

Agreement No. _____

**COOPERATIVE AGREEMENT
BETWEEN**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION AND THE
CITY OF BEAUMONT**

**FOR THE SR-60/POTRERO BOULEVARD INTERCHANGE PHASE II PROJECT
PLANS, SPECIFICATIONS, AND ESTIMATES AND RIGHT OF WAY PHASES**

1. Parties and Date. This Cooperative Agreement is made and entered into this ____ day of _____, 2024 (“Effective Date”), by and between the Riverside County Transportation Commission (“RCTC”) and the City of Beaumont (“City”). RCTC and the City are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

2. Recitals.

2.1 The City is undertaking the SR-60 Potrero Boulevard Interchange Phase II Project, which includes the design and construction of a six ramp, partial cloverleaf interchange (“Project”). The City has engaged the services of an architectural and engineering consultant to prepare the plans, specifications and estimates (“PS&E”) for the Project (the “PS&E Consultant”).

2.2 The City is currently working to complete the PS&E phase of the Project, which includes preparation and management of the PS&E final design (“PS&E Phase”); and the right-of-way (“ROW”) phase of the Project, which includes right-of-way management, right-of-way acquisitions, and right-of-way utility coordination (ROW Phase”).

2.3 In order to meet funding deadlines, the City has requested that RCTC serve as the lead agency for the PS&E Phase and ROW Phase (collectively, “PS&E and ROW Phases”), with the City to provide support and to fund all costs incurred by RCTC for the PS&E and ROW Phases including, but not limited to, RCTC staff and consultant project management costs, ROW acquisition costs and legal services.

2.4 RCTC has agreed to act as the lead agency for the PS&E and ROW Phases. The City shall continue to be the contracting entity under the professional services agreement with the PS&E Consultant.

2.5 The Parties anticipate entering into a future amendment to this Cooperative Agreement to include the construction phase of the Project.

2.6 The Project is located adjacent to and within the jurisdictional boundaries of the City and may require improvements to streets within the City.

2.7 RCTC shall be the direct recipient of any federal and state funds provided for the Project, and shall utilize the funding disbursed by Caltrans solely for the Project.

3. Terms.

3.1 Estimated Cost of PS&E and ROW Phases. The Parties estimate that the total cost for the PS&E and ROW Phases to be incurred by RCTC, including, but not limited to, RCTC staff and consultant project management costs, ROW acquisition costs, legal services, outreach costs, and other direct costs (but excluding the PS&E Consultant costs, which are not covered under this Cooperative Agreement) shall be Five Million, Seven Hundred Six Thousand Dollars (\$5,706,000) ("Estimated PS&E and ROW Phase Costs"). The Estimated PS&E and ROW Phase Costs are further detailed in Exhibit A attached to this Cooperative Agreement and incorporated herein by reference.

3.2 PS&E and ROW Phases of Work.

A. RCTC shall be the lead agency for the PS&E and ROW Phases. All costs and expenses incurred by RCTC for the PS&E and ROW Phases shall be reimbursed by the City using local funding sources, or such other funding sources available to the City. The Parties agree that RCTC shall not have any obligation to fund the PS&E or ROW Phases using its own funds. In the case that funds in addition to the funding amount specified in Section 3.1 above are needed to complete the PS&E and ROW Phases, the City shall be responsible for identifying and obtaining such additional funding. Allocation of additional funding shall be by amendment to this Cooperative Agreement or by separate agreement.

B. RCTC shall manage the PS&E Consultant and shall complete such other work and services required for the PS&E and ROW Phases within the term of this Cooperative Agreement, as provided in Section 3.3, unless extended by mutual agreement of the Parties.

3.3 Term of Agreement. The term of this Cooperative Agreement shall extend from the Effective Date and shall remain in effect through December 31, 2030, or until written agreement by the Parties that the PS&E and ROW Phases have been completed, unless earlier terminated as provided in this Cooperative Agreement.

3.4 Cooperation. RCTC and the City agree to cooperate in the development of the PS&E and ROW documents required for Project, completion of the PS&E and ROW Phases, and the implementation of this Cooperative Agreement.

3.5 Reporting. RCTC shall, in a timely manner, provide milestone reports to the City, detailing the progress of the PS&E and ROW Phases.

3.6 Obligations of the City.

A. RCTC shall submit invoices no less frequently than quarterly in any quarter in which reimbursable expenses are incurred but not to exceed once per month. The City shall timely review and pay approved invoices

Commented [MM1]: the project has TUMF Regional funds of \$8M (from RCTC) for CON, TUMF Zone (\$250k) funds from WRCOG(?) for PE, and city funds (\$6.2M) on CON not sure how those will flow to us. So something to maybe ask Anne about. in other agreements we include a funding plan as an exhibit, might want to consider adding that.

Commented [DL2R1]: thanks for the feedback. ill add a funding exhibit

within thirty (30) days. The City shall promptly notify RCTC of any disputed charges.

- B. The City may provide a City oversight engineer or other City staff to oversee any PS&E Phase or ROW Phase work or services at its own cost.
- C. At the request of RCTC, and subject to the City's reasonable discretion, the City shall exercise any rights of the City as the contracting entity under the PS&E Consultant contract.
- D. The City shall process any City encroachment permits required for the PS&E and ROW Phases at no cost to RCTC or its consultant(s) provided that RCTC or the consultant(s), as the case may be, submits a complete application for such encroachment permits consistent with City's requirements. The determination on whether the application is complete and whether an encroachment permit may be issued shall be made by the City in its sole and absolute discretion pursuant to its municipal code, policies, procedures, and any other applicable law.
- E. The City shall timely review design plans for the Project including, but not limited to, the PS&E and ROW documents and provide any approvals or comments within thirty (30) days of receipt of the plans. If the City fails to provide any comments or its approval within said time period, RCTC shall provide notice to the City Engineer of the City that the design plans or construction documents shall be deemed approved by the City if no comments are received within an additional 15 days. The CITY shall inspect any other PS&E or ROW Phases work or services upon written notice of completion of the work or services by RCTC to the City, and shall timely provide approval or identify any nonconformities identified by the City within thirty (30) days, or such other reasonable period requested by RCTC.
- F. The City shall not allow any encroachment within the City's right of way if such encroachment may interfere with the Project or the Project construction, without first coordinating the same with the Contractor and RCTC.
- G. The City shall not take any action with the intent or effect of unnecessarily impacting the timely implementation of the Project by RCTC.
- G. The City shall work cooperatively, and shall provide prompt responses and assistance to RCTC to ensure the timely completion of the PS&E and ROW Phases.
- H. The City shall promptly exercise all rights it may have, or shall assist RCTC in exercising rights on behalf of the City, under any franchise

agreements or Caltrans Master Agreements for utilities that require relocation or protection for the Project.

3.7 Obligations of RCTC

- A. RCTC shall serve as the lead agency for the PS&E and ROW Phases. RCTC shall be responsible for obligating state or federal funds, to the extent applicable; procuring, retaining and overseeing consultant(s) as required or reasonably necessary for completion of the PS&E and ROW Phases; and managing the PS&E Consultant.
- B. As part of managing the PS&E Consultant, RCTC shall review PS&E Consultant invoices and submit approved invoices to the City for payment by the City directly to the PS&E Consultant.
- C. RCTC shall provide the City an opportunity to review and approve all design and construction documents for the Project prior to finalization of such design document for the Project for public bidding purposes.
- D. RCTC shall invoice the City for PS&E and ROW Phases expenses, incurred in accordance with this Cooperative Agreement, no less frequently than quarterly in any quarter in which reimbursable expenses are incurred, but not to exceed once per month. Invoices submitted to the City shall be in a form and include such detail as reasonably requested by the City.
- E. To the extent applicable, RCTC shall be the direct recipient of any federal and state funds to be provided for the Project, and shall invoice Caltrans for Project costs at minimum once every six months, or as otherwise required by Caltrans.
- F. RCTC shall create any necessary Project records, reports and financial accounts to permit disbursement of allocated funds to RCTC, and shall ensure, to the extent applicable, that federal and state reporting requirements are met.
- G. [As of the Effective Date](#), RCTC shall be solely responsible and liable for [ensuring that the PS&E and ROW phases are completed in](#) compliance with all applicable federal and state rules and regulations to ensure future federal funding eligibility of the Project.
- H. RCTC shall process any required FTIP amendments.
- I. Additional ROW Phase Obligations.

1. RCTC is responsible for all ROW work required for the Project except as expressly set forth in this Cooperative Agreement.

2. RCTC shall make all necessary arrangements with utility owners for the timely accommodation, protection, relocation, or removal of any existing utility facilities that conflict with construction of the Project.

3. RCTC shall provide City a copy of conflict maps, relocation plans, proposed notices to owner, reports of investigation, and utility agreements (if applicable) for City's concurrence prior to issuing the notices to owner and executing the utility agreement. All utility conflicts will be fully addressed prior to ROW certification and all arrangements for the protection, relocation, or removal of all conflicting facilities will be completed prior to construction contract award and included in the Project plans, specifications, and estimate.

4. RCTC will provide a land surveyor licensed in the State of California to be responsible for surveying and right-of-way engineering. All survey and right-of-way engineering documents will bear the professional seal, certificate number, registration classification, expiration date of certificate, and signature of the responsible surveyor.

5. Acquisition of ROW will not occur prior to the approval of the environmental document without written approval from the CEQA lead agency for the Project.

6. RCTC will utilize a properly licensed consultant for all ROW activities. RCTC shall provide the City with copies of appraisal reports and acquisition documents upon request. RCTC will prepare ROW certification prior to advertising the construction contract. Physical and legal possession of the ROW must be completed prior to advertising the construction contract, unless Parties mutually agree to other arrangements in writing.

7. RCTC shall be the lead agency on eminent domain activities, if required for the Project.

8. Title to any property to be transferred to City by RCTC shall be free of all encumbrances and liens, except as to those items which City agrees are not in conflict with use of the property for roadway purposes. Upon acceptance, RCTC will provide City with a policy of title insurance in City's name.

3.8 Mutual Indemnification.

A. RCTC shall, at its sole cost and expense, indemnify, defend and hold the City, its officials, officers, employees, consultants and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, judgments, penalties, damages or injuries, in law or in equity, to property or persons, including wrongful death, whether actual, alleged or threatened, which arise in any manner out of, pertain to, or relate to, in whole or in part, to any negligent acts, omissions or breach of law, recklessness, or willful misconduct of RCTC, its officials, officers,

employees, agents, consultants or contractors in the performance of RCTC's obligations under this Cooperative Agreement, including but not limited to the payment of expert witness fees and reasonable attorneys' fees and costs.

B. The City shall, at its sole cost and expense, indemnify, defend and hold RCTC and its officials, officers, employees, consultants and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, judgments, penalties, damages or injuries, in law or in equity, to property or persons, including wrongful death, whether actual, alleged or threatened, which in any manner arise out of, pertain to, or relate to, in whole or in part, to any negligent acts, omissions or breach of law, recklessness, or willful misconduct of City, its officials, officers, employees, agents, consultants or contractors in the performance of City obligations under this Cooperative Agreement, including but not limited to the payment of expert witness fees and reasonable attorneys' fees and costs.

3.9 Amendments. The terms and conditions of this Cooperative Agreement shall not be altered or modified at any time except by a written amendment executed by the mutual consent of the Parties by an instrument in writing.

3.10 Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of either Party shall be deemed to waive or render unnecessary such Party's consent to or approval of any subsequent act of the other Party. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Cooperative Agreement.

3.11 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Cooperative Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Funding Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

3.12 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Cooperative Agreement, shall survive any such expiration or termination.

3.13 RCTC Disclaimer. In no event shall RCTC be responsible or liable for the quality, suitability, operability or condition of any design or construction by the Project consultants or the contractor, as applicable, and RCTC expressly disclaims any and all express or implied representations or warranties with respect thereto, including any warranties of suitability or fitness for use.

3.14 Third Party Beneficiaries. There are no third-party beneficiaries to this Cooperative Agreement.

3.15 Termination. Any Party may terminate this Cooperative Agreement by giving thirty (30) days written notice thereof.

3.16 Assignment or Transfer. The Parties shall not assign, hypothecate, or transfer, either directly or by operation of law, this Cooperative Agreement or any interest herein without the prior written consent of the other Parties. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.17 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation

3.18 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

To RCTC: Riverside County Transportation Commission
4080 Lemon Street, Third Floor
P.O. Box 12008
Riverside, CA 92502-2208
Attention: Executive Director

Copy to: Best, Best & Krieger, LLP
3390 University Ave. 5fl.
Riverside, CA 92501
Attention: Steven C. DeBaun

To City: City of Beaumont
550 E. 6th Street
Beaumont, CA 92223
Attention: Director of Public Works | City Engineer

Copy to:
Attention: City Attorney

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

3.19 Time of Performance. Time is of the essence in the performance of this Agreement.

3.20 Governing Law. This Agreement is in all respects governed by California law and venue for any dispute shall be in Riverside County.

3.21 Insurance. The Parties each verify that they are self-insured or maintain insurance coverage through a Joint Powers Authority in reasonable and customary amounts for their respective operations.

3.22 Authority to Enter into Agreement. Each Party warrants that the individuals who have signed this Cooperative Agreement have the legal power, right and authority to make this Cooperative Agreement and bind each respective Party.

3.23 Counterparts. This Cooperative Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

3.24 Electronically Transmitted Signatures; Electronic Signatures. A manually signed copy of this Cooperative Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Cooperative Agreement for all purposes. This Cooperative Agreement may be signed using an electronic signature.

3.25 Entire Agreement. This Cooperative Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Agreement on the date first herein above written.

[Signatures on following page]

**SIGNATURE PAGE
TO
SR-60/POTRERO BOULEVARD INTERCHANGE PROJECT PLANS,
SPECIFICATIONS, AND ESTIMATES AND RIGHT OF WAY PHASES
COOPERATIVE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Agreement as of the Effective Date.

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

By: _____
Anne Mayer, Executive Director

CITY OF BEAUMONT

By: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP
Counsel to RCTC

APPROVED AS TO FORM:

By: _____
Title: _____

ATTEST:

By: _____
Title: _____

EXHIBIT "A"

PS&E Phase and ROW Phase Cost Estimate Breakdown

RCTC staff/Bechtel/legal support during PSE and ROW phases	\$1,153,000
Right of Way expenses	\$4,553,000
Total	\$5,706,000