

LOAN AGREEMENT

THIS LOAN AGREEMENT is made and entered into as of the 16th day of May 2024, by and between the CAPITAL AREA REGIONAL TOLLING AUTHORITY, a California joint powers agency ("Borrower"), and SACRAMENTO AREA COUNCIL OF GOVERNMENTS, a California joint powers agency ("Lender").

RECITALS

WHEREAS, Borrower is a joint powers agency formed on February 15, 2024, by the Sacramento Area Council of Governments, Yolo Transportation District, and the California Department of Transportation District 3 for the purpose leading the implementation of toll facilities in the Sacramento region; and

WHEREAS, Lender desires to provide initial funding in order to develop, administer and operate toll lanes within the region, and Borrower intends to repay this debt as an operating expense payable from future toll revenues.

NOW, THEREFORE, in consideration of the promises and covenants herein, Borrower and Lender agree as follows:

ARTICLE I

1.01 Definitions. When used in this Loan Agreement, the following terms shall have the indicated definitions:

- (a) "Borrower," means Capital Area Regional Tolling Authority, a California joint powers agency.
- (b) "Lender" means the Sacramento Area Council of Governments, a California joint powers agency.
- (c) "Loan" means the financial accommodation being made by the Lender to the Borrower in accordance with the terms and provisions of this Loan Agreement.
- (d) "Loan Documents" means this Loan Agreement, the Promissory Note, and all other documents executed in connection with the Obligations or under this Loan Agreement, with all addendums, modifications and amendments thereto.
- (e) "Note" means the Promissory Note from the Borrower as maker, to the Lender, as payee of even date herewith, and all amendments, extensions or renewals thereof.

- (f) "Obligations" means all obligations under the Note, all of the obligations hereunder and all other obligations and liabilities of the Borrower, or any guarantor, surety, endorser or accommodation party, to the Lender, its successors and assigns, arising from or evidenced by the Loan Documents, whether direct or indirect, primary or secondary, joint or several, absolute or contingent, or now or hereafter existing or due or to become due in connection therewith.

ARTICLE II

Terms of Note

2.01 Promissory Note. The Note has been executed and delivered by the Borrower contemporaneously with the execution and delivery of this Loan Agreement. The terms of the Promissory Note are as follows:

- (a) The Borrower shall repay the Loan Amount of One Million Three Hundred Thousand Dollars (\$1,300,000.00) in annual installments bearing interest in the amount earned by the Sacramento County Pooled Investment Fund during the same period. Borrower's payments shall begin within of sixty (60) days of Borrower's initial receipt of toll revenue or June 30, 2028, whichever is sooner, unless otherwise agreed to in writing by Lender. Annual installments shall be in the amount of \$325,000, with any additional amount due to accrued interest added to the final payment due June 30, 2031.
- (b) The parties acknowledge that in accordance with California Streets and Highways Code Section 149.7(e)(4), revenue generated from Borrower's operation of a toll facility shall be available for repayment of the Loan and shall take priority over all other debt issued by Borrower.
- (c) The Borrower may prepay the Loan Amount or any portion thereof, at any time prior to the repayment term without penalty.

2.02 Default. Each of the following shall constitute and Event of Default under this Agreement:

- (a) Borrower fails to make any payment when due.
- (b) Borrower fails to comply with or to perform any other term, obligation or covenant or condition contained in this Agreement or any of the Loan Documents.
- (c) The dissolution or termination of the Borrower's existence as a joint powers agency, insolvency of the Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of Borrower's creditors or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

2.03 Lender's Rights. Upon and Event of Default, Lender may declare the entire unpaid balance of the Loan Amount immediately due.

ARTICLE III

Miscellaneous

3.01 No Implied Waiver. Neither failure to exercise nor any delay on the part of Lender in exercising any right, power or privilege, nor any single or partial exercise of any right, power or privilege under this Agreement, nor under any of the documents executed by Borrower in connection herewith, shall preclude any further exercise thereof by Lender or the exercise of any other right, power or privilege.

3.02 Changes Must Be In Writing. No provisions of the Loan Documents may be changed, waived, discharged or terminated orally, by telephone or by any other means except an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought and then the same shall be effective only in the specific instance for which it is given.

3.03 Applicable Law. This Agreement shall be deemed to be a contract made in the State of California and entered into under and pursuant to the laws of such state, and to be governed, construed and enforced in accordance with the laws of the State of California.

3.04 Counterparts. This Agreement and any of the other Loan Documents may be executed in any number of counterparts, each of which shall constitute an original.

3.05 Survival of Covenants. This Agreement and all covenants, agreements, representations and warranties made herein in any other Loan Document, shall survive the making by the Lender of the Loan and the execution and delivery to the Lender of the Note, and shall continue in full force and effect so long as the Note and any other indebtedness of the Borrower to the Lender hereunder or under any other Loan Document is outstanding and unpaid.

3.06 Successors and Assigns. Except as herein provided, this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Lender and any other successors and assigns. Notwithstanding the foregoing, Borrower or any other person other than Lender, without the prior written consent of the Lender, which consent may be withheld in Lender's sole discretion, may not assign, transfer or set over to another person, in whole or in part, all or any part of its benefits, rights, duties and obligations hereunder, including, without limitation, performance of and compliance with conditions hereof and the right to receive the proceeds of current or future advances. Whenever in this Agreement or in any of the other Loan Documents any of the parties hereto or thereto is referred to, such reference shall be deemed to include the successors and assigns of such party (but without any implied consent to any transfer or other action which violates the term of any Loan Document); and all covenants, promises and agreements contained in this Agreement, or in any of the other Loan Documents by or on behalf of Borrower or any other Person other than Lender, shall inure to the benefit of the respective successors and assigns of Lender.

3.07 Severability. Any provision of this Agreement or of any other Loan Document which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction.

3.08 Amendment, Waiver or Consent. No waiver, consent, modification, or amendment shall be effective as against the Lender unless the same is in writing and signed by an authorized officer. No such waiver, consent, modification, or amendment shall extend to or affect any obligation or right except to the extent expressly provided for therein.

3.09 Applicable Law and Costs of Enforcement. The laws of the state of California shall govern the validity, performance and enforcement of this Loan Agreement. Borrower agrees to pay the costs and expenses, including but not limited to reasonable attorneys' fees and legal expenses incurred by Lender in the exercise of any right or remedy available to it, whether or not suit is commenced, including, without limitation, reasonable attorneys' fees and legal expenses incurred in connection with any appeal of a lower court's order or judgment.

3.10 Further Assurances. Borrower will execute and deliver such other and further instruments and documents, and will do such other and further acts as in the opinion of the Lender may be necessary or desirable to carry out more effectively the purposes of this Loan Agreement.

3.11 Binding Effect. This Loan Agreement shall be binding upon the Borrower and his successors and assigns, and shall inure to the benefit of the Lender and the benefit of its successors and assigns, including any subsequent holder or holders of the Note or any interest therein.

3.12 Survival. All representations, warranties, covenants, and agreements made herein shall survive the execution and delivery of this Loan Agreement, the Loan Documents and the issuance of the Note.

3.13 Integration of Loan Documents. The Parties agree that this Loan Agreement shall incorporate by reference all of the terms, covenants, conditions, obligations, stipulations and agreements contained in the Loan Documents, to the same extent and effect as if fully set forth herein and made a part of this Loan Agreement.

3.14 Entire Contract. This Loan Agreement with the Loan Documents constitutes the entire Loan Agreement between the parties. No oral representation shall be binding on any Party hereto, and all parties acknowledge that no reliance will be placed on any oral representations of any person or entity which vary, in any manner whatsoever, any portion of this Loan Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Loan Agreement executed and delivered as of the day and year first above written.

[SIGNATURES ON NEXT PAGE]

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

James Corless, Executive Director

APPROVED AS TO FORM:

Osman Mufti, Counsel
Sloan Sakai Yeung and Wong

CAPITAL AREA REGIONAL TOLLING AUTHORITY

Oscar Villegas, Board Chair

APPROVED AS TO FORM:

Michael Maurer, Counsel
Best Best & Krieger

PROMISSORY NOTE

Loan Amount: \$1,300,000

May 16, 2024

1. FOR VALUE RECEIVED, the CAPITAL AREA REGIONAL TOLLING AUTHORITY, a California joint powers agency (“Borrower”), promises to pay to the order of SACRAMENTO AREA COUNCIL OF GOVERNMENTS, a California joint powers agency (“Lender”), the Principal sum of One Million Three Hundred Thousand Dollars (\$1,300,000) with interest from the date first above written until paid at the rate earned by the Sacramento County Pooled Investment Fund during the same period (“Rate”).
2. The Principal sum borrowed pursuant to this Promissory Note, together with all interest due on it, is due and payable on or before June 30, 2031.
3. Borrower will use the Principal sum borrowed pursuant to this Promissory Note for Borrower’s administrative operations consistent with Borrower’s 2024-2025 fiscal year budget.
4. Borrower will timely pay to Lender all sums owing under this Promissory Note without deduction, offset, or counterclaim of any kind.
5. All payments on this Note will be applied first to the payment of any costs, fees, late charges, or other charges incurred in connection with the indebtedness evidenced by this Note; next, to the payment of accrued interest; then to the reduction of the principal balance; or in any other order that Lender requires.
6. Failure to pay any part of the Principal of this Promissory Note when due, or failure to carry out any of the terms, covenants, or conditions of this Promissory Note, shall authorize the holder of this Promissory Note to declare as immediately due and payable the then-unpaid Principal and to exercise any and all of the rights and remedies provided by the California Commercial Code as well as all other rights and remedies either at law or in equity possessed by the holder of this Promissory Note.
7. If Lender incurs fees and expenses for legal services by any attorney to enforce or construe any provision of this Note or as a consequence of any event of default, with or without the filing of any legal action or proceeding, then Borrower will immediately pay to Lender on demand all attorneys' fees and other costs incurred by Lender, together with interest from the date of the demand until paid.
8. Borrower hereby waives presentment, notice of dishonor, and protest.

9. This Note may be prepaid in whole or in part without penalty.

Dated: May 16, 2024

By: _____

Name: Oscar Villegas

Title: Capital Area Regional Tolling Authority, Chair

DRAFT