

MEETING NOTICE AND AGENDA

DATE & TIME: September 17, 2021 • 8:00 AM – 10:00 AM

REMOTE ACCESS:

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

MEETING ID#: 732 105 8840

PASSWORD (if requested): WCCTAC2020

Shelter-In-Place Order and Teleconference

The Contra Costa County Health Officer issued an order directing residents to **shelter in place**, due to COVID-19. The order limits activity, travel, and business functions to only those that are essential.

Remote Participation Only

As a result of the COVID-19 public health emergency, including the County Health Officer and Governor’s directives for everyone to shelter in place, **there will be no physical location for the Board Meeting**. Board members will attend via teleconference and members of the public are invited to attend the meeting and **participate remotely**.

Pursuant to the Governor’s Executive Order N-29-20, Board members: Chris Kelley, Vincent Salimi, Rita Xavier, Tom Butt, Demnlus Johnson, Eduardo Martinez, Paul Fadelli, John Gioia, Jovanka Beckles, Lateefah Simon, and Maureen Powers may be attending this meeting via teleconference, as may WCCTAC Alternate Board Members. Any votes conducted during the teleconferencing session will be conducted by roll call.

The public may observe and address the WCCTAC Board in the following ways:

Remote Viewing/Listening

Webinar:

To observe the meeting by video conference, utilizing the Zoom platform, please click on this link (same link as shown above) to join the webinar at the noticed meeting time: <https://us02web.zoom.us/j/7321058840?pwd=c1dMVjJydIBoYk0yYWVlZWVlWHZ4Zz09>

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 via Teleconference

Members of the public may address the Board during the initial public comment portion of the meeting or during the comment period for agenda items.

Participants may use the chat function on Zoom or physically raise their hands to indicate if they wish to speak on a particular item.

Written Comment (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 WCCTAC Board and heard before Board action. Comments may be submitted by email to vjenkins@wcctac.org.

Comments may also be submitted via e-mail to vjenkins@wcctac.org at any time prior to closure of the public comment portion of the item(s) under consideration. All written comments will be included in the record.

Reading of Public Comments: WCCTAC staff will read aloud email comments received during the meeting that include the subject line "FOR THE RECORD" as well as the item number for comment, provided that the reading shall not exceed three (3) minutes, or such other time as the Board may provide.

-
1. **Call to Order and Board Member Roll Call.** *(Chris Kelley – Chair)*
 2. **Public Comment.** The public is welcome to address the Board on any item that is not listed on the agenda.
 3. **Appointment of ATS Task Force Representative.** CCTA recently conducted an Accessible Transportation Study (ATS). It's now assembling an ATS Task Force to review and implement the study's recommendations. WCCTAC can appoint one representative to the Task Force. *(Attachment; Recommended Action: Elect ATS Task Force representative).*

CONSENT CALENDAR

4. **Minutes of June 25, 2021 Board Meeting.** *(Attachment; Recommended Action: Approve).*
5. **Monthly Update on WCCTAC Activities.** *(Attachment; Information only).*
6. **Financial Reports.** The reports show the Agency's revenues and expenses for July and August 2021. *(Attachment; Information only).*
7. **Payment of Invoices over \$10,000.** None *(No Attachment; Information only).*

8. **STMP Funding Agreements.** At its May 28, 2021 meeting, the WCCTAC Board allocated Sub-regional Transportation Mitigation Program (STMP) funding to seven projects. There are three cooperative funding agreements attached, with El Cerrito, Pinole, and BART. These are included as exhibits to Resolutions 21-04, 21-05 and 21-06. The agreements formalize the Board's allocation and allow project sponsors to receive funds. The remaining agreements will be brought to the Board at a future meeting. *(Attachments, Recommend Action: Adopt Resolutions No. 21-04, 21-05, and 21-06 authorizing the Executive Director to execute Cooperative Funding Agreement with El Cerrito, Pinole, and BART).*
9. **Fiscal Year 2021-2022 Measure J 20b Funds.** WCCTAC allocates Measure J 20b funds, *Additional Transportation for Seniors and People with Disabilities*, to five West County paratransit operators each year to supplement Program 15 funds provided by CCTA. In Fiscal Year 2020-2021 the estimated total funding is \$633,869. Staff is likely to return to the Board later in the year with new guidelines for 20b claims. The attached staff report provides additional details. *(Attachment, Recommend Action: Approve FY 21 Measure J 20b allocations)*
10. **Conflict of Interest Code.** WCCTAC's legal counsel recommends the adoption of a conflict of interest code to clarify which individuals at WCCTAC must submit annual financial disclosures. *(Attachment; Recommended Action: Adopt Resolution 21-07)*

REGULAR AGENDA ITEMS

11. **I-580 HOV/ORT Project Overview and Update.** Staff from MTC will provide a general overview and update on the project to establish an HOV lane on westbound I-580 and open road tolling (ORT) at the toll plaza. *(Ingrid Supit – MTC staff; No Attachment; Recommended Action: Information only)*
12. **El Cerrito BART Station Update.** Staff from El Cerrito and BART will provide a comprehensive update on activities at both BART stations in El Cerrito. This will include a review of capital projects, including Del Norte modernization and upcoming improvements to the Plaza station. Additionally, it will include a discussion of TOD projects, including an update on the Mayfair project at Del Norte and BART's plans for TOD at the Plaza station. Lastly, it will include an overview of the Del Norte TOD Complete Streets project, which recently was awarded \$1.2M in STMP funds by WCCTAC *(Ricki Wells, Shannon Dodge, and Rachel Factor – BART staff, Yvetteh Ortiz and Melanie Mintz – El Cerrito staff; No Attachments; Recommended Action: Information only)*

STANDING ITEMS

13. Board and Staff Comments.

- a. Board Member Comments, Conference/Meeting Reports (AB 1234 Requirement), and Announcements
- b. Report from CCTA Representatives (*Directors Kelley & Butt*)
- c. Executive Director's Report

14. General Information Items.

- a. Letter to CCTA Executive Director with June 25, 2021 Summary of Board Actions
- b. Acronym List

15. Adjourn. The next regular meeting is on October 22, 2021 @ 8:00 a.m.

-
- In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in the WCCTAC Board meeting, or if you need a copy of the agenda and/or agenda packet materials in an alternative format, please contact Valerie Jenkins 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 WCCTAC'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.

TO: WCCTAC Board

DATE: September 17, 2021

FR: John Nemeth, Executive Director

RE: **ATS Task Force Representative**

REQUESTED ACTION

Elect a West Contra Costa representative to the CCTA's Accessible Transportation Study (ATS) Task Force.

BACKGROUND AND DISCUSSION

CCTA conducted an Accessible Transportation Study (ATS) to improve senior/disabled transportation services and coordination within Contra Costa County. It is now assembling an ATS Task Force to review, and potentially implement, the study's recommendations.

Each RTPC (like WCCTAC) can appoint a representative to the Task Force, which will probably meet about once per month. Since CCTA is trying to avoid triggering a quorum of the CCTA Board, it is requesting that WCCTAC to choose someone who is not a CCTA Board Member, Alternate, or County Supervisor. That precludes WCCTAC Directors Kelley, Butt, Fadelli, Power, and Gioia from serving on the Task Force.

This Page Intentionally Blank

**West Contra Costa Transportation Advisory Committee
Board of Directors Meeting
Meeting Minutes - June 25, 2021**

MEMBERS PRESENT: Chris Kelley, Chair (Hercules); Demnlus Johnson III, Vice-Chair (Richmond); Rita Xavier (San Pablo); Paul Fadelli (El Cerrito); Tom Butt (Richmond); Jovanka Beckles (AC Transit); Eduardo Martinez (Richmond); Maureen Powers (WestCAT); Vincent Salimi (Pinole)

STAFF PRESENT: John Nemeth, Joanna Pallock, Coire Reilly, Leah Greenblat, Kris Kokotaylo (legal counsel)

ACTIONS LISTED BY: Valerie Jenkins

Meeting Called to Order: 8:00 am

Public Comment: None

CONSENT CALENDAR

Motion by *Director Vice-Chair Johnson III*; seconded by *Director Martinez*;

Yes- C. Kelley, D. Johnson III, R. Xavier, P. Fadelli, J. Beckles, M. Powers, E. Martinez; V. Salimi, T. Butt

No- none

Abstention- none

Motion passed unanimously

Item #3. *Approved:* Minutes of May 28, 2021 Board Meeting.

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

Item #5. *Received:* Financial Reports May 2021.

Item #6. *Received:* No Invoices over \$10,000.

Item #7. *Approved:* FY 2022 Allocation of Measure J 21b Funds (Safe Transportation for Children) to John Swett Unified School District (JSUSD).

Item #8. *Adopted* Resolution 21-02 FY 2022 Work Program, Budget, and Dues

REGULAR AGENDA ITEMS

ITEM/DISCUSSION	ACTION
<p>Item #9 Updated Salary Schedule for FY 2022</p>	<p>John Nemeth, WCCTAC Executive Director, presented the updated salary schedule for FY 22 that reflects a cost-of-living change.</p> <p>Motion by Director Butt; seconded by Vice-Chair Johnson, to approve the cost-of-living adjustment for FY 22.</p> <p>Yes- C. Kelley, D. Johnson III, R. Xavier, J. Beckles, M. Powers, P. Fadelli, E. Martinez, T. Butt, V. Salimi No- none Abstention- none Motion passed unanimously.</p>
<p>Item #10 Update on San Pablo Ave. Multimodal Corridor Study, Phase 2</p>	<p>Receive presentation & provide feedback Leah Greenblat, WCCTAC Transportation Planning Manager, recapped prior work and introduced Adam Dankberg of Kimley-Horn Associates. Mr. Dankberg reviewed the TAC’s recent discussions regarding corridor segments and cross-section options which will be analyzed next. Board members provided individual comments and indicated they were generally supportive of the work to date.</p>
<p>Item #11 TDM Program Update</p>	<p>Information Only Coire Reilly, of WCCTAC Staff, provided an update on TDM activities during the current year, including: the City of Richmond’s Electric Bike Share Program (Gotcha/Bolt), the Richmond-San Francisco Ferry promotion, and promotions related bike use on the Richmond-San Rafael Bridge.</p>

Meeting Adjourned: 10:00 am

TO: WCCTAC Board

DATE: September 17, 2021

FR: John Nemeth, Executive Director

RE: Monthly Update on WCCTAC Activities

San Pablo Avenue Bridge Replacement Project



WCCTAC staff served on a panel, created by the City of San Pablo, in early September to evaluate consultant proposals for the design of a replacement bridge on San Pablo Avenue over San Pablo Creek. The existing bridge, built in 1926, is structurally deficient and located at the skewed, 5-legged intersection near the junctions of 23rd Street and Road 20. In addition to bridge replacement, the project could involve a substantial redesign of intersections to improve traffic flow for autos and buses, as well as conditions for bicycles and pedestrians. Given the complexity of the project, the engineering design and environment permitting process will likely take a few years with a project ready to bid for construction in 2025. The WCCTAC Board recently allocated \$668,000 in STMP funds to assist the City of San Pablo with the design phase.

New Bike Racks at Wildcat Canyon Regional Park



This summer, WCCTAC's TDM program (511 Contra Costa) worked with the East Bay Regional Park District to provide new bicycle racks at Wildcat Canyon Regional Park. The project used Measure J funds to reimburse the District for purchase, delivery, and installation of the racks.

Ribbon Cutting for El Cerrito Del Norte BART Station Modernization

The newly remodeled El Cerrito Del Norte BART Station was the site of an evening ribbon cutting on September 10, 2021. The public, agency staffs, elected representatives from BART, the cities of El Cerrito and San Pablo, as well as Supervisor John Gioia all attended to celebrate the completion of the Del Norte station modernization project.

The most obvious change is the expanded “paid-area” which creates a more spacious interior environment. New elevators are located inside the paid area, which alleviates the previous inconvenience for disabled customers and bicyclists of needing to enter and then exit the station to go up to the platforms. The station also includes bathrooms and original artwork. The El Cerrito Del Norte station is one of the busiest in the East Bay. BART Director Lateefah Simon encouraged the public to utilize this new space for events, farmers markets and other public gatherings. WCCTAC contributed STMP funds to the project.



West County Travel Training Slowed by COVID Again

The hope of bringing back a full menu of travel training options this summer for the West County senior and disabled community was slowed by the resurgence of COVID-19. While Travel Training Coordinator Janet Bilbas returned on July 1 to reach out to senior and disabled residents, the delta variant and spike in cases led to the vulnerable populations being hesitant to get back on transit and paratransit systems.

So far, this fiscal year, the program has been limited and involved fewer staff hours than anticipated. Instead of taking transit excursions, the programs has been informing local groups serving senior and disabled residents on how to make sure they can get essential services like medical appointments and groceries. The El Cerrito and San Pablo senior centers continue to deliver meals to people at home, while keeping the doors closed at the seniors centers themselves. In October, staff will present the Board with a more in-depth update on WCCTAC’s travel training efforts.

Low Income Student Bus Pass Program and the 2021 Fall School Year

Since students in West County returned to in-person school this fall, WCCTAC staff and the two school districts in West County rolled out their Measure J-funded student bus pass programs. The West Contra Costa Unified School District (WCCUSD) has the larger of the two programs. Its high school students who qualify for free or reduced cost lunch can obtain free monthly AC Transit or WestCAT youth bus passes.

The John Swett Unified School District (JSUSD) program is designed differently, and Measure J funds are used to help cover the cost of yellow school bus service and defray out-of-pocket expenses for low-income students.

WCCTAC and WCCUSD staff tweaked the program slightly by appointing a person at each high school to hand out bus passes directly to students instead of paying for postage and sending them in the mail. In the near future, staff will bring a more detailed program update to the WCCTAC Board.

Pass2Class is Back



After taking last year off due to COVID-19 related school closures, the TDM program's Pass2Class is back with some slightly changed rules. This year the program is giving two months' worth of passes to up to two children per household. The program has rebranded to Pass2Class countywide, as similar programs in other parts of the County used to be called by other names.

In West County, parents/guardians can choose either AC Transit or WestCAT 31-day passes for their students. As of September 7, over 900 students have received passes, which is comparable to prior years of Pass2Class. The application, available in Spanish and English, will remain open through September. www.pass2class.org

Bike Education Classes



The 511 Contra Costa TDM program will be providing a free class called, "Bike Commuting Basics and Street Riding Safety", this fall. The classes will be hosted online, taught by a League of American Bicyclists Certified Instructor, and will cover how to commute to work using pedal power.

The classes, each one session, will be offered on Wednesday, October 20 at 6:30pm and Saturday, October 23 at 10am. For more information and to register visit

<https://511contracosta.org/biking/#classes>

This Page Intentionally Blank

General Ledger Monthly Budget Report

User: juned
 Printed: 9/9/2021 12:02:28 PM
 Period 01 - 02
 Fiscal Year 2022



Account Number	Description	Adopted	Budget Adjustments	Adjusted	YTD Actual	Variance Encumbered	Available	% Avail
7700	WCCTAC Operations							
770-7700-41000	Salary	538,707.00	0.00	538,707.00	52,121.07	486,585.93	486,585.93	90.32
770-7700-41200	PERS Retirement	0.00	0.00	0.00	45,669.98	-45,669.98	-45,669.98	0.00
770-7700-41310	Medical Insurance	0.00	0.00	0.00	6,965.39	-6,965.39	-6,965.39	0.00
770-7700-41311	Retiree Healthcare	0.00	0.00	0.00	167.30	-167.30	-167.30	0.00
770-7700-41400	Dental	0.00	0.00	0.00	388.32	-388.32	-388.32	0.00
770-7700-41500	Flexible Spending Account	0.00	0.00	0.00	960.00	-960.00	-960.00	0.00
770-7700-41800	LTD Insurance	0.00	0.00	0.00	335.86	-335.86	-335.86	0.00
770-7700-41900	Medicare	0.00	0.00	0.00	754.77	-754.77	-754.77	0.00
770-7700-41901	Other Insurances	0.00	0.00	0.00	8,204.76	-8,204.76	-8,204.76	0.00
770-7700-41904	Life Insurance	0.00	0.00	0.00	104.60	-104.60	-104.60	0.00
770-7700-41911	Liability Insurance	5,175.00	0.00	5,175.00	0.00	5,175.00	5,175.00	100.00
	Salary and Benefits	543,882.00	0.00	543,882.00	115,672.05	428,209.95	428,209.95	78.73
770-7700-43500	Office Supplies	4,800.00	0.00	4,800.00	189.90	4,610.10	4,610.10	96.04
770-7700-43501	Postage	1,500.00	0.00	1,500.00	150.06	1,349.94	1,349.94	90.00
770-7700-43520	Copies/Printing/Shipping/Xerox	3,800.00	0.00	3,800.00	524.37	3,275.63	3,275.63	86.20
770-7700-43600	Professional Services	59,085.00	0.00	59,085.00	8,211.18	50,873.82	50,873.82	86.10
770-7700-43900	Rent/Building	23,025.00	0.00	23,025.00	3,371.52	19,653.48	19,653.48	85.36
770-7700-44000	Special Department Expenses	10,000.00	0.00	10,000.00	0.00	10,000.00	10,000.00	100.00
770-7700-44320	Travel/Training Staff	4,800.00	0.00	4,800.00	0.00	4,800.00	4,800.00	100.00
	Service and Supplies	107,010.00	0.00	107,010.00	12,447.03	94,562.97	94,562.97	88.37
7700	Expense	650,892.00	0.00	650,892.00	128,119.08	522,772.92	522,772.92	80.32
	WCCTAC Operations	650,892.00	0.00	650,892.00	128,119.08	522,772.92	522,772.92	80.32
7720	WCCTAC TDM							
772-7720-41000	Salary	317,825.00	0.00	317,825.00	24,319.35	293,505.65	293,505.65	92.35
772-7720-41200	PERS Retirement	0.00	0.00	0.00	32,955.71	-32,955.71	-32,955.71	0.00
772-7720-41310	Medical Insurance	0.00	0.00	0.00	3,363.74	-3,363.74	-3,363.74	0.00
772-7720-41400	Dental Insurance	0.00	0.00	0.00	204.59	-204.59	-204.59	0.00
772-7720-41800	LTD Insurance	0.00	0.00	0.00	119.66	-119.66	-119.66	0.00
772-7720-41900	Medicare	0.00	0.00	0.00	350.24	-350.24	-350.24	0.00
772-7720-41901	Other Insurances	0.00	0.00	0.00	8,204.75	-8,204.75	-8,204.75	0.00
772-7720-41904	Life Insurance	0.00	0.00	0.00	27.54	-27.54	-27.54	0.00

Account Number	Description	Adopted	Budget Adjustments	Adjusted	YTD Actual	Variance	Encumbered	Available	% Avail
772-7720-41911	Liability Insurance <i>Salary and Benefits</i>	5,175.00 323,000.00	0.00 0.00	5,175.00 323,000.00	0.00 69,545.58	5,175.00 253,454.42	0.00 0.00	5,175.00 253,454.42	100.00 78.47
772-7720-43300	MembershipsSubscriptions	200.00	0.00	200.00	0.00	200.00	0.00	200.00	100.00
772-7720-43500	Office Supplies	5,000.00	0.00	5,000.00	0.00	5,000.00	0.00	5,000.00	100.00
772-7720-43501	TDM Postage	0.00	0.00	0.00	150.06	-150.06	0.00	-150.06	0.00
772-7720-43502	TDM Postage	1,100.00	0.00	1,100.00	0.00	1,100.00	0.00	1,100.00	100.00
772-7720-43520	CopiesPrintingShippingXerox	18,900.00	0.00	18,900.00	524.37	18,375.63	0.00	18,375.63	97.23
772-7720-43600	Professional Services	71,900.00	0.00	71,900.00	7,231.68	64,668.32	0.00	64,668.32	89.94
772-7720-43900	RentBuilding	23,025.00	0.00	23,025.00	3,371.50	19,653.50	0.00	19,653.50	85.36
772-7720-44000	Special Department Expenses	117,939.00	0.00	117,939.00	65,673.05	52,265.95	29,376.00	22,889.95	19.41
772-7720-44320	TravelTraining Staff	1,000.00	0.00	1,000.00	0.00	1,000.00	0.00	1,000.00	100.00
	<i>Service and Supplies</i>	239,064.00	0.00	239,064.00	76,950.66	162,113.34	29,376.00	132,737.34	55.52
7720	Expense WCCTAC TDM	562,064.00	0.00	562,064.00	146,496.24	415,567.76	29,376.00	386,191.76	68.71
7730	STMP								
773-7730-41000	Salary	65,000.00	0.00	65,000.00	0.00	65,000.00	0.00	65,000.00	100.00
	<i>Salary and Benefits</i>	65,000.00	0.00	65,000.00	0.00	65,000.00	0.00	65,000.00	100.00
773-7730-44000	Special Department Expense	6,950,000.00	0.00	6,950,000.00	0.00	6,950,000.00	0.00	6,950,000.00	100.00
	<i>Service and Supplies</i>	6,950,000.00	0.00	6,950,000.00	0.00	6,950,000.00	0.00	6,950,000.00	100.00
7730	Expense STMP	7,015,000.00	0.00	7,015,000.00	0.00	7,015,000.00	0.00	7,015,000.00	100.00
Expense Total		8,227,956.00	0.00	8,227,956.00	274,615.32	7,953,340.68	29,376.00	7,923,964.68	0.9631

General Ledger Monthly Budget Report



User: juned
 Printed: 9/9/2021 11:57:36 AM
 Period 01 - 02
 Fiscal Year 2022

Account Number	Description	Adopted	Budget Adjustments	Adjusted	YTD Actual	Variance	Encumbered	Available	% Avail
0000	Non Departmental								
773-0000-34320	Hercules STMP Fees	0.00	0.00	0.00	-5,744.00	5,744.00	0.00	5,744.00	0.00
773-0000-34330	Richmond STMP Fees	0.00	0.00	0.00	-284,086.36	284,086.36	0.00	284,086.36	0.00
773-0000-34335	San Pablo STMP Fees	0.00	0.00	0.00	-11,762.00	11,762.00	0.00	11,762.00	0.00
	Licenses and Permits	0.00	0.00	0.00	-301,592.36	301,592.36	0.00	301,592.36	0.00
770-0000-39906	Other Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
772-0000-39906	Other Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Miscellaneous Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0000	Revenue	0.00	0.00	0.00	-301,592.36	301,592.36	0.00	301,592.36	0.00
0000	Non Departmental	0.00	0.00	0.00	-301,592.36	301,592.36	0.00	301,592.36	0.00
7700	WCCTAC Operations								
770-7700-34111	Member Contributions	-531,744.00	0.00	-531,744.00	0.00	-531,744.00	0.00	-531,744.00	100.00
	Intergovernmental	-531,744.00	0.00	-531,744.00	0.00	-531,744.00	0.00	-531,744.00	100.00
770-7700-39906	Other Revenue	-86,649.00	0.00	-86,649.00	0.00	-86,649.00	0.00	-86,649.00	100.00
	Miscellaneous Revenue	-86,649.00	0.00	-86,649.00	0.00	-86,649.00	0.00	-86,649.00	100.00
7700	Revenue	-618,393.00	0.00	-618,393.00	0.00	-618,393.00	0.00	-618,393.00	100.00
7700	WCCTAC Operations	-618,393.00	0.00	-618,393.00	0.00	-618,393.00	0.00	-618,393.00	100.00
7720	WCCTAC TDM								
772-7720-33403	Grants	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	100.00
	Grants	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	100.00
7720	Revenue	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	100.00
7720	WCCTAC TDM	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	0.00	-562,064.00	100.00
7730	STMP								
773-7730-34310	County STMP Fees	-100,000.00	0.00	-100,000.00	0.00	-100,000.00	0.00	-100,000.00	100.00
773-7730-34320	Hercules STMP Fees	-446,300.00	0.00	-446,300.00	0.00	-446,300.00	0.00	-446,300.00	100.00
773-7730-34330	Richmond STMP Fees	-100,000.00	0.00	-100,000.00	0.00	-100,000.00	0.00	-100,000.00	100.00
773-7730-34335	San Pablo STMP Fees	-700,000.00	0.00	-700,000.00	0.00	-700,000.00	0.00	-700,000.00	100.00

Account Number Description	Adopted	Budget Adjustments	Adjusted	YTD Actual	Variance Encumbered	Available	% Avail
<i>Licenses and Permits</i>	-1,346,300.00	0.00	-1,346,300.00	0.00	-1,346,300.00	-1,346,300.00	100.00
773-7730-34315 El Cerrito STMP Fees	-246,697.00	0.00	-246,697.00	0.00	-246,697.00	-246,697.00	100.00
773-7730-34325 Pinole STMP Fees	-20,000.00	0.00	-20,000.00	0.00	-20,000.00	-20,000.00	100.00
Grants	-266,697.00	0.00	-266,697.00	0.00	-266,697.00	-266,697.00	100.00
773-7730-36102 Interest - LAIF	-20,000.00	0.00	-20,000.00	0.00	-20,000.00	-20,000.00	100.00
<i>Use of Property and Money</i>	-20,000.00	0.00	-20,000.00	0.00	-20,000.00	-20,000.00	100.00
7730 Revenue STMP	-1,632,997.00	0.00	-1,632,997.00	0.00	-1,632,997.00	-1,632,997.00	100.00
Expense Total	0.00	0.00	0.00	0.00	0.00	0.00	0

TO: WCCTAC Board

DATE: September 17, 2021

FR: Leah Greenblat, Transportation Planning Manager

RE: **STMP Funding Agreements**

REQUESTED ACTION

Adopt Resolutions 21-04, 21-05, and 21-06 authorizing the WCCTAC Executive Director to sign STMP funding agreements with Pinole, El Cerrito, and BART.

DISCUSSION

When the WCCTAC Board allocates STMP funds to local projects it follows with the establishment of funding agreements with the project sponsors.

At its May 28, 2021 meeting, the WCCTAC Board allocated STMP funds to seven projects, as follows in the summary table below:

Sponsor	Project	Board Allocation
BART	El Cerrito Plaza Station, New Fare Gates and Elevator Enclosures	\$750,000
Richmond	Richmond Ferry to Bridge Bicycle Network Improvements	\$241,000
El Cerrito	Del Norte BART TOD Complete Streets	\$1,189,980
Pinole	Appian Way Complete Street Preliminary Engineering	\$100,000
EBRPD	Bay Trail - Pinole Point to Point Wilson	\$500,000
San Pablo	San Pablo Ave. Bridge Replacement and Intersection Realignment	\$668,000
Hercules	RITC-Utility Relocation and Track/Signal design	\$300,000
TOTAL		\$3,748,800

WCCTAC staff and legal counsel have worked with El Cerrito, Pinole, and BART staff to develop funding agreements for their projects. The two city councils (and BART Board) will also need to approve and sign the funding agreements. WCCTAC staff will continue to work with the remaining jurisdictions to develop their funding agreements and will return to the Board with those at a future meeting.

For each funding agreement, staff seeks the Board’s adoption of a resolution, which includes the agreement as an attachment. The resolutions authorize the Executive Director to sign the agreements.

ATTACHMENTS:

- A. Resolution 21-04 City of El Cerrito Del Norte TOD Complete Street Project
- B. Resolution 21-05 City of Pinole's Appian Way Complete Street Design and Engineering Project
- C. Resolution 21-06 BART El Cerrito Plaza Gates and Elevator Enclosures Project

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
RESOLUTION NO. 22-04**

**AUTHORIZING AN ALLOCATION OF SUBREGIONAL
TRANSPORTATION MITIGATION PROGRAM (STMP) FUNDS FROM WCCTAC
TO THE CITY OF EL CERRITO AND AUTHORIZING THE WCCTAC
EXECUTIVE DIRECTOR TO EXECUTE A COOPERATIVE FUNDING
AGREEMENT FOR THE EL CERRITO DEL NORTE TRANSIT ORIENTED
DEVELOPMENT (TOD) COMPLETE STREETS IMPROVEMENT PROJECT IN A
FORM APPROVED BY GENERAL COUNSEL**

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

WHEREAS, the City of El Cerrito 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 15: Del Norte Area TOD Public Infrastructure Improvements; and

WHEREAS, the Subregional Transportation Mitigation Program explicitly allows for funding for Del Norte TOD Complete Streets Improvement Project (the Project); and

WHEREAS, on May 28, 2021, the Board of Directors of WCCTAC approved an allocation of \$1,189,980 in STMP funds to the City of El Cerrito for the Project; and

WHEREAS, WCCTAC staff and City of El Cerrito staff have prepared a Cooperative Funding Agreement to account for this allocation of STMP funds to the City of El Cerrito;

WHEREAS, the City of El Cerrito's City Council plans to consider the Cooperative Funding Agreement at its August 17, 2021 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 the City of El Cerrito in the amount of \$1,189,980 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 September 17, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Chris Kelley, Chair

Attest:

John Nemeth, Executive Director

Approved as to Form:

Kristopher J. Kokotaylo, General Counsel

3203330.1

**COOPERATIVE FUNDING AGREEMENT BETWEEN
WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
AND
City of El Cerrito**

El Cerrito del Norte TOD Complete Streets Improvement Project

This AGREEMENT is made and entered into as of _____, (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 City of El Cerrito, a municipal corporation.

WCCTAC and City of El Cerrito (“Agency”) shall sometimes be referred to collectively herein as the “Parties” and individually 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, as further described in the Scope of Work, attached as Exhibit A, which is incorporated herein (“Project”), 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 May 28, 2021 meeting, the WCCTAC Board of Directors approved an appropriation of one million, one hundred eighty-nine thousand, nine hundred and eighty dollars (\$1,189,980) 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 to perform the work described in the scope of work attached as Exhibit A, and incorporated herein (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 the third anniversary of the Effective Date, and Agency shall complete the work described in Exhibit A 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.
- 1.3 Standard of Performance.** Agency shall perform or cause to be performed all services required in Exhibit A 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 retain only competent personnel to perform the Project to this Agreement. 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.
- 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 may constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. In accordance with California Labor Code Section 1773.2, WCCTAC 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. The Agency, its consultant and contractors engaged in the performance of the Scope of Work described in Exhibit A shall 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 relevant 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, one hundred eighty-nine thousand, nine hundred and eighty dollars, (\$1,189,980) 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 Agreement.

- 2.2 Invoices.** Agency shall submit invoices, not more often than once a 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 Agreement, 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 his 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.** 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. .
- 2.12 Agency Financial Records.** 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 charged to 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.
- 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 WCCTAC. 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.

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 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 WCCTAC receiving a fully executed Agreement from 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.
- 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.
 - c. By mutual consent 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, or by action taken by the WCCTAC Board of Directors to reallocate funds.
- 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.

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
Meyers Nave
1999 Harrison Street, 9th Floor
Oakland, CA 94612

If to Agency:

Karen Pinkos, City Manager
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

- 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 the written approval, 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.
- 3.14 Successors and Assigns.** This Agreement shall be binding upon the successors, assignees, or transferees of WCCTAC or Agency as the case may be. 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. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

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.

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.

City of El Cerrito

**West Contra Costa Transportation
Advisory Committee**

Karen Pinkos, City Manager

John Nemeth, Executive Director

Approved as to Form:

Approved as to Form:

Sky Woodruff, City Attorney

Kristopher Kokotaylo, Legal Counsel

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: *Category 15: Del Norte Area Transit Oriented Development Public Infrastructure Improvements*
5. To use the STMP funds *for construction of the City of El Cerrito Del Norte TOD Complete Streets Improvement Project*
6. To produce or complete *enhanced and new protected crosswalks, new context-sensitive bikeways, and bus boarding islands along with vehicle circulation improvements. Specific improvements are as follows:*
 - *Class IV bikeway on San Pablo Avenue between Knott Avenue and Hill Street*
 - *Class IV bikeway on Cutting Boulevard between I-80 and Ohlone Greenway*
 - *Class IV bikeway on Eastshore Boulevard between Potrero Avenue and San Pablo Avenue*
 - *Class II on San Pablo Avenue between Hill Street and Potrero Avenue*
 - *Class III on Hill Street, Knott Avenue, and San Pablo Avenue north of Knott Avenue*
 - *Protected intersection treatments for bicyclists at San Pablo Avenue/Cutting Boulevard and San Pablo Avenue/Hill Street/Eastshore Boulevard*
 - *New protected crosswalks, to complete crosswalks on all legs of the signalized San Pablo Avenue intersections at Knott Avenue, Cutting Boulevard and Hill Street/Eastshore Boulevard*
 - *Pedestrian hybrid signals at San Pablo Avenue/Wall Avenue and Cutting Boulevard/Peerless Avenue intersection*
 - *High-visibility continental striping, with access provided by directional curb ramps at crosswalks*
 - *Speed tables, or other traffic calming measures, and flashing beacons at crosswalks at the I-80 on-ramps*
 - *In-lane bus boarding islands on San Pablo Avenue and Cutting Boulevard*
 - *Sidewalk improvements with curb extensions at selected locations*
 - *Narrowed travel lanes*

- *Reduction in turning lanes/auxiliary lanes and conversion of one-way to two-way streets provide more direct vehicular access to BART Station and better accommodate all street users*
- *Modification of San Pablo Avenue/Hill Street/Eastshore Boulevard intersection for inbound traffic only (no outbound traffic except for right-turns out) to the shopping center driveway (Peerless Avenue) to better accommodate all street users*
- *Traffic signal optimization on San Pablo Avenue at the intersections of Knott Avenue, Cutting Boulevard, and Hill Street/Eastshore Boulevard to better accommodate all street users, and*
- *Streetscape improvements including pedestrian-level lighting, landscaping, signage, trash and recycling receptacles, benches and bike racks.*

7. To complete the over-all project based on the following initial schedule for the project:

<i>Advertise Construction</i>	<i>Winter 2022-23</i>
<i>Award Contract</i>	<i>Spring 2023</i>
<i>Construction Begin</i>	<i>Spring 2023</i>
<i>Construction Complete</i>	<i>Spring 2024</i>
<i>Project Close-Out</i>	<i>Fall 2024</i>

8. To complete the STMP-funded portion of the project based on the estimated completion date of *September 30, 2024*.

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
RESOLUTION NO. 22-05**

**AUTHORIZING AN ALLOCATION OF SUBREGIONAL
TRANSPORTATION MITIGATION PROGRAM (STMP) FUNDS FROM WCCTAC
TO THE CITY OF PINOLE AND AUTHORIZING THE WCCTAC EXECUTIVE
DIRECTOR TO EXECUTE A COOPERATIVE FUNDING AGREEMENT FOR
THE PINOLE APPIAN WAY COMPLETE STREET PRELIMINARY
ENGINEERING PROJECT IN A FORM APPROVED BY GENERAL COUNSEL**

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

WHEREAS, the City of Pinole 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 2: Appian Way Complete Streets Project; and

WHEREAS, the Subregional Transportation Mitigation Program explicitly allows for funding for Appian Way Complete Street Preliminary Engineering Project (the Project); and

WHEREAS, on May 28, 2021, the Board of Directors of WCCTAC approved an allocation of \$100,000 in STMP funds to the City of Pinole for the Project; and

WHEREAS, WCCTAC staff and City Pinole staff have prepared a Cooperative Funding Agreement to account for this allocation of STMP funds to the City of Pinole;

WHEREAS, the City of Pinole's City Council 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 the City of Pinole in the amount of \$100,000 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 September 17, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Chris Kelley, Chair

Attest:

John Nemeth, Executive Director

Approved as to Form:

Kristopher J. Kokotaylo, General Counsel

3203330.1

**COOPERATIVE FUNDING AGREEMENT BETWEEN
WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
AND
City of Pinole**

Appian Way Complete Streets Preliminary Engineering Project

This AGREEMENT is made and entered into as of _____, (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 City of Pinole, a municipal corporation/special district/etc.

WCCTAC and City of Pinole (“Agency”) shall sometimes be referred to collectively herein as the “Parties” and individually 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, as further described in the Scope of Work, attached as Exhibit A, which is incorporated herein (“Project”), 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 May 28, 2021 meeting, the WCCTAC Board of Directors approved an appropriation of one hundred thousand dollars (\$100,000) 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 to perform the work described in the scope of work attached as Exhibit A, and incorporated herein (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 the third anniversary of the Effective Date, and Agency shall complete the work described in Exhibit A 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.
- 1.3 Standard of Performance.** Agency shall perform or cause to be performed all services required in Exhibit A 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 retain only competent personnel to perform the Project to this Agreement. 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.
- 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 may constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. In accordance with California Labor Code Section 1773.2, WCCTAC 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. The Agency, its consultant and contractors engaged in the performance of the Scope of Work described in Exhibit A shall 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 relevant 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 hundred thousand dollars, (\$100,000) 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 Agreement.

- 2.2 Invoices.** Agency shall submit invoices, not more often than once a 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 Agreement, 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 his 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.** 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.
- 2.12 Agency Financial Records.** 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 charged to 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.
- 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 WCCTAC. 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.

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 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 WCCTAC receiving a fully executed Agreement from 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.
- 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.
 - c. By mutual consent 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, or by action taken by the WCCTAC Board of Directors to reallocate funds.
- 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.

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
Meyers Nave
1999 Harrison Street, 9th Floor
Oakland, CA 94612

If to Agency:

Andrew Murray, City Manager
City of Pinole
2131 Pear Street
Pinole, CA 94564

- 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 the written approval, 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.
- 3.14 Successors and Assigns.** This Agreement shall be binding upon the successors, assignees, or transferees of WCCTAC or Agency as the case may be. 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. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

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.

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.

City of Pinole

**West Contra Costa Transportation
Advisory Committee**

Andrew Murray, City Manager

John Nemeth, Executive Director

Approved as to Form:

Approved as to Form:

Eric Casher, Legal 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: *Category 2: Appian Way Complete Streets Project*
5. To use the STMP funds *to advance towards construction Pinole's Appian Way Complete Streets Project between Michael Drive and Allview Avenue*
6. To produce or complete *preliminary design, community outreach, utility coordination, environmental and final design.*
7. To complete the over-all project based on the following initial schedule for the project:

<i>Preliminary Engineering Start:</i>	<i>August 2021</i>
<i>Preliminary Engineering Complete:</i>	<i>October 2021</i>
<i>Utility and Environmental Start:</i>	<i>September 2021</i>
<i>Utility and Environmental Complete:</i>	<i>February 2022</i>
<i>Final Design Start:</i>	<i>January 2022</i>
<i>Final Design Complete:</i>	<i>March 2022</i>
<i>Plans, Specifications, and Estimate (PSE):</i>	<i>April 2022</i>
<i>Construction Begins:</i>	<i>Pending securing funds</i>
<i>Opening to Public:</i>	<i>To be determined</i>

8. To complete the STMP-funded portion of the project based on the estimated completion date of *April 30, 2022.*

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
RESOLUTION NO. 22-06**

**AUTHORIZING AN ALLOCATION OF SUBREGIONAL
TRANSPORTATION MITIGATION PROGRAM (STMP) FUNDS FROM WCCTAC
TO THE SAN FRANCISCO BAY AREA TRANSIT DISTRICT (BART) AND
AUTHORIZING THE WCCTAC EXECUTIVE DIRECTOR TO EXECUTE A
COOPERATIVE FUNDING AGREEMENT FOR THE EL CERRITO PLAZA
STATION, NEW FARE GATES AND ELEVATOR ENCLOSURES PROJECT IN A
FORM APPROVED BY GENERAL COUNSEL**

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

WHEREAS, BART 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 14: West County BART Station Access, Parking and Capacity Improvements Project; and

WHEREAS, the Subregional Transportation Mitigation Program explicitly allows for funding for El Cerrito Plaza Station, New Fare Gates and Elevator Enclosures Project (the Project); and

WHEREAS, on May 28, 2021, the Board of Directors of WCCTAC approved an allocation of \$750,000 in STMP funds to BART for the Project; and

WHEREAS, WCCTAC staff and BART staff have prepared a Cooperative Funding Agreement to account for this allocation of STMP funds to BART;

WHEREAS, BART's Board of Directors 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 BART in the amount of \$750,000 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 September 17, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Chris Kelley, Chair

Attest:

John Nemeth, Executive Director

Approved as to Form:

Kristopher J. Kokotaylo, General Counsel

3203330.1

**COOPERATIVE FUNDING AGREEMENT BETWEEN
WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
AND
San Francisco Bay Area Rapid Transit District**

**El Cerrito Plaza Station Modernization and Capacity Enhancements: New Fare Gates and
Elevator Enclosures Project**

This AGREEMENT is made and entered into as of _____, (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 San Francisco Bay Area Rapid Transit District (BART), a municipal corporation/special district/etc.

WCCTAC and BART (“Agency”) shall sometimes be referred to collectively herein as the “Parties” and individually 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, as further described in the Scope of Work, attached as Exhibit A, which is incorporated herein (“Project”), 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 May 28, 2021 meeting, the WCCTAC Board of Directors approved an appropriation of seven hundred fifty thousand dollars (\$750,000) 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 to perform the work described in the scope of work attached as Exhibit A, and incorporated herein (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 the third anniversary of the Effective Date, and Agency shall complete the work described in Exhibit A 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.
- 1.3 Standard of Performance.** Agency shall perform or cause to be performed all services required in Exhibit A 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 retain only competent personnel to perform the Project to this Agreement. 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.
- 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 may constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. In accordance with California Labor Code Section 1773.2, WCCTAC 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. The Agency, its consultant and contractors engaged in the performance of the Scope of Work described in Exhibit A shall 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 relevant 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 seven hundred fifty thousand dollars, (\$750,000) 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 Agreement.

- 2.2 Invoices.** Agency shall submit invoices, not more often than once a 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 Agreement, 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 his 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.** 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.
- 2.12 Agency Financial Records.** 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 charged to 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.
- 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 WCCTAC. 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.

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 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 WCCTAC receiving a fully executed Agreement from 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.
- 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.
 - c. By mutual consent 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, or by action taken by the WCCTAC Board of Directors to reallocate funds.
- 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.

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
Meyers Nave
1999 Harrison Street, 9th Floor
Oakland, CA 94612

If to Agency:

Robert Powers, General Manager
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604-2688

- 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 the written approval, 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.
- 3.14 Successors and Assigns.** This Agreement shall be binding upon the successors, assignees, or transferees of WCCTAC or Agency as the case may be. 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. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

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.

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.

BART

**West Contra Costa Transportation
Advisory Committee**

Robert Powers, General Manager

John Nemeth, Executive Director

Approved as to Form:

Approved as to Form:

BART, Legal 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: *Category 14: West County BART Station Access, Parking & Capacity Improvements*
5. To use the STMP funds *for construction of BART El Cerrito Plaza Station Modernization and Capacity Enhancements: New Fare Gates and Elevator Enclosures Project*
6. To produce or complete *the procurement and installation of (i) two new swing barrier style pneumatic fare gates in front of the elevator entrances and (ii) install metal enclosures around the new fare gates and elevator entrances on the Concourse level*
7. To complete the over-all project based on the following initial schedule for the project:

<i>Plans, Specifications, and Estimate (PSE) Start:</i>	<i>May 2021</i>
<i>Procurement & Construction Start:</i>	<i>September 2021</i>
<i>Construction Complete:</i>	<i>March 2022</i>
<i>Opening to Public:</i>	<i>April 2022</i>
8. To complete the STMP-funded portion of the project based on the estimated completion date of *April 30, 2022*.

TO: WCCTAC Board

DATE: September 17, 2021

FR: Joanna Pallock, Program Manager

RE: Fiscal Year 2021-2022 Measure J 20b Funds

REQUESTED ACTION

Approve the annual allocation of Measure J Program 20b funds in the amount of \$633,869 to five West County paratransit operators for services to supplement those funds provided under the Measure J Countywide Program 15.

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 WCCTAC approves Program 20b funds for West County operators. WCCTAC uses about \$14,000 each year from 20b funds to cover staff support, which is not included in the \$633,869 allocation. The details of the allocation are found on the attached chart.

Typically, CCTA and WCCTAC staff request claim forms from each operator, which require explanations of how programs are performing and how operators plan to use program funds in the upcoming year. This year, due to uncertainties created by COVID-19, and since these operators provide essential services to populations disproportionately hard hit by COVID-19 restrictions, the Authority created a simplified claim form.

WCCTAC conducted its own assessment of program performance in FY21, during the COVID-19 pandemic, working closely with city staffs. Services in El Cerrito were mainly focused on meal delivery with relatively few paratransit trips. The City of San Pablo was also focused on meal delivery and used its vehicles to transport people to vaccine and testing sites. The City of Richmond provided paratransit trips, although fewer than in years past. Overall, there was less demand than usual for paratransit trips by seniors and the disabled in West County in the last fiscal year. The City of Richmond also provided subsidies for about 1,166 Lyft trips for ambulatory seniors, although these involved only about 40 unique individuals.

Unlike the programs in El Cerrito and San Pablo, the City of Richmond uses a high share of its Measure J Program 15 and 20b funds for general administrative overhead. This is outside of the cost of paratransit drivers, operating expenses, Lyft subsidies, and the direct management of operations. In the current FY22 budget, over 50% of expenses are indirect costs related to general administration. The guidance established by CCTA for Measure J Program 15 limits the use of funds to 15% of total expenses.

Since WCCTAC and CCTA have not established detailed parameters for the use of Measure J 20b funds and since the City of Richmond's budget for the R-transit program has already been established for the current fiscal year, staff is recommending an allocation to all five providers, based on the established formula.

WCCTAC and CCTA, however, are planning to work together with the City of Richmond, to improve program efficiency. Staff will likely bring Measure J 20b guidelines to the WCCTAC Board for its consideration by the end of this calendar year. The guidelines may mirror some of CCTA's guidelines for Program 15 and could involve limitations on the use of funds for general administration. The would affect local program budgets for the upcoming fiscal year 2023.

ATTACHMENTS:

A: Program 20b FY22 Allocation Chart

PROGRAM: 20b - West County Additional Transportation Services for Seniors and People With Disabilities			FY 2022
Sales Tax Revenue Estimate			\$98,000,000
	%	Year	
Program Revenue Estimate	0.65%		\$637,000
Program Management - WCCTAC			\$ (14,000)
Available for Allocation to Operators (Programmed by WCCTAC)			\$623,000

Agency	Coop #	100% Amount	90% Amount	Allocation Adjustment from FY 2019-20	TOTAL ALLOCATION
City of Richmond	60.00.07	\$272,610	\$245,349	\$4,756	\$277,366
City of El Cerrito	60.00.06	\$46,518	\$41,866	\$812	\$47,330
City of San Pablo	60.00.08	\$83,034	\$74,731	\$1,449	\$84,483
WestCAT	60.00.04	\$95,039	\$85,535	\$1,658	\$96,697
EBPC					
BART	60.00.01	\$38,997	\$35,098	\$680	\$39,678
AC Transit	60.00.02	\$86,801	\$78,121	\$1,514	\$88,315
Total Allocation to Operators		\$623,000	\$560,700	\$10,869	\$633,869
Total Allocation to WCCTAC (Program Management)					\$14,000

This Page Intentionally Blank

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE
RESOLUTION NO. 21-07**

**ADOPTING A CONFLICT OF INTEREST CODE FOR NON-ELECTED
OFFICIALS AND DESIGNATED EMPLOYEES OF THE WEST CONTRA COSTA
TRANSPORTATION ADVISORY COMMITTEE**

WHEREAS, the Political Reform Act of 1972 (Govt. Code § 81000 *et seq.*) requires every local government agency to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, a biennial review of the Conflict of Interest Code is required by state law which may include changes to designated positions and disclosure categories, and thereafter require amendments to the Code and any appendices; and

WHEREAS, the WCCTAC Board of Directors desires to adopt a new Conflict of Interest Code to reflect its current job classifications.

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

1. The Conflict of Interest Code attached hereto as Exhibit A is hereby adopted as the Conflict of Interest Code for Non-Elected Officials and Designated Employees of the West Contra Costa Transportation Advisory Committee.
2. Designated officials, employees and consultants shall file the Form 700 (Statements of Economic Interests) with the Executive Director, and such Forms shall be maintained in the Executive Director's office and retained pursuant to Government Code §§ 1008 and 81009.

The foregoing Resolution was adopted by the WCCTAC Board at a regular meeting on September 17, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Chris Kelley, Chair

Attest:

John Nemeth, Executive Director

Approved as to Form:

Kristopher J. Kokotaylo, General Counsel

3873121.1

**CONFLICT OF INTEREST CODE
OF THE WEST CONTRA COSTA TRANSPORTATION ADVISORY
COMMITTEE**

SECTION 1. Purpose. Pursuant to the provisions of Government Code sections 87300 *et seq.*, the West Contra Costa Transportation Advise Committee (“WCCTAC”) hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the California Political Reform Act of 1974.

SECTION 2. Incorporation of Regulation.

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The California Fair Political Practices Commission adopted a regulation (Title 2 California Code of Regulations section 18730) which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency’s code. Therefore, the terms of Title 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the California Fair Political Practices Commission are hereby incorporated herein by this reference. The provisions of Title 2 California Code of Regulations section 18730 and the provisions below, designating officials and employees and establishing disclosure categories, along with the applicable sections of the California Political Reform Act, shall constitute the Conflict of Interest Code of WCCTAC.

SECTION 3. Designated Positions and Disclosure Categories. The positions listed in this Section 3 are designated positions. Officers and employees holding these positions are designated public officials, and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on an economic interest of the designated public official. Each designated public official shall file an annual statement disclosing that public official’s interests in investments, interests in real property, and business positions held or received during the previous calendar year, as required by the disclosure category applicable to that public official.

<u>Designated Position</u>	<u>Category</u>
Board of Directors Members	1
Executive Director	1
Transportation Planning Manager	1
Project Manager	1
TDM Program Manager	1
Consultant	2

Disclosure Category 1: Persons in this category shall disclose all of the following interests: interests in real property within WCCTAC’s jurisdiction*, investments**, business positions held or received during the previous calendar year, and income—including loans, gifts and travel payments—from all sources.

Disclosure Category 2: Consultants shall disclose all of the interests required to be disclosed pursuant to Disclosure Category 1, subject to the following limitation: The Executive Director may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

*For the purposes of this Conflict of Interest Code, WCCTAC’s jurisdiction is Contra Costa County. An interest in real property is located within the jurisdiction of WCCTAC if any part of the property is located in, or within two miles of, the County.

**When a designated employee is required to disclose investments and sources of income, he or she need only disclose investments in business entities and sources of income which do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is considered to be doing business with the jurisdiction if it owns real property within the jurisdiction.

3873122.1



El Cerrito

Hercules

June 29, 2021

Pinole

Mr. Tim Haile, Executive Director
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

RE: June 2021 WCCTAC Board Meeting Summary

Richmond

Dear Tim:

The WCCTAC Board, at its meeting on June 25, 2021, took the following actions that may be of interest to CCTA:

San Pablo

1. Approved the FY 2022 Allocation of Measure J 21b Funds (Safe Transportation for Children) to John Swett Unified School District (JSUSD).
2. Adopted Resolution 21-02, approving the FY 2022 Work Program, Budget, and Dues.
3. Adopted Resolution 21-03, WCCTAC's Updated Salary Schedule for FY 2022.
4. Received an update on the San Pablo Ave. Multimodal Corridor Study, Phase 2.

Contra Costa
County

Please let me know if you have any follow-up questions.

AC Transit

Sincerely,

A handwritten signature in black ink that reads "John Nemeth". The signature is written in a cursive, flowing style.

John Nemeth
Executive Director

BART

cc: Tarienne Grover, CCTA

WestCAT

This Page Intentionally Blank

ACRONYM LIST. Below are acronyms frequently utilized in WCCTAC communications.

ABAG: Association of Bay Area Governments
ACTC: Alameda County Transportation Commission
ADA: Americans with Disabilities Act
APC: Administration and Projects Committee (CCTA)
ATP: Active Transportation Program
AV: Autonomous Vehicle
BAAQMD: Bay Area Air Quality Management District
BATA: Bay Area Toll Authority
BCDC: Bay Conservation and Development Commission
Caltrans: California Department of Transportation
CBTP: Community Based Transportation Plan
CCTA: Contra Costa Transportation Authority
CEQA: California Environmental Quality Act
CIL: Center for Independent Living
CMAAs: Congestion Management Agencies
CMAQ: Congestion Management and Air Quality
CMIA: Corridor Mobility Improvement Account (Prop 1B bond fund)
CMP: Congestion Management Program
CSMP: Corridor System Management Plan
CTC: California Transportation Commission
CTP: Contra Costa Countywide Comprehensive Transportation Plan
CTPL: Comprehensive Transportation Project List
DEIR: Draft Environmental Impact Report
EBRPD: East Bay Regional Park District
EIR: Environmental Impact Report
EIS: Environmental Impact Statement
EVP: Emergency Vehicle Preemption (traffic signals)
FHWA: Federal Highway Administration
FTA: Federal Transit Administration
FY: Fiscal Year
HOV: High Occupancy Vehicle Lane
ICM: Integrated Corridor Mobility
ITC or RITC: Hercules Intermodal Transit Center
ITS: Intelligent Transportations System
LOS: Level of Service (traffic)
MOU: Memorandum of Understanding
MPO: Metropolitan Planning Organization
MTC: Metropolitan Transportation Commission
MTSO: Multi-Modal Transportation Service Objective

NEPA: National Environmental Policy Act
O&M: Operations and Maintenance
OBAG: One Bay Area Grant
PAC: Policy Advisory Committee
PASS: Program for Arterial System Synchronization
PBTF: Pedestrian, Bicycle and Trail Facilities
PC: Planning Committee (CCTA)
PCC: Paratransit Coordinating Committee (CCTA)
PDA: Priority Development Areas
PSR: Project Study Report (Caltrans)
RHNA: Regional Housing Needs Allocation (ABAG)
RPTC: Richmond Parkway Transit Center
RTIP: Regional Transportation Improvement Program
RTP: Regional Transportation Plan
RTPC: Regional Transportation Planning Committee
SCS: Sustainable Communities Strategy
SHPO: State Historic and Preservation Office
SOV: Single Occupant Vehicle
STA: State Transit Assistance
STIP: State Transportation Improvement Program
STMP: Subregional Transportation Mitigation Plan
SWAT: Regional Transportation Planning Committee for Southwest County
TAC: Technical Advisory Committee
TCC: Technical Coordinating Committee (CCTA)
TDA: Transit Development Act funds
TDM: Transportation Demand Management
TFCA: Transportation Fund for Clean Air
TEP: Transportation Expenditure Plan
TLC: Transportation for Livable Communities
TOD: Transit Oriented Development
TRANSPAC: Regional Transportation Planning Committee for Central County
TRANSPLAN: Regional Transportation Planning Committee for East County
TSP: Transit Signal Priority (traffic signals and buses)
VMT: Vehicle Miles Traveled
WCCTAC: West County Costa Transportation Advisory Committee
WETA: Water Emergency Transportation Authority