.** This Agreement shall be subject to termination as follows:
- a. Either Party may terminate this Agreement at any time for cause pursuant to a power created by the Agreement or by law, other than for breach, by giving written notice of termination to either Party, which notice shall specify both the cause and the effective date of termination. Notice of termination under this provision shall be given at least ninety (90) days before the effective date of such termination. All obligations that are still executory will be discharged but any right based upon prior breach or performance shall survive.
 - b. This Agreement may be terminated by a Party for breach of any obligation, covenant, or condition by the other Party, upon notice to the breaching Party. With respect to any breach that is reasonably capable of being cured, the

breaching Party shall have thirty (30) days from the date of the notice to initiate steps to cure. If the breaching Party diligently pursues cure, such Party shall be allowed a reasonable time to cure, not to exceed sixty (60) days from the date of the initial notice, unless a further extension is granted by the non-breaching Party. On termination, the non-breaching Party retains the same rights as a Party exercising its right to terminate under the provisions of Section 3.4, except that the non-breaching Party also retains any remedy for breach of the whole contract or any unperformed balance to the extent permitted by law.

- c. By mutual written agreement of both Parties, this Agreement may be terminated at any time.
- d. This Agreement may be terminated by WCCTAC if funding for Agency's Project is no longer available by operation of law
- e. In no event shall the Parties terminate this Agreement if such termination would conflict with, cause a default under, or otherwise violate the terms or conditions of any revenue bonds.

3.5 Waiver of Claims Against WCCTAC. Agency waives all claims by Agency, its directors, supervisors, officers, employees, or agents against WCCTAC, its commissioners, officers, employees, or agents for damages, loss, injury and/or liability, direct or indirect, resulting from Agency's participation in the Project. Agency's waiver shall not apply to liability arising from and caused by the sole negligence or willful misconduct of WCCTAC, its commissioners, officers, employees, or agents.

3.6 Indemnity. Agency shall defend, indemnify and hold harmless WCCTAC, its governing board, member agencies, officers, employees, and agents from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, reasonable attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Agency's performance of any work under this Agreement, except such Liability caused by the sole negligence or willful misconduct of WCCTAC. With respect to any claims brought against Agency by a third party, Agency waives any and all rights of any type to express or implied indemnity by WCCTAC under this Agreement.

3.7 Notices. All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

- a. When delivered by first class mail, postage prepaid, notice shall be deemed delivered three (3) business days after deposit in the United States Mail.
- b. When mailed by certified mail with return receipt requested, notice is effective upon receipt if delivery is confirmed by a return receipt.
- c. When delivered by overnight delivery by a nationally recognized overnight courier, notice shall be deemed delivered one (1) business day after deposit with that courier.

- d. When personally delivered to the recipient, notice shall be deemed delivered on the date personally delivered.
- e. The place for delivery of all notices under this Agreement shall be as follows:

If to WCCTAC:

John Nemeth, Executive Director
West Contra Costa Transportation Advisory Committee
6333 Potrero Avenue, Suite 100
El Cerrito, CA 94530

with a Copy to:

Kristopher J. Kokotaylo, Legal Counsel
Redwood Public Law
66 Franklin Street, Suite 300
Oakland, CA 94607

If to Agency:

Warren Lai, Public Works Director
255 Glacier Drive
Martinez, CA 94553-4825

- 3.8 Additional Acts and Documents.** Each Party agrees to do all such things and take all such actions, and to make, execute, and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent, and purpose of this Agreement.
- 3.9 Integration.** This Agreement represents the entire agreement of the Parties with respect to the subject matter. No representations, warranties, inducement, or oral agreements have been made by any of the Parties except as expressly set forth in this Agreement.
- 3.10 Governing Law.** The laws of the State of California shall govern this Agreement. Agency and any consultants and contractors shall comply with all laws, including, but not limited, all statutes, regulations, local ordinances, and decisional authority, applicable to the Scope of Work hereunder. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Agency and any subcontractors shall comply with all applicable rules and regulations to which WCCTAC is bound by the terms of such fiscal assistance program.
- 3.11 Amendment.** This Agreement may not be changed, modified, or rescinded except by a writing approved by both Parties, and any attempt of oral modification of this Agreement shall be void and of no effect.
- 3.12 Independent Contractor.** Agency and WCCTAC render their services under this Agreement as independent contractors. None of the agents or employees of either shall be agents or employees of the other.

- 3.13 Assignment.** This Agreement may not be assigned, transferred, hypothecated, or pledged by any Party without the express written consent of the other Party, which shall be within its sole discretion to provide.
- 3.14 Successors and Assigns.** This Agreement shall be binding upon the successors, assignees, or transferees of the Parties. This provision shall not be constructed as an authorization to assign, transfer, hypothecate, or pledge this Agreement other than as provided above.
- 3.15 Severability.** Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either Party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, so long as the remainder, absent the excised portion, can be reasonably interpreted to give effect to the intentions of the parties.
- 3.16 Jurisdiction and Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 3.17 Attorney's Fees.** In any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, each Party shall be responsible for paying its own attorney's fees.
- 3.18 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 3.19 Counterparts.** This Agreement may be executed in counterparts that, taken together, constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and attested by their respective officers, duly authorized so to act, as of the date set forth in the first paragraph of this Agreement.

Contra Costa County

**West Contra Costa Transportation
Advisory Committee**

Warren Lai, Public Works Director

John Nemeth, Executive Director

Approved as to Form:
Thomas L. Geiger, County Counsel

Approved as to Form:

By Stephen M. Siptroth
Assistant County Counsel

Kristopher Kokotaylo, Legal Counsel

3852446.1

EXHIBIT A

SCOPE OF WORK

The Agency agrees to:

1. To act as the lead agency and take responsibility for evaluating prospective consultants and contractors retained by Agency and subsequent award of work consistent with this Agreement.
2. To act as the lead agency and retain, as appropriate, consulting services consistent with this Agreement.
3. To be responsible for providing management of consultant and contractor activities, including responsibility for scheduling, budgeting, and oversight of the services, consistent with the scope of the project.
4. To advance or complete all or a portion of following STMP project identified as funding categories: *San Pablo Avenue Complete Streets Projects, Project 1a.*
5. To use the STMP funds *to design and construct multimodal improvements along San Pablo Avenue between the communities of Rodeo and Crockett including, but not limited to, a Class 1 shared-use path that will complete a 3.2-mile gap of the San Francisco Bay Trail; a 10-foot path with a concrete barrier constructed on top of a two to three-foot-wide buffer lane and a pedestrian hybrid beacon at the A Street intersection.*
6. To produce or complete *the preliminary engineering and design phases as well as construction of a component of the San Pablo Avenue Complete Streets Projects.*
7. To complete the over-all project based on the following initial schedule for the project:

TASK	MONTH or QUARTER and YEAR	
	<i>Begins</i>	<i>Ends</i>
<i>Preliminary Engineering</i>	<i>December 2024</i>	<i>September 2025</i>
<i>Detailed Design (including PS&E)</i>	<i>October 2025</i>	<i>September 2026</i>
<i>Advertise Construction</i>	<i>March 2027</i>	<i>April 2027</i>
<i>Award Contract</i>	<i>June 2027</i>	<i>June 2027</i>
<i>Construction Begins</i>	<i>July 2027</i>	<i>July 2027</i>
<i>Construction Complete/ Open to the Public</i>	<i>December 2027</i>	<i>December 2027</i>
<i>Project Close-Out</i>	<i>July 2028</i>	<i>July 2028</i>

8. To complete the STMP-funded portion of the project based on the estimated completion date of *October 28, 2027.*

MEETING DATE: November 1, 2024
TO: West Contra Costa Transportation Commission
FROM: Coire Reilly, Program Manager
SUBJECT: **Measure J Program 20b (Additional Transportation Services for Seniors and People with Disabilities) Allocation for FY24-25**

REQUESTED ACTION

Approve the FY24-25 allocation of Measure J Program 20b funds, in the amount of \$776,100, to the five West County paratransit operators (East Bay Paratransit Consortium, El Cerrito, San Pablo, Richmond, and WestCAT) for services to supplement those provided under the Measure J Countywide Program 15. This recommendation includes allocating \$16,000 to WCCTC for program administration and pausing on the disbursement of funds to Richmond until the Paratransit Coordinating Council (PPC) has reviewed proposed program changes.

BACKGROUND AND DISCUSSION

Measure J Program 20b, *Additional Transportation for Seniors and People with Disabilities*, provides funding to the five West County paratransit operators (East Bay Paratransit Consortium, El Cerrito, San Pablo, Richmond, and WestCAT) for services to supplement those provided under the Countywide Measure J Program 15. The programming and allocation of Program 15 funds is handled by CCTA, while WCCTC approves Program 20b funds. The original allocation estimate for 20b is \$780,000. CCTA retains some funds for administration and WCCTC is requesting \$16,000 for its own program administration, as has been done in past years. The details of the allocation estimates are found on the attached chart, Attachment A. A comparison of allocations for Program 15 and Program 20b are found in Attachment B.

Typically, CCTA and WCCTC request claim forms from the operators containing program information. This request was suspended for three years during the pandemic. However, beginning last year, CCTA and WCCTC staff resumed requests for detailed claim forms with performance information and explanations of how operators plan to use Measure J funds in the upcoming year. Staff also requested samples of outreach materials and descriptions of outreach efforts to inform residents about services. These forms are found in Attachment C.

CCTA’s PCC reviewed and approved the claim forms for four of the agencies (WestCAT, East Bay, El Cerrito, and San Pablo) at its July 15, 2024, meeting.

Last year, the PCC recommended against allocating funds to the city of Richmond and CCTA used \$32,000 of Richmond’s 20b funds to pay for an audit of the program. The audit was conducted by CCTA’s consultant, Advanced Mobility Group (AMG) and made a series of recommendations for program improvement. The City of Richmond responded with a detailed

plan to address the audit findings. The Richmond City Council approved this plan at its October 1, 2024, meeting.

Because operators are eager to receive their program disbursements, staff recommends that the Board approve 20b allocations and disbursement to four of the five providers. The PCC has already reviewed these claim forms. Staff expects that the PCC will review Richmond's improvement plan soon, possibly at its November meeting, where it will make a recommendation to CCTA on the allocation of Program 15 funds. To keep Program 15 and Program 20b funding practices in sync, WCCTC staff recommends allocating 20b funds to Richmond but holding off on the disbursement of funds until after the PCC review. WCCTC staff will bring this issue back to the WCCTC Board soon (after the PCC meeting, likely in December) to allow it to consider the disbursement of Richmond's funds.

Since CCTA has not disbursed Program 15 funds, and WCCTC has not disbursed Program 20b funds, to Richmond in previous cycles, these programs have a fund balance. WCCTC staff recommends that the issue of these undisbursed funds be addressed at a future meeting, after the City of Richmond has had an opportunity to implement new program changes.

ATTACHMENTS:

A: CCTA Resolution 24-34-G, Program 20b allocation chart

B: Program 15/20b allocation chart

C: Provider Claim Forms and Richmond Audit Plan (provided on website in meeting calendar)

**RESOLUTION 24-34-G**

RE: SUB-REGIONAL WEST COUNTY ADDITIONAL TRANSPORTATION SERVICES FOR SENIORS AND PEOPLE WITH DISABILITIES (PROGRAM 20B) ALLOCATIONS OF MEASURE J FUNDS FOR FISCAL YEAR (FY) 2024-25

WHEREAS, the West Contra Costa Transportation Commission (WCCTC), consistent with Measure C Sales Tax Renewal Ordinance (# 88-01 as amended by # 04-02, # 06-01, and # 06-02), (Measure J), and Measure J Transportation Sales Tax Expenditure Plan, as amended by Ordinance # 09-01, has recommended allocations for specific services for FY 2024-25 under the Sub-Regional West County Additional Transportation Services for Seniors and People with Disabilities (Program 20b) (Program); and

WHEREAS, for the purpose of this Program, the Contra Costa Transportation Authority (Authority) has projected total Measure J transportation sales tax revenues of \$120,000,000 for FY 2024-25; and

WHEREAS, the Measure J Transportation Expenditure Plan designates 0.65 percent of total Measure J transportation sales tax as amended in the Measure J Strategic Plan for this Program; and

WHEREAS, in December 2022, the Authority Board approved Resolution 22-33-P to adopt a Measure J Reserve Policy (Policy) to establish the mechanism to fund the reserve, eligible uses, and required approval to utilize funds from the reserve; and

WHEREAS, this Policy will increase the Measure J Reserve by depositing any surplus funds calculated as the difference between actual Measure J revenues collected and estimated Measure J revenues in the Authority's adopted mid-year budget; and

WHEREAS, eligible recipients under this Program have entered into cooperative agreements with the Authority for the purpose of using these funds for eligible bus transit services; and

WHEREAS, these cooperative agreements recognize that any cost overruns will be the sole responsibility of the recipient of these funds and any cost savings shall be returned to the Authority or applied to the recipient's next allocation, unless specified otherwise.

NOW, THEREFORE, BE IT RESOLVED that the Contra Costa Transportation Authority Board hereby:

- 1) Approves the allocation of Measure J West County Additional Bus Services funds for FY 2024-25, in the amounts and for the services as specified in Exhibit 1, attached and incorporated herein by reference.

This resolution was entered into at a meeting of the Contra Costa Transportation Authority Board held November 20, 2024 in Walnut Creek, California by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Newell Arnerich, Chair

Attest:

Tarienne Grover, Clerk of the Board

EXHIBIT 1

PROGRAM: 20b - West County Additional Transportation Services for Seniors and People With Disabilities			FY 2025
Sales Tax Revenue Estimate			\$120,000,000
	%		
Program Revenue Estimate	0.65%		\$780,000
Program Management - CCTA	0.50%	of Program Total	(\$3,900)
Program Management - WCCTC			(\$16,000)
Available for Allocation to Operators (Programmed by WCCTC)			\$760,100
Agency	Coop #	100% Amount	90% Amount
City of Richmond	60.00.07	\$332,602	\$299,342
City of El Cerrito	60.00.06	\$56,755	\$51,080
City of San Pablo	60.00.08	\$101,307	\$91,176
WestCAT	60.00.04	\$115,954	\$104,358
EBPC			
BART	60.00.01	\$47,579	\$42,821
AC Transit	60.00.02	\$105,902	\$95,312
Total Allocation to Operators		\$760,100	\$684,090
Total Allocation to WCCTC (Program Management)		\$16,000	

WestCAT: Western Contra Costa Transit Authority
 EBPC: East Bay Paratransit Consortium
 BART: Bay Area Rapid Transit District
 AC Transit: Alameda – Contra Costa Transit District
 WCCTC: West Contra Costa Transportation Commission

FY 25 Program 15 and 20b allocations

Operator	Program 15	Program 20b
City of Richmond	\$888,115	\$332,602
City of El Cerrito	\$165,003	\$56,755
City of San Pablo	\$261,608	\$101,307
WestCAT	\$416,786	\$115,954
East Bay		
BART	\$114,231	\$47,579
AC Transit	\$254,257	\$105,902
County Connection	\$2,520,000	
Tri Delta	\$1,380,000	