

**MEASURE K RENEWAL COOPERATIVE AGREEMENT (C-25-072)
FOR THE SR-120 / AIRPORT WAY DIVERGING DIAMOND
INTERCHANGE (DDI) PAED**

This Cooperative Agreement ("Agreement") is made and entered into this 1st day of May 2025, by and between the City of Manteca ("Sponsor") and the SAN JOAQUIN COUNCIL OF GOVERNMENTS, acting as the Local Transportation Authority ("Authority").

RECITALS

WHEREAS Authority and Sponsor desire to enter into a Cooperative Agreement for funding of transportation improvements in San Joaquin County pursuant to the authority provided by San Joaquin County Local Transportation Improvement Plan and Ordinance ("LTIP"), which was approved by the voters of San Joaquin County on November 7, 2006; and

WHEREAS Sponsor desires to receive funding from the Authority for the particular transportation improvement project specified herein ("Project"); and

WHEREAS the Project is eligible for funds (as specified in the Measure K Renewal Strategic Plan) from the **CONGESTION RELIEF, REGIONAL ARTERIAL** funding category of the LTIP; and

WHEREAS the Authority is authorized under the LTIP to issue Measure K Renewal funds to Sponsor for \$1,500,000, for the Project as estimated by the Sponsor in Exhibit "A"; and

WHEREAS the Sponsor estimates the total Project budget is \$1,500,000, of which the Measure K Renewal portion is \$1,500,000 (100% of budget) during this period as specified in Exhibit "A"; and

WHEREAS Authority expects that the Sponsor will supplement Measure K Renewal funds with available revenues. The Use of Funds is for operating costs only and not approved for capital; and

WHEREAS, Authority shall issue reimbursement payments as provided in Section 2.1 to Sponsor over the course of the Project and such funds shall be released to Sponsor pursuant to a request for reimbursement submitted by the Sponsor; however, the Sponsor understands that in no event shall reimbursement payments, when aggregated with previously approved reimbursement requests, exceed the Measure K Renewal commitment set forth in the Project Cooperative Agreement of \$1,500,00; and

WHEREAS Sponsor agrees to abide by the terms and conditions of the Authority as set forth herein for the receipt of Measure K Renewal funds; and

WHEREAS Authority agrees to provide funding for the transportation improvements of the Sponsor's Project according to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant, and agree as follow:

AGREEMENT

SECTION I **Covenants of Sponsor**

1.1. Project Application. The Project description, scope of work, delivery schedule, corridor-specific cost by activity, anticipated amount and type of funds that will supplement Measure K Renewal funds, and the anticipated timing for release of Measure K Renewal funds and the Measure K Renewal "not to exceed" amount are specified in Exhibit "A," and incorporated herein by this reference.

1.2. Change in Project Scope. A change in the Project scope as described in Exhibit "A" may not be implemented until it has been approved in writing by the Authority.

1.3. Major Change in Operating Project. Any change, as described below, to the Operating Project shall be considered a major change to the Project and may not be implemented without prior written notification to the Authority. Such notification shall be made within 30 days of the implementation of such major changes. "Major changes" to an Operating Project are defined as any of the following:

- i. Any permanent change that increases fares.
- ii. Any permanent change that results in a 25 percent or more reduction of the number of daily transit revenue vehicle miles of a route for the day(s) of the week for which the change is made; or
- iii. Any permanent changes that result in a 25 percent or more reduction of the number of transit route miles of a route.

1.4. Minor Changes in Operating Project(s). A minor change in fare or service of an operating project does not require that the Authority be notified. Examples of minor changes would be temporarily reduced or promotional fares, minor reroutes or minor schedule changes. Experimental or emergency service or fare changes expected to exist fewer than 180 days and standard seasonal in service are also exempt from notification requirement unless these changes continue more than 180 days.

1.5. Eligible Reimbursement Costs. Eligible reimbursement costs shall be those

costs as defined by the statutes, rules and regulations of the Federal Transit Administration and State of California, for Projects as specified and approved in the Project Cooperative Agreement or as may be approved from time to time by the Authority pursuant to Section 1.2. In no event shall expenses incurred prior to July 1, 2023, be considered eligible reimbursement costs.

1.6. Measure K Renewal Percentage Share Defined. For this Project, the estimated Measure K Renewal percentage share of eligible reimbursements shall not exceed the project total cost of \$1,500,000 or 100%, whichever is the lower of the actual costs.

1.7. Invoices and Progress Reports. Starting one month after the execution of this contract, Sponsor shall provide progress reports and may provide invoices as often as monthly for activities conducted over the prior unbilled month(s). These documents shall include the following specified information:

1.7.a. Operating Expenses. Sponsor may include in operating expense invoices both direct and indirect costs relating to the Project and shall include in such invoices expense classifications such as Salaries and Wages, Fringe Benefits, Services, Materials and Supplies, Utilities, Insurance, Taxes, Purchased Transportation, Miscellaneous Expense and Local Depreciation.

1.7.b. Annual Progress Reports. The progress reports shall include a brief description of the status of the Project and the work completed to date. The progress report shall include year-to-date Passengers, Revenue Miles, Revenue Hours, Passengers per Revenue Hour, Farebox Recovery Ratio and On-Time Performance Data summarized by service type. This progress report will be included with invoices submitted to the Authority.

1.8. Use of Funds. Sponsor shall use Measure K Renewal funds consistent with Project scope of work, as described in "Exhibit A" or approved by the Authority pursuant to Section 1.2.

1.9. Submittal of Bid Documents. All transit operations contracts entered into pursuant to this operations funding agreement shall follow a competitive bidding process or give justification for using a sole source in a manner substantially similar to that described in the *San Joaquin Council of Governments Financial Management & Accounting Processing Manual*. When the contract is awarded, Sponsor shall provide to the Authority one (1) copy of the bid tabulation, and the bid schedule of the successful bidder, complete with unit prices and total award amount. All awarded contracts shall include performance bonds, labor and material bonds, a provision for liquidated damages, and may include any other penalty clauses for nonperformance of the contract. Sponsor shall provide copies to the Authority of all other executed contracts which relate to the Project scope, as described in Exhibit "A" or approved by

the Authority pursuant to Section 1.2. Sponsor shall retain records pertaining to the Project for a four (4) year period following completion of the Project.

1.10. Completion of Project. Sponsor shall be responsible for the timely completion of the Project and to provide management of consultant and contractor activities, including responsibility for schedule, budget, and oversight of the services, consistent with the scope of work. The Co-operative agreement end date is June 30, 2027. Within 30 days of its adoption, Sponsor shall copy and forward to the Authority the resolution certifying that the Project has been accepted as completed.

1.11. Provisions of Signs. Sponsor shall install signs approved by the Authority consistent with the specifications set forth in Exhibit "B" of this Agreement, attached hereto and incorporated herein by this reference. A sign which is at least 8.5" by 11" shall be posted in the interior of at least the number of busses for which Measure K Renewal operating funds have been provided, as indicated in the corresponding Project Cooperative Agreement. Such signs will remain posted for the duration of time Measure K Renewal is funding operations.

SECTION II Covenants of Authority

2.1. Reimbursement Payments. The Authority shall make reimbursement payments to Sponsor for all eligible Project cost. To receive monthly reimbursement payments for work completed on the Project, Sponsor shall comply with the following reimbursement procedures:

2.1.a. Deadline to Submit Reimbursement Request. All invoices and progress reports shall be submitted to Authority on or before 5:00 p.m. on the tenth (10th) calendar day of the month in which the Sponsor requests reimbursement payments. Authority shall issue reimbursement payments to Sponsor on or before the last day of the month for all timely submittals.

2.1.b. Late Submittals. If Sponsor fails to submit documents to Authority as set forth in Section 2.1.a. above, then Authority shall provide reimbursement payments for late submittals in the following calendar month.

2.1.c. Ineligible Costs. The Authority reserves the right to adjust current or future reimbursement payments to Sponsor if an invoice includes ineligible costs.

2.1.d. Reimbursement Amount. The amount of reimbursement payments to Sponsor shall be equivalent to the Measure K Renewal percentage share for each invoice submitted to the Authority. The reimbursement percentage share for this Project shall not exceed 100% of the total project costs and available Measure K Renewal funds

per fiscal year as specified in Exhibit "A".

2.1.e. Suspension of Reimbursement. Reimbursement payments for the item(s) in question shall be suspended when a dispute arises as to whether or not the cost item(s) is eligible for reimbursement.

2.1.e.(1) Meeting: Once a dispute has occurred, the Authority shall arrange a meeting between the Authority and the Sponsor's staff to discuss and attempt to resolve the dispute. If the invoice was received on or before 5:00 p.m. on the 10th day of the month, the meeting shall be held no later than the 20th day of the same month. If the invoice was received after this date and time, then the meeting shall be held no later than the 20th day of the following month.

2.1.e.(2) Technical Advisory Committee. If an agreement cannot be reached at the meeting, then the Sponsor or the Authority shall have the option to take the dispute to the Authority's Technical Advisory Committee, with the understanding that by doing so the reimbursement for the disputed cost item(s) will be delayed until a resolution of the matter is reached.

2.1.e.(3) Board Decision. If the Sponsor or the Authority disagrees with the resolution by the Technical Advisory Committee, then the dispute shall be submitted to the San Joaquin Council of Governments Board for resolution. If the Board determines that the disputed cost item(s) is ineligible, the Authority shall not provide reimbursement payment to the Sponsor for the disputed item(s). If the Board determines that the disputed cost item(s) is eligible, then the Authority shall provide reimbursement payment to the Sponsor for the disputed cost.

2.1.e.(4) Reservation of Rights. By utilizing the above procedures, the Sponsor does not surrender any rights to pursue available legal remedies if the Sponsor disagrees with the Board decision.

2.1.f. Acceptance of Work Does Not Result in Waiver. Reimbursement payments do not result in a waiver of the right of the Authority to require fulfillment of all terms of this Agreement.

2.2. Right to Conduct Audit. The Authority shall have the right to conduct an audit of all Sponsor's records pertaining to the Project at any time during the four (4) year period after completion of the Project.

SECTION III

Manual Covenants

3.1. Term. This Agreement shall remain in effect until discharged or terminated

as provided in Section 3.2 or Section 3.14.

3.2 Discharge. This Agreement shall be subject to discharge as follows:

3.2.a. Breach of Obligation. If a party believes that the other is in breach of this agreement, that party shall provide written notice to the breaching party and the written notice shall identify the nature of the breach. The breaching party shall have thirty (30) days from the date of notice to initiate steps to cure any breach that is reasonably capable of being cured. 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. If the non-breaching party is not satisfied that there has been a cure by the end of the time for cure, the non-breaching party may seek available legal remedies.

3.2.b. Termination by Mutual Consent. This Agreement may be terminated at any time by mutual consent of the parties.

3.2.c. Discharge Upon Completion of Project. Except as to any rights or obligations which survive discharge as specified in Section 3.13, this Agreement shall be discharged, and the parties shall have no further obligation to each other, upon completion of the Project as certified by the Authority.

3.3. Indemnity. It is mutually understood and agreed, relative to the reciprocal indemnification of Authority and Sponsor:

3.3.a. That neither That neither Authority, nor any officer or employee thereof, shall be responsible for, and Sponsor shall fully defend, indemnify, and hold harmless Authority against any damage or liability occurring by reason of anything done or omitted to be done by Sponsor under the Agreement. It is also fully understood and agreed that pursuant to Government Code Section 895.4, Sponsor shall fully defend, indemnify, and hold the Authority harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Sponsor under this Agreement or in connection with any work, authority, or jurisdiction delegated to Sponsor under this Agreement.

3.3.b. That neither Sponsor nor any officer or employee thereof, shall be responsible for, and Authority shall fully defend, indemnify, and hold harmless Sponsor against, any damage or liability occurring by reason of anything done or omitted to be done by Authority under or in connection with any work, authority or jurisdiction delegated to Authority under the Agreement. It is also understood and agreed that pursuant to Government Code Section 895.4, Authority shall fully defend, indemnify and hold the Sponsor harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Authority under this Agreement or in connection with any work, authority, or jurisdiction delegated to Authority under this Agreement.

3.4. Notices. Any notice which may be required under this Agreement shall be in writing and shall be given by personal service, or by certified or registered mail, return receipt requested, to the addresses set forth below:

TO AUTHORITY:

Diane Nguyen, AICP
Executive Director
San Joaquin County
Transportation Authority
555 E. Weber Avenue
Stockton, CA 95202
nguyen@sjcog.org

TO SPONSOR:

Toni Lungren
City Manager
City of Manteca
1001 W. Cener Street
Manteca, CA 95337
tlundgren@manteca.gov

Either party may change its address by giving notice of such change to the other party in the manner provided in this Section 3.4. All notices and other communications shall be deemed communicated as of actual receipt or after the second business day after deposit in the United States mail.

3.5 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 the Agreement.

3.6 Integration. This Agreement represents the entire Agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

3.7 Amendment. This Agreement may not be changed, modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

3.8 Independent Agency. Sponsor renders its services under this Agreement as an independent agency and the Authority is also an independent agency under the Agreement. None of the Sponsor's agents or employees shall be agents or employees of the Authority and none of the Authorities' agents or employees shall be agents or employees of Sponsor.

3.9 Assignment. The Agreement may not be assigned, transferred, hypothecated, or pledged by any party without the express written consent of the other party.

3.10 Binding on Successors. This Agreement shall be binding upon the

successor(s), assignee(s) or transferee(s) of the Authority or as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this Agreement other than as provided above.

3.11 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; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

3.12 Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by all the parties; each counterpart shall be deemed an original, but all counterparts shall constitute a single document.

3.13 Survival. The following provisions in this Agreement shall survive discharge:

3.13.a. Sponsor. As to Sponsor, the following sections shall survive discharge: Section 1.6 (obligation to apply funds to Project), Section 1.7 (obligation to provide copies and retain records), Section 1.8 (obligation to continue to manage Project).

3.13.b. Authority. As to Authority, the following section shall survive discharge: Section 2.2 (right to conduct audit).

3.13.c. Both Parties. As to both parties, the following sections shall survive discharge: Section 3.2.a. (obligation which survives termination), and Section.

3.14 Limitation. All obligations of Authority under the terms of this Agreement are expressly contingent upon the Authority's continued authorization to collect and expend the sales tax proceeds provided by Measure K Renewal. If for any reason the Authority's right or ability to collect or expend such sales tax proceeds is terminated or suspended in whole or part so that it materially affects the Authority's ability to fund the project, the Authority shall promptly notify Sponsor, and the parties shall consult on a course of action. If, after twenty-five (25) working days, a course of action is not agreed upon by the parties, this Agreement shall be deemed terminated by mutual or joint consent. Any future obligation to fund this project or any other project or projects of Sponsor, not already specifically covered by separate Agreement, shall arise only upon execution of a new Agreement.

3.15. Attorney's Fees. Should any litigation commence between the parties concerning the rights and duties of any party pursuant to, related to, or arising from, this Agreement, the prevailing party in such litigation shall be entitled, in addition

to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees and costs of such litigation, or in a separate action brought for that purpose.

3.16. Time. Time is and shall be of the essence of this Agreement and each and all of its provisions in which performance is a factor.

3.17. Remedies Cumulative. No remedy or election of remedies provided for in this Agreement shall be deemed exclusive but shall be cumulative with all other remedies at law or in equity. Each remedy shall be construed to give the fullest effect allowed by law.

3.18. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

3.19. Captions. The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement and shall not affect the Project or interpretation of any of its provisions.

3.20. No Continuing Waiver. The waiver by any party of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same, or of any other provision of this Agreement.

3.21. No Rights in Third Parties. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any third party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party to any party to this Agreement, nor shall any provision of this Agreement give any third party any right of subrogation or action over or against any party to this Agreement.

3.22. Signator's Warranty. Each party warrants to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the day and year first mentioned above upon the execution of this Agreement by each other party.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

CITY OF MANTECA

SAN JOAQUIN COUNTY
TRANSPORTATION AUTHORITY

By: _____
TONI LUNGREN
City Manager

By: _____
PAUL AKINJO
Chair

ATTEST:

By: _____
CASSANDRA CANDINI-TILTON
City Clerk

By: _____
DIANE NGUYEN, AICP
Executive Director

APPROVED AS TO FORM:

By: _____
DANIELLA G GREEN
City Attorney

By: _____
GRACE OROSCO
Interim Deputy Director of Finance &
Administration

EXHIBIT A**City of Manteca
SR-120 / Airport Way DDI PAED**

1. Project Names, Locations: SR-120 / Airport Way DDI PAED, SR-120 and Airport Way, Manteca, CA
2. Measure K Strategic Plan Project ID Number: RA22

3. Project Sponsor, Contact Person, Phone Number, e-mail:

City of Manteca
Somporn Boonsalat
Deputy Director of Public Works - Engineering
(209) 456-8429
sboonsalat@ci.manteca.ca.us

4. Project Scope of Work:

The City of Manteca proposes to reconstruct the interchange of SR 120 and Airport Way.

5. Expected Time of Delivery of Overall Project (indicate if task is already completed and phasing of the project):

	<u>Start Date</u>	<u>Completion Date</u>
Project Study Report (Complete)	01/01/2023	05/01/2025
Preliminary Design/ Environmental (PAED)	07/01/25	12/01/26
Final Design	N/A	N/A
Right of Way Acquisition	N/A	N/A
Construction	N/A	N/A

6. Estimated Project Cost (as applicable for each of the phases described above):

	FY 24/25	FY 25/26	FY 26/27	FY 27/28	Total
PAED	\$0	\$500,000	\$1,000,000	\$0	\$1,500,000

7. Measure K Renewal Percentage Share and Measure K Renewal Not to Exceed Amount:

	FY 24/25	FY 25/26	FY 26/27	FY 27/28
Percent of Costs	0%	33%	67%	0%
Measure K Renewal Not to Exceed Amount	\$0	\$500,000	\$1,000,000	\$0

8. Source(s) and Amount(s) of Matching Funds:

	FY 24/25	FY 25/26	FY 26/27	FY 27/28	Total
Local	\$0	\$0	\$0	\$0	\$0
State	\$0	\$0	\$0	\$0	\$0
Federal	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0

9. Funding Summary:

	FY 24/25	FY 25/26	FY 26/27	FY 27/28	Total
Measure K	\$0	\$500,000	\$1,000,000	\$0	\$1,500,000
Matching Funds	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$500,000	\$1,000,000	\$0	\$1,500,000