

**JOINT EXERCISE OF POWERS AGREEMENT
FOR
CAPITAL AREA REGIONAL TOLLING AUTHORITY**

THIS JOINT EXERCISE OF POWERS AGREEMENT ("Agreement"), is made and entered as of the ____ day of _____, 2024, by and between the Yolo County Transportation District (YoloTD), the Sacramento Area Council of Governments (SACOG), and the California Department of Transportation (CALTRANS), for the purpose of creating a multi-county entity that will develop and operate toll facilities throughout the region.

In adopting this Agreement and forming the Authority, the initial Members intend to create a mechanism to enable additional regional stakeholders as Members, including but not limited to the Placer County Transportation Planning Agency (PCTPA), the El Dorado County Transportation Commission (EDCTC), and public agencies within Sacramento County.

RECITALS

- A. The Joint Exercise of Powers Act (California Government Code Section 6500 et seq., the "Act") authorizes the Members to enter into an agreement for the joint exercise of any power common to them and, by that agreement, create an entity that is separate from each of the Members.
- B. Pursuant to Streets and Highways Code section 149.7, a joint exercise of powers authority, with the consent of the Regional Transportation Planning Agency, may apply to the California Transportation Commission ("CTC") to develop and operate high-occupancy toll lanes or other toll facilities, including but not limited to the administration and operation of value pricing programs and exclusive or preferential lane facilities for public transit or freight.
- C. YoloTD and CALTRANS are pursuing the Yolo 80 Corridor Improvements Project, which includes, among other improvements, the construction of toll lanes in both the eastbound and westbound direction of Interstate 80 in Yolo County. Additionally, future toll facilities may be constructed in other counties within the Sacramento region.
- D. SACOG serves as the metropolitan planning organization for the six counties within the region and, in this capacity, SACOG adopts a metropolitan transportation plan and sustainable communities strategy that establish transportation and land use planning goals to meet state and federal mandates, including state-mandated greenhouse gas reduction targets and federal Clean Air Act requirements, which policies include the support for implementation of toll facilities.

- E. SACOG serves as the Regional Transportation Planning Agency for the Counties of Yolo and Sacramento (as well as the Counties of Sutter and Yuba) and is, therefore, the regional governmental entity that must submit, or consent to submitting, an application to the CTC for tolling authority within these counties.
- F. Placer County Transportation Planning Agency and El Dorado County Transportation Commission serve as the Regional Transportation Planning Agencies for Placer County and El Dorado County, respectively, and are therefore the regional governmental entities that must submit, or consent to a joint powers agency submitting, an application to the CTC for tolling authority in their respective Counties.
- G. Transportation corridors serve constituents and customers from all areas of the region and beyond, and thus having a regional tolling authority governed by stakeholders from throughout the region will enable implementation of toll lanes in a manner that is consistent, equitable, innovative, collaborative, and economical.
- H. YoloTD's and CALTRANS's Yolo 80 Corridor Improvements Project presents an opportunity for development of the first toll lanes in the region, and the creation of a regional tolling authority will enable collaboration in the development of both this initial toll project and future toll projects within the region.
- I. By this Agreement, the Members intend to create a joint powers agency to apply to the CTC to develop and operate tolling facilities within the Project; to potentially share in the development and operation of potential future toll lanes in the greater region; and to exercise the powers described herein and as provided by law (including but not limited to California Streets and Highways Code Section 149.7, as it now exists and may hereafter be amended).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Members agree as follows:

ARTICLE 1 ESTABLISHMENT

There is hereby created an organization known and denominated as the Capital Area Regional Tolling Authority (Authority) which shall be a public entity, separate and apart from any Member. The Authority shall be governed by the terms of this Joint Powers Agreement and the Rules, duly passed and adopted by the Board.

ARTICLE 2

AUTHORITY AND DEFINITIONS

Section 2.0 – Authority

This Agreement is entered into pursuant to the authority in Title 1, Division 7, Chapter 5 of the Government Code (commencing with Section 6500 et seq.) of the State of California.

Section 2.1 – Definitions

The following words or terms shall have the meaning ascribed to them within this Section unless the content of their use dictates otherwise:

- a. "Act" means the Joint Exercise of Powers Act of the State of California, California Government Code Section 6500 et seq., as they now exist or may hereafter be amended.
- b. "Agreement" means this Joint Exercise of Powers Agreement.
- c. "Authority" means the Capital Area Regional Tolling Authority established by this Agreement as authorized by California Government Code Section 6503.5.
- d. "Board" means the Board of Directors of the Capital Area Regional Tolling Authority.
- e. "Controller" means the Controller of the Authority designated pursuant to this Agreement.
- f. "CTC" means the California Transportation Commission.
- g. "Director" means a member of the Board of Directors of the Authority.
- h. "Fiscal Year" means July 1st through June 30th, or such other period as the Board may specify by resolution.
- i. "Gross Revenues" means all revenues received by the Authority for the operations of the toll lanes, including but not limited to tolls and interest on funds of the Authority.
- j. "Joint Facilities" means all facilities, equipment, resources, and property to be managed and operated by the Authority and, if and when acquired or constructed, any improvements and additions thereto and any additional facilities or property acquired or constructed by the Authority or any of the Members related to toll lanes in the region.
- k. "Member" means the parties to this Agreement, including any entities that become a party to this Agreement after its initial effective date.

- l. "Metropolitan Transportation Plan" or "MTP" means the long-range transportation plan that is required under federal law pursuant to 23 U.S.C § 134.
- m. "Regional Transportation Plan" or "RTP" means the regional transportation plan that is required under state law pursuant to Government Code section 65080
- n. "Regional Transportation Planning Agency" or "RTPA" means the agency designated under Government Code section 29532 or 29532.1 for regional transportation planning.
- o. "Secretary" means the secretary of the Authority appointed pursuant to this Agreement.
- p. "Section 149.7" means section 149.7 of the Street and Highways Code, as may be amended, revised, or renumbered from time to time.
- q. "State" means the State of California.
- r. "Sustainable Communities Strategy" or "SCS" means the strategy each MPO in California is required to develop as part of an RTP pursuant to California Government Code Section 65080.
- s. "Treasurer" means the Treasurer of the Authority designated pursuant to this Agreement.

ARTICLE 3 GENERAL PROVISIONS

Section 3.1 – Capital Area Regional Tolling Authority

- a. Pursuant to Section 6503.5 of the Act, the parties to this Agreement hereby recognize and confirm the continued existence of a public entity separate and independent from the Members.
- b. Within thirty (30) days after the effective date of this Agreement, and after any amendment, the Authority must cause a notice of such Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by the Act.
- c. Within thirty (30) days after the effective date of this Agreement, and after any amendment, the Authority must cause a copy of such Agreement or amendment to be filed with the State Controller pursuant to the Act.
- d. Within ten (10) days after the effective date of this Agreement, the Authority must cause a statement of the information concerning the Authority, required by the Act,

to be filed with the office of the California Secretary of State and with the County Clerk, amending and clarifying the facts required to be stated pursuant to the Act.

Section 3.2 – Purpose

The purpose of the Authority is to exercise the common powers of the Members to:

- a. Plan, design, finance, construct, own, manage, operate, and maintain the Joint Facilities under authorities such as Section 149.7;
- b. Collect toll and any other revenues generated by the Joint Facilities;
- c. Implement the financing, acquisition, and construction of additions and improvements to the Joint Facilities;
- d. Enter into and manage contracts, which may include but are not limited to the following, for the operations, maintenance, enforcement of the Joint Facilities, and for professional services;
- e. Oversee operation of the Joint Facilities;
- f. Make policy decisions related to the toll lane operations, including but not limited to setting tolls to cover costs (operating and maintaining facility; administering system; contract costs) and setting revenue generation targets;
- g. Prepare and adopt the plan for expenditure of toll lane revenues within the corridor in which they are collected;
- h. Implement or contract for implementation of such expenditure plan;
- i. Create and implement an equity program associated with toll lanes, if desired; and
- j. Issue and repay indebtedness of the Authority.

Each of the Members is authorized to exercise all such powers (except the power to issue and repay indebtedness of the Authority) pursuant to its organic law, and the Authority is authorized to issue and provide for the repayment of indebtedness pursuant to the provisions of the Bond Law or other applicable law.

Section 3.3 – Term

This Agreement is effective upon the approval and execution by YoloTD and SACOG. The Effective Date of this Agreement is , 2024. This Agreement will continue in effect until such time as all of the following have occurred: (i) all indebtedness, if any, and the interest thereon issued by the Authority under the Bond Law, the Act, or other applicable law have been paid in full or provision for such payment have been made, (ii) the Authority and the Members have paid all sums due and owing pursuant to this Agreement or pursuant to any

contract executed pursuant to this Agreement, and (iii) dissolution has occurred pursuant to Section 4.3.

ARTICLE 4

POWERS AND OBLIGATIONS OF AUTHORITY

Section 4.1 – General Powers

The Authority will have the power in its own name to exercise any and all common powers of its Members reasonably related to the purposes of the Authority, including, but not limited to, the powers to:

- a. Seek, receive, and administer funding from any available public or private source, including toll and any other revenues and grants or loans under any available federal, state, and local programs for assistance in achieving the purposes of the Authority;
- b. Contract for the services of engineers, attorneys, planners, financial, and other necessary consultants, and/or other public agencies;
- c. Make and enter into any other contracts;
- d. Employ agents, officers, or employees;
- e. Adopt and utilize a fictitious business name or other trademarks;
- f. Acquire, lease, construct, own, manage, maintain, dispose of, or operate (subject to the limitations herein) any buildings, works, or improvements, including but not limited to the Joint Facilities;
- g. Acquire, hold, manage, maintain, or dispose of any other property by any lawful means, including without limitation gift, purchase, lease, lease-purchase, license, or sale;
- h. Incur all authorized Indebtedness;
- i. Receive gifts, contributions, and donations of property, funds, services, and other forms of financial or other assistance from any source;
- j. Sue and be sued in its own name;
- k. Seek the adoption or defeat of any federal, state, or local legislation or regulation necessary or desirable to accomplish the stated purposes and objectives of the Authority;
- l. Adopt rules, regulations, policies, plans, programs, bylaws, and procedures governing the operation of the Authority and the Joint Facilities;

- m. Invest any money in the treasury pursuant to California Government Code Section 6505.5 that is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to California Government Code Section 53601, as it now exists or may hereafter be amended;
- n. With the consent of the appropriate Regional Transportation Planning Agency, apply to the CTC to develop and operate toll facilities consistent with the applicable MTP, SCS, and RTP;
- o. Enter into memoranda of understanding, intergovernmental agreements, joint powers agreements, and other similar agreements with Members and other governmental agencies to delineate respective responsibilities for planning, environmental, funding, design, construction, implementation, and similar activities for the development and completion of projects that will involve tolling;
- p. Carry out and enforce all the provisions of this Agreement; and
- q. Exercise all other powers not specifically mentioned herein, but common to the Members, and authorized by California Government Code Section 6508 as it now exists or may hereafter be amended.

Section 4.2 – Specific Powers and Obligations

- a. Audit. The records and accounts of the Authority must be audited annually by an independent certified public accountant, and copies of such audit report must be filed with the State Controller and the County Auditor and will be provided to each Member no later than fifteen (15) days after receipt of such audit reports by the Authority. If not otherwise required by law, regulation, or any contract, the Board of Directors may, by unanimous vote, replace the annual audit with an audit covering up to a two-year period.
- b. Securities. The Authority may use any statutory power available to it under the Act and any other applicable laws of the State of California, whether heretofore or hereinafter enacted or amended, for issuance and sale of any Bonds or other evidences of indebtedness necessary or desirable to finance the exercise of any power of the Authority, and may borrow from any source including, without limitation, the federal government, for these purposes.
- c. Liabilities. The debts, liabilities, and obligations, whether contractual or non-contractual, of the Authority will be the debts, liabilities, and obligations of the Authority alone, and not the debts, liabilities, or obligations of the Members or their member entities. The Authority is not liable for the debts, liabilities, or obligations of its Members, including debts, liabilities, or obligations incurred prior to the Effective Date of this Agreement or prior to the Member joining the Authority.

- d. Manner of Exercise. For purposes of California Government Code Section 6509, the powers of the Authority will be exercised subject to the restrictions upon the manner of exercising such powers as are imposed upon SACOG.
- e. Restrictions. The Authority shall only engage in activities, including construction, operations, and ownership of real property, related to tolling, the operation of toll lanes, or the Joint Facilities. This limitation shall not preclude the Authority from expending toll revenues on corridor enhancement or similar projects, or for any other purpose allowed by law for the use of toll revenues. However, the Authority shall not expend toll revenues, or any other Authority funds, for any purpose that is inconsistent with the applicable MTP, SCS or RTP or that would not conform to Clean Air Act requirements. The Authority shall not submit an application to develop and operate toll facilities without the consent of the applicable RTPA to submit the application.
- f. Review of Agreement. This Agreement will be reviewed every four (4) years by the Members, but its terms and conditions may be reviewed more frequently whenever the Members agree to do so. Upon the completion of every such review, the Authority will prepare a report regarding any recommended changes to the Agreement and transmit such report to each of the Members.

Section 4.3 – Dissolution of Authority

- a. Notice of Dissolution. An individual Member can express its intent to dissolve the Authority with at least 12 months' written notice, which dissolution must occur on June 30 of the year that is at least 12 months from the date of notice. An intent to dissolve shall be expressed in a resolution of the Member. This section does not limit dissolution by mutual agreement of all Members.
- b. Agreement with Successor Entity. The Authority cannot be dissolved unless and until a successor entity, qualified by State law then in-effect, has agreed to (i) assume ownership of the Authority's Joint Facilities and other assets, (ii) provide for the assumption or discharge of the Authority's Indebtedness and other liabilities, and (iii) carry out all duties associated with operation and maintenance of the toll lanes and management of the expenditure of the Gross Revenues. Such agreement must be expressed in a contract between the successor entity, the Authority, and all Members. This subsection shall not apply if a successor entity would serve no purpose.

ARTICLE 5

ORGANIZATION, GOVERNANCE, AND FUNCTIONS OF AUTHORITY

Section 5.1 – Members

- a. Initial Members. The initial Members will be YoloTD, SACOG and CALTRANS.
[CALTRANS shall be a *[Either: nonvoting Member or voting Member. Note that the parties are continuing to discuss the nature and role of CALTRANS's participation in the JPA.]*
- b. Additional Members. With the intent of creating an entity that is representative of the entire region, the Members stipulate that other public agencies may join as Members of the Authority as follows:
- i. Other agencies proposing to develop toll facilities may each become a Member by executing this Agreement and delivering to the Authority a duly adopted resolution of the agency's governing board, authorizing execution of this Agreement and agreeing to be fully subject to and bound by its terms, as well as to all other binding Agreements among the Members related to the Authority, *provided that:*
1. The RTP governing, and/or adopted by, its jurisdiction allows for and considers implementation of one or more tolling projects;
 2. The agency is not separately operating, or applying for authority to operate, any other toll facilities; and
 3. The agency has entered a memorandum of understanding or other agreement with the Authority, approved by the Authority Board, that delineates the roles and responsibilities between the Authority and the agency for implementation of one or more specific toll projects.
- Membership will become effective either 30 days after the CTC approval or upon the date set forth in a written agreement between the Authority and the respective agency. *[Note that the parties are still discussing the point at which other agencies could join]*
- This subsection (i) shall only apply to EDCTC, PCTPA, or, with the approval of SACOG, public agencies with regional representation within Sacramento County that have the ability to jointly exercise the powers that are the subject of this Agreement.
- ii. Other public agencies, including agencies from additional counties, that propose toll projects may become Members upon the approval of all Members and subject to terms substantially similar to the terms for the agencies identified in subsection (i) above.

Section 5.2 – Governing Board

- a. Governance. The Board will govern the Authority in accordance with this Agreement. All voting power of the Authority will reside in the Board.
- b. Appointments. Appointments to the Board will be as follows:
 - i. YoloTD will appoint two (2) Directors.
 - ii. SACOG initially will appoint two (2) Directors. At least one SACOG appointment shall be from Yolo County or a city within Yolo County. If any additional Members join, SACOG shall make one (1) additional appointment per county. SACOG's additional appointments shall be from the county, or a city within the county, of the additional Member so that SACOG will always appoint one Director per county represented in the Authority and one at-large Director.
 - iii. CALTRANS will appoint one (1) Director, who shall be an employee of CALTRANS and who shall be a [*Either: nonvoting Director or voting Director. Note that the parties are continuing to discuss the nature and role of CALTRANS's participation in the JPA.*]
 - iv. As applicable, each additional Member that joins the Authority pursuant to Section 5.1.b.i shall appoint up to two (2) Directors, but there shall not be more than two total Directors from a single county, including the cities within a single county (excluding the SACOG-appointed Directors).
 - v. With the exception of CALTRANS's appointment, all Directors shall concurrently serve on the governing board of the appointing Member.
- c. Term. With the exception of CALTRANS's appointment, each Director will be appointed by the governing board of the appointing Member and serve for a term of two (2) years, although a Director may be removed during his or her term or reappointed for multiple terms at the pleasure of the appointing authority.
- d. Alternates. Each Member may appoint one alternate Director. In the absence of an appointed Board Member, the alternate may act as a full voting Director. The Board may adopt a policy allowing additional alternate Directors.
- e. Vacancies. Each Director will cease to be a member of the Authority Board if and when such Director ceases to hold office on the legislative body of the appointing Member or, in the case of CALTRANS, ceases to be employed by CALTRANS. Vacancies will be filled by the respective appointing Member in the same manner as initial appointments.

f. Nonvoting Directors. Prior to becoming a Member, as set forth in Section 5.1 above, EDCTC, PCTPA, and Sacramento County may choose to have a nonvoting Director serve on the Board as follows:

1. EDCTC and PCTPA may each appoint a nonvoting Director, which Director shall either serve on their governing board or the staff of the agency; and
2. SACOG may appoint a nonvoting Director from within Sacramento County to represent interests in Sacramento County, which Director shall either serve on SACOG's governing board or be an official or employee of a local governmental agency within Sacramento County.

Nonvoting Directors shall not be counted toward a quorum, but shall receive notice of all meetings and may participate in all public discussions. Nonvoting Directors shall not be entitled to receive confidential information of the Authority or participate in closed sessions. The Board may approve the inclusion of additional Nonvoting Directors at its discretion.

Section 5.2 – Compensation and Expense Reimbursement

- a. Stipend. Directors may be entitled to a stipend for attending each Board meeting upon the enactment of a resolution of the Board to authorize such stipends.
- b. Waiver. A Director may waive the compensation to which the Director would otherwise be entitled under the preceding paragraph by notifying the Secretary in writing that he or she expressly and irrevocably waives any such compensation that he or she would otherwise be entitled to be paid in the future for services as a Director. This written waiver must: (i) be voluntary; (ii) be irrevocable; (iii) expressly waive any and all future compensation to which the Director may be entitled under this Section 5.2; (iv) acknowledge that, by waiving compensation, the Board member understands he or she is not entitled to any compensation he or she would otherwise be eligible to receive pursuant to this Section 5.2; (v) acknowledge that the amount of the waived compensation will be retained in the Authority's general assets; and (vi) be dated and signed by the Director and filed with the Secretary before the compensation is paid.
- c. Expenses. Each Director will be entitled to be reimbursed for reasonable and necessary expenses actually incurred in the conduct of the Authority's business, pursuant to an expense reimbursement policy established by the Board in full accordance with all applicable statutory requirements.
- d. Nonvoting Directors. Nonvoting Directors and CALTRANS's appointed Director may not receive compensation but may receive expense reimbursement only if authorized by a policy adopted by the Board and if the Board determines that allowing expense reimbursement will serve the public purpose of the Authority.

Section 5.3 – Conflicts of Interest

- a. Political Reform Act. Board members will be considered “public officials” within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for purposes of financial disclosure, conflict of interest, and other requirements of such Act and regulations, subject to a contrary opinion or written advice of the California Fair Political Practices Commission. The Authority must adopt a conflict of interest code in compliance with the Political Reform Act.
- b. Levine Act. Board members are “officials” within the meaning of California Government Code Section 84308 et seq., commonly known as the “Levine Act,” and therefore subject to the restrictions of such act on the acceptance, solicitation, or direction of contributions.

Section 5.4. – Board Meetings

- a. Time and Place. The Board will meet quarterly, or more often as needed, at a place designated by the Board with the location included in the notice of each meeting under the Ralph M. Brown Act, California Government Code Section 54950 et seq. The date, time and place of regular meetings of the Board will be designated on a meeting calendar adopted by the Board each year.
- b. Call and Conduct. All meetings of the Board will be called and conducted in accordance with the provisions of the Ralph M. Brown Act and any other applicable law.
- c. Quorum. A quorum for the transaction of business shall be a majority of the Directors.
- d. Rules. The Board may adopt from time to time such bylaws, rules, and regulations for the conduct of meetings of the Board and of the affairs of the Authority consistent with this Agreement and other applicable law.
- e. Minutes. The Secretary will cause minutes of all meetings of the Board to be drafted and provided to each Member promptly after each meeting. Upon approval by the Board, such minutes will become a part of the official records of the Authority.
- f. Confidential Proceedings. All information received by the Board in a closed session shall be confidential. However, a Director may disclose information obtained in a closed session that has direct financial or liability implications for the Director’s Member agency to the following individuals: legal counsel of the Member agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that Member; other members of the Member’s governing board present in a closed session of that local agency member; and any designated

alternate Director of who is attending a closed session of the Authority in place of the Director.

Section 5.5 – Voting

- a. All actions of the Board will require a quorum of the Board to be present for voting.
- b. Except as set forth in paragraph (c) below or otherwise limited by law, actions of the Board require the affirmative vote of a majority of a quorum that is present and voting. Board members may not cast proxy or absentee votes.
- c. Adoption or amendment of a budget or an expenditure plan, adoption of an ordinance, or approval of an agreement with a successor agency as a prerequisite for dissolution of the Authority under Section 4.3, requires the affirmative vote of a majority of all Directors.

Section 5.6 – Officers

- a. The Board will elect a Chair and Vice-Chair from among its members, and will appoint a Secretary who may, but need not, be a member of the Board. The Chair and Vice Chair will serve one-year terms and must be appointees of different Members. The officers will perform the duties normal to said offices as described below. If the Chair or Vice Chair ceases to be a member of the Board, the resulting vacancy will be filled, for the remainder of the vacant term, at the next meeting of the Board held after each vacancy occurs.
- b. Chair. The Chair will preside over all meetings of the board and will sign all contracts on behalf of the Authority, except contracts that the Board may authorize an officer or agent, or employee of the Authority to sign. The Chair will perform such other duties as may be imposed by the Board in accordance with law and this Agreement.
- c. Vice Chair. The Vice Chair will act, sign contracts, and perform all of the Chair's duties in the absence of the Chair.
- d. Secretary. The Secretary must countersign contracts signed on behalf of the Authority and will be the official custodian of all records of the Authority. The Secretary will attend to such filings as required by applicable law. The Secretary will perform such other duties as may be imposed by the Board.

Section 5.7 – Common Interest and Confidentiality

The Members have a common interest in all operations and proceedings of the Authority. Each agrees to maintain the confidentiality of all confidential, proprietary, or privileged information of the Authority. The Authority acting through the Board shall be the holder of all privileges.

Section 5.8 – Auditor/Controller and Treasurer

The Treasurer of Yolo County will serve as the Auditor/Controller and Treasurer of the Authority. The Treasurer will be the depository and will have custody of all of the accounts, funds, and money of the Authority from whatever source. The Auditor/Controller and the Treasurer will perform the duties and functions, assume the obligations and authority set forth in Sections 6505, 6505.5 and 6505.6 of the Act, and assure strict accountability of all funds and reporting of all receipts and disbursements of the Authority. The Auditor/Controller and Treasurer are designated as having charge of, handling, or having access to funds or property of the Authority for purposes of the Official's Bond required under Section 6505.5 of the Act and Section 5.10 of this Agreement. The Authority may change the Auditor/Controller, and/or Treasurer, and/or appoint other persons possessing the qualifications set forth in Section 6505.5 of the Act to these offices, by resolution of the Board of Directors.

Section 5.9 – Staffing

The member agencies may commit staff resources to the Authority as may be required or requested in order to fulfil the purposes and obligations of the Authority until such time as the Board adopts a permanent/interim staffing and organizational plan for the Authority. The Authority shall not participate in, or contract with, a public retirement system unless each Member first mutually enters a binding agreement to apportion the Authority's retirement obligations among the Members.

Section 5.10 – Additional Officers and Consultants

The Board may appoint any additional officers deemed necessary or desirable. Such additional officers also may be officers or employees or contractors/consultants of a Member or of the Authority. The Board may also retain such other consultants or independent contractors as may be deemed necessary or appropriate to carry out the purposes of this Agreement.

Section 5.11 – Official's Bond

The officers or persons designated to have charge of, handle, or have access to any funds or property of the Authority will be so designated and empowered by the Board. Each such officer or person will be required to file an official bond with the Authority in an amount established by the Board. Should the existing bond or bonds of any such officer or persons be extended to cover the obligations provided herein, said bond will be the official bond required herein. The premiums on any such bonds attributable to the coverage required herein will be appropriate expenses of the Authority. If it is prudent to do so, the Authority may procure a blanket bond on behalf of all such officers and persons.

Section 5.12 -- Status of Officers

All of the privileges and immunities from liability, exemption from laws, ordinances, and rules, all pension, relief, disability, worker's compensation, and all other benefits that apply to the activity of officers or agents of the Authority when performing their respective functions within the territorial limits of a Member will apply to them to the same degree and extent while

engaged in the performance of any of their functions and duties under the provisions of this Agreement and Chapter 5 of Division 7 of Title 1 of the California Government Code, commencing with Section 6500. However, none of the officers or agents appointed by the Board will be deemed to be employed by any of the Members or to be subject to any of the requirements of such Members by reason of their appointment or employment by the Authority.

Section 5.13 – Committees

The Board may create permanent or ad hoc committees to give advice to the Board of Directors on such matters as may be referred to such committees by the Board. Qualified persons will be appointed to such committees by the Board and each such appointee will serve at the pleasure of the Board. The Board may delegate authority to committees, except that the Board may not delegate authority to adopt or amend a budget or expenditure plan, to enact an ordinance, or to hire a chief executive officer.

ARTICLE 6 OPERATIONS AND FACILITIES

Section 6.1 – Formation of Board

As soon as practicable after the date of this Agreement, the Members must appoint their representatives to the Board. At its first meeting, the Board will elect a Chair and Vice Chair, and appoint a Secretary as prescribed in Article 5.

Section 6.2 – Delegation of Powers; Revenues

The Members delegate to the Authority the power and duty to maintain, operate, manage, and control the Joint Facilities, as they may be planned, constructed, and expanded from time to time. The revenues generated by the Authority's tolls shall belong to the Authority. Nothing in this Article is intended to: (i) delegate the RTPA's right to consent to the Authority's submittal of an application to the CTC, (ii) restrict the Authority from entering into agreements for the implementation of toll lanes that designate the rights and responsibilities of the Authority and other parties, including Members, or (iii) cause the Authority to assume any debt or liability of a Member.

Section 6.3 – Joint Facilities Costs, Reserves, and Capital

The Authority will have financial responsibility for the improvement, alteration, maintenance, and operation of the Joint Facilities and will pay all contractual and administrative expenses of the Authority. Once revenues are generated by the Authority's toll lanes, the Authority will establish reasonable reserves and undertake appropriate capital projects to maintain the Joint Facilities. The Authority may incur indebtedness for contractual and administrative expenses.

[Note that the parties are continuing to discuss this Article.]

ARTICLE 7 BUDGET AND OTHER FINANCIAL PROVISIONS

Section 7.1 – Fiscal Year

The Authority Fiscal Year will begin each July 1 and end on the following June 30.

Section 7.2 – Annual Budget

The Authority will adopt an annual budget for each fiscal year. Once the Authority first annual budget is adopted, no expenditures may be made by or on behalf of the Authority unless authorized by a budget or budget amendment.

Section 7.3 – Expenditures Within Approved Annual Budget

All expenditures within the limitations of the approved annual budget will be made in accordance with the rules, policies and procedures adopted by the Board.

Section 7.4 – Disbursements

Warrants will be drawn upon the approval and written order of the Board, and the Board will requisition the payment of funds only upon approval of claims, disbursements, and other requisitions for payment in accordance with this Agreement and other rules, regulations, policies, and procedures adopted by the Board.

Section 7.5 – Accounts

All funds will be received, transferred, or disbursed by the Controller. The Treasurer will account for such funds separately, in accordance with the generally accepted accounting principles applicable to governmental entities, with strict accountability of all funds. All revenues, expenditures, and status of bank accounts and investments will be reported to the Board quarterly or as the Board may direct and, in any event, not less than annually, pursuant to procedures established by the Board.

ARTICLE 8 INDEMNITY

Section 8.1 – Indemnity to Members from Authority

To the fullest extent permitted by law, the Authority agrees to save, indemnify, defend, and hold harmless each Member from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, whether actual, alleged, or threatened, including attorneys' fees and costs, court costs, interest,

defense costs, and expert witness fees, where the same arise out of, or are in any way attributable in whole or in part, to negligent acts or omissions of the Authority or its officers, or agents or the employees, officers, or agents of any Member while acting within the course and scope of an agency relationship with the Authority

The provision of indemnity set forth in this Section shall not be construed to obligate the Authority to pay any liability, including but not limited to punitive damages, which by law would be contrary to public policy or otherwise unlawful.

Section 8.2 – Indemnity to Authority and Other Members

To the fullest extent permitted by law, Members agree and covenant to defend, hold harmless and indemnify the Authority, its elected officers, employees, volunteers and its other Members from any claim, damage or liability in connection with acts, errors, omissions or breach or default of any Member or any person or entity acting on behalf of any Member, except to the extent the Member is acting in the course and scope of performing services for or on behalf of the Authority.

Section 8.3 – Certain Tort Liabilities

Government Code Section 895.2 imposes certain tort liability jointly upon public agencies solely by reason of such public agencies being parties to an agreement as defined in Government Code Section 895. Therefore, the Members, as among themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6 each assume the full liability imposed upon it or any of its officers, agents, employees or representatives by law for injury caused by a negligent or wrongful action or inaction, or omission, occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve this purpose, each Member indemnifies and holds harmless each other Member and the Authority, for any loss, cost or expense, including reasonable attorney's and consultant fees, that may be imposed upon or incurred by such other Member or the Authority solely by virtue of Government Code Section 895.2.

In furtherance of this Section, the Members acknowledge that SACOG does not engage in the design, construction, ownership or operation of transportation facilities and is a Member of the Authority pursuant to its role as an RTPA and the requirements of Section 149.7.

Section 8.4 – Retirement Liabilities

To the extent applicable, each Member shall pay its apportioned share of the retirement liabilities of the Authority described in Government Code section 6508.2. Each Member shall defend and indemnify the other members for any failure to pay apportioned retirement liabilities. The Authority shall not incur any retirement liabilities unless and until each Member agrees to an apportionment of liabilities among the Members.

Section 8.5 – Officers and Employees

The Authority shall provide for the defense of its officers and employees to the extent required by law as set forth in Government Code sections 995 et seq. or other applicable laws.

Section 8.6 – Insurance

The Authority shall insure itself, to the extent required by law and deemed appropriate by the Board of Directors, against loss, liability, and claims arising out of or connected with this revised Agreement. The Authority shall, at a minimum, procure adequate insurance prior to acquiring any real property interests or hiring for any construction work.

Section 8.7 – Implementation Agreements

This Article shall not limit the Authority from entering separate agreements with Members, such as project implementation agreements, that include indemnity and other contractual risk provisions between the Authority and a Member.

ARTICLE 8 MISCELLANEOUS

Section 8.1 – Amendments

This Agreement may be amended by a writing or writings executed by the Members approved by resolution of each Member's governing body.

Section 8.2 – Notice

Any notice required to be given or delivered by any provision of this Agreement will be personally delivered or deposited in the U.S. Mail, registered or certified, postage prepaid, addressed to the Members at their addresses as reflected in the records of the Authority, and will be deemed to have been received by the Member to which the same is addressed upon the earlier of receipt or seventy-two (72) hours after mailing.

Section 8.3 – Good Faith Negotiations

The Members acknowledge that differences between them and among the Board members may arise from time to time and agree to make good faith efforts to resolve any such differences via good faith negotiations among the Members or Board members, as the case may be. If such negotiations do not resolve the dispute, and no Member gives a notice to dissolve the Authority as provided in this Agreement, then the Members may resolve disputes in any manner permitted by law or in equity.

Section 8.4 – Attorney's Fees

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding will be entitled to an award of its actual and reasonable attorney's fees, costs, and expenses incurred in the proceeding.

Section 8.5 – Successors

This Agreement will be binding upon and inure to the benefit of any successor of a Member.

Section 8.6 – No Third Party Beneficiaries

The rights and obligations set forth in this Agreement are solely for the benefit of the Members, and this Agreement is not intended to, and does not, confer upon any other person any rights or remedies, including any right to enforce its provisions. The rights granted to third parties are strictly limited to those rights expressly provided.

Section 8.7 – Assignment and Delegation

No Member may assign any rights or delegate any duties under this Agreement without the written consent of the other Members, and any attempt to make such an assignment will be null and void for all purposes.

Section 8.8 – Counterparts

This Agreement may be executed in one (1) or more counterparts, all of which together will constitute a single agreement, and each of which will be an original for all purposes.

Section 8.9 – Severability

Should any part, term, or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any applicable law, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, or provisions of this Agreement will not be affected thereby and to that end the parts, terms, and provisions of this Agreement are severable.

Section 8.10 – Integration

This Agreement represents the full and entire Agreement among the Members with respect to the matters covered herein.

Section 8.11 – Execution

The legislative bodies of the Members each have authorized execution of this Agreement, as evidenced by the respective signatures attested below.

IN WITNESS WHEREOF, the Parties have hereunder subscribed their names the day and year indicated below.

DRAFT