

FUNDING AGREEMENT FOR MIDTOWN TRAIL PROJECT

This AGREEMENT, entered into effective on _____, 2016, is between the Fresno County Transportation Authority, a body politic duly organized and existing under the laws of the State of California, referred to herein as "AUTHORITY," and the City of Fresno, referred to herein as "CITY."

RECITALS

1. The 2006 Measure "C" Extension Expenditure Plan, referred to herein as the "PLAN," allocated a specified portion of Measure C tax revenues to the "Alternative Transportation Program" for the stated purpose of rail consolidation; provided, however, that the PLAN further specified that, if commencement of construction for said purpose was not imminent within 15 years following passage of the Measure, then Alternative Transportation Program funds "would revert to grade separation projects" as more thoroughly set forth in Appendix E to the PLAN.
2. CITY has developed, as a result of coordinated efforts involving other agencies and trail advocates, a Midtown Trail Project ("PROJECT"), the intent of which is to construct approximately 7.1 miles of bicycle and pedestrian trails, providing connections to the Fresno Area Express hub at Manchester Center and the Clovis Old Town Trail.
3. Because the estimated cost of PROJECT is approximately \$9.5 million it would take several years to deliver the PROJECT using CITY's annual Measure "C" Local Transportation Program - Pedestrian/Trails funding allocations, even in conjunction with such additional funding sources as may be available.
4. Based on CITY's belief that the community would benefit greatly from completing the trail loop at the earliest possible date, CITY has requested that AUTHORITY provide a loan to CITY from the Alternative Transportation Program / Rail Consolidation Fund (hereinafter "ATP/RC Fund"), to be repaid, together with interest, by withholding CITY's Measure "C" Local Transportation Program – Pedestrian/Trails funding allocations until the loan has been repaid in full.

5. City has successfully secured additional grant funding from alternative sources to finance a significant portion of the PROJECT, which resulted in CITY'S ultimately requesting that AUTHORITY provide a loan to CITY from the ATP/RC Fund, in the amount of \$4,600,000, to be repaid, together with interest, by withholding CITY's Measure "C" Trails funding allocation during the four-year period from FY 2017/18 through FY 2020/21.
6. On May 25, 2016, AUTHORITY's Board approved the loan concept for this PROJECT, directing staff to include in the loan agreement certain terms and conditions as provided herein, and expressly stating that such approval was not intended to establish a precedent for subsequent use of the ATP/RC Fund as a source of funding for loans to expedite the delivery of projects generally.
7. The loan proposal as approved by AUTHORITY's Board contemplates, and the terms and conditions of this Agreement accordingly require, repayment in full to the "Alternative Transportation Program" prior to the date specified in the PLAN for the funding in such Program to "revert to grade separation projects," as hereinafter more thoroughly set forth.

SECTION I

AUTHORITY AGREES:

1. To loan to CITY, from the ATP/RC Fund, the sum of Four Million Six Hundred Thousand Dollars (\$4,600,000). The loan will be repaid with interest to recapture all interest earnings that would have been earned if the funds had remained deposited in the ATP/RC Fund. The interest charged will be based on the quarterly interest earnings of the Fresno County Pooled Funds for each of the quarters during which the loan remains outstanding. The loan will remain outstanding until all principal and accrued interest has been paid in full.
2. To withhold from CITY the CITY's monthly revenue allocations for CITY's Measure "C" Local Transportation Program - Pedestrian/Trails pass-through funding (hereinafter "Trails Funding Allocation"), for each of the four (4) fiscal years beginning with FY 2017/18 through and including FY 2020/21. At each quarter end the principal and interest amounts owed by CITY hereunder will be calculated and the amount of CITY's cumulative Trails Funding Allocation for that quarter shall be transferred accordingly into the ATP/RC Fund account, thereby reducing the loan balance.

3. To report to CITY the status and/or balance of the outstanding loan, upon request by CITY.
4. To credit any funds refunded by CITY, as a result of either lower than anticipated PROJECT costs or CITY's acquisition of additional alternative source of funding, against the outstanding principal and interest amounts owed to the ATP/RC Fund and to deposit such refunds into the ATP/RC Fund account.

SECTION II

CITY AGREES:

1. To transfer to AUTHORITY all of CITY's rights to claim CITY's future Measure "C" Trails Funding Allocations otherwise made available to CITY by the PLAN, for and throughout each of the four (4) fiscal years beginning with FY 2017/18 through and including FY 2020/21, for the purpose of having AUTHORITY apply those funds toward satisfaction of CITY's obligations for repayment of principal and interest on the loan created under Section I of this Agreement.
2. To utilize the funding advanced by AUTHORITY to CITY as a loan under Section I of this Agreement to diligently pursue completion of the PROJECT.
3. To report the status of the PROJECT to the AUTHORITY upon request.
4. To maintain all financial records of payments from funds loaned pursuant to Section I of this Agreement and make them available for audit at any time.
5. To refund to AUTHORITY any unused balance of the funds loaned to CITY under Section I hereinabove that remain unused by CITY upon completion and acceptance by CITY of the PROJECT.
6. To the extent any portion of CITY's loan repayment obligation, including all unpaid principal and accrued interest thereon, will not be fully satisfied as of June 30, 2021 by application of the cumulative sum of CITY's withheld Measure "C" Trails Funding Allocations throughout the four-year period encompassing FY 2017/18 through 2020/21, inclusive, it shall be the responsibility of CITY to ensure that repayment of any such remaining

balance, including all unpaid principal and accrued interest thereon, is repaid to AUTHORITY in full, by appropriate check or warrant from CITY, and made payable and delivered to AUTHORITY on or before the due date of June 30, 2021.

SECTION III

IT IS MUTUALLY AGREED:

1. It is specifically understood and agreed between the parties that, if CITY does not provide to AUTHORITY repayment in full, including all principal and accrued interest thereon, of any portion of its loan obligation by the due date of June 30, 2021, then an amount equivalent to the amount of the outstanding loan balance, including interest that remains unpaid as of June 30, 2021, shall be withheld by AUTHORITY from CITY's Local Transportation Pass-Through Funds, Flexible Funding Category, until such time as CITY has fully satisfied its loan repayment obligations pursuant to this Agreement.
2. In the absence of any subsequent amendment to this Agreement providing to the contrary, AUTHORITY's commitment to advance the principal amount of the loan made by the Authority to CITY under Section I of this Agreement shall be the Authority's sole obligation to CITY in connection with the PROJECT.
3. This Agreement shall not be modified except by formal written amendment, duly executed by each of the parties hereto.
4. This Agreement shall terminate following completion of PROJECT and payment of all principal and interest obligations created under the terms of this Agreement, or on June 30, 2027, whichever is earlier in time.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

FRESNO COUNTY TRANSPORTATION AUTHORITY

BY _____
ERNEST BUDDY MENDES
Chairman Pro Tempore, Fresno County Transportation Authority

REVIEWED AND RECOMMENDED
FOR APPROVAL:

BY _____
DIANA SEDIGH-DARBANDI, Interim Executive Director
Fresno County Transportation Authority

APPROVED AS TO LEGAL FORM:
DANIEL C. CEDERBORG, County Counsel

BY _____
MICHAEL E. ROWE, Senior Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM

BY _____
VICKI CROW, C.P.A., Auditor-Controller/Treasurer-Tax Collector

(To be inserted when finalized by FCTA Contracts Administrator)

CITY OF FRESNO
a California municipal corporation

BY _____
Scott Mozier

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
City Attorney's Office

By: _____
TRACY N. PARVANIAN
Deputy