

**COOPERATIVE FUNDING AGREEMENT NO. M71406
BETWEEN
THE SONOMA COUNTY TRANSPORTATION AUTHORITY
AND
THE CITY OF SANTA ROSA**

This Agreement is made and entered into as of May 12, 2008 ("Effective Date") by and between the CITY OF SANTA ROSA hereinafter referred to as "**CITY**" and the **SONOMA COUNTY TRANSPORTATION AUTHORITY** hereinafter referred to as "**AUTHORITY**."

RECITALS

1. **AUTHORITY** adopted that certain 2007 Strategic Plan that sets forth **AUTHORITY**'s program and project implementation policies with regard to the use of funds provided under the 2004 Traffic Relief Act for Sonoma County Expenditure Plan and Ordinance approved by the voters of Sonoma County on November 2, 2004 (hereinafter referred to as "Measure M"). The 2007 Strategic Plan as such plan may be amended from time to time is hereinafter referred to as the "Strategic Plan".

2. Pursuant to the Strategic Plan and Measure M, **AUTHORITY** and **CITY** desire to enter into a Cooperative Funding Agreement to define a framework to enable the two parties to work cooperatively in developing transportation improvements on Bike-Pedestrian Access Across Highway 101 in Sonoma County (hereinafter referred to as "PROJECT").

3. In connection with the PROJECT, **CITY** desires to complete a feasibility study of Bike-Pedestrian Access Across Highway 101, as more particularly described in Exhibit A to this Agreement (hereinafter referred to as the "Project").

4. **CITY** has submitted a financial plan and schedule for completion of the Project which is attached hereto as Exhibit B (hereinafter referred to as the "Financial Plan and Schedule").

5. Pursuant to the Strategic Plan and Measure M, **AUTHORITY** is committed to make available up to \$50,000 in 2004 dollars to assist with the Project.

6. The City has secured \$200,000 of local funds in Fiscal Year 2007/08 to fund a portion of this project.

NOW, THEREFORE, in consideration of the foregoing, **AUTHORITY** and **CITY** do hereby agree as follows:

SECTION I

CITY AGREES:

1. Project Completion. To timely complete the Project in accordance with the deadlines set forth in the Financial Plan and Schedule.

2. Invoices. Should **CITY** desire reimbursement of its expenses in connection with this Agreement, **CITY** shall do so by requesting a specific appropriation of Measure M funding by submitting to **AUTHORITY** a Request for Funding Appropriation in the form attached hereto as Exhibit C (hereinafter referred to as "Appropriation Request"). Once an Appropriation Request is approved by **AUTHORITY**, **CITY** may submit to **AUTHORITY** invoices for reimbursements for expenses authorized under the terms of this Agreement and an approved Appropriation Request. Invoices shall be submitted to **AUTHORITY** no more frequently than monthly, and no less frequently than every six months following initial appropriation, provided however that if **CITY** is unable to invoice in this time frame a written request for time extension shall be provided or the funds may be deobligated. Invoices shall be in a form reasonably acceptable to **AUTHORITY**'s Executive Director.

3. Compliance with Laws. With regard to administering and completing the Project, **CITY** shall at all times comply with all applicable laws of the United States, the State of California, the County, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

4. Records. To allow **AUTHORITY** to audit all expenditures relating to the Project funded through this Agreement. For the duration of the Project, and for five (5) years following completion of the Project, or earlier discharge of the Agreement, **CITY** shall make available to **AUTHORITY** all records relating to expenses incurred in performance of this Agreement.

5. Reporting Requirements. To provide annual updates on the PROJECT to **AUTHORITY** in the form attached hereto as Exhibit D.

SECTION II

AUTHORITY AGREES:

1. Reimbursement of CITY Expenses. Consistent with its Strategic Plan, to make available Measure M funds (currently set at \$50,000 in 2004 dollars) to assist with the Project. **AUTHORITY** shall process **CITY** invoices within forty-five (45) days of receiving an invoice in a form reasonably acceptable to **AUTHORITY**'s Executive Director.

2. Notice of Audit. To provide timely notice to **CITY** if an audit is to be conducted.

SECTION III

IT IS MUTUALLY AGREED:

1. Funding Needs. If additional funds beyond those identified in Exhibit B are necessary to complete the Project, **AUTHORITY** will cooperate with **CITY** to identify and secure new or increased fund commitments; however, completion of the Project remains the responsibility of **CITY**.

2. Term. This Agreement will remain in effect until discharged as provided in Paragraph 3 or 13 of this Section III.

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

a. This Agreement may be canceled by a party for breach of any obligation, covenant or condition hereof by the other party, upon notice to the breaching party. With respect to any breach which is reasonably capable of being cured, the breaching party shall have thirty (30) days from the date of the notice to initiate steps to cure. 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. On cancellation, the non-breaching party retains the same rights as a party exercising its right to terminate under the provisions of paragraph 3(b), except that the canceling party also retains any remedy for breach of the whole contract or any unperformed balance. If the Agreement is cancelled by **AUTHORITY** because **CITY** has failed to wholly or partially complete the Project, **AUTHORITY** may, at its option, demand repayment of all unexpended funds and funds determined by audit not to have been expended as provided for in this Agreement, with interest accrued thereon as would have accrued had such funds been invested in the Sonoma County Treasury Pool; and, further, to offset such balances due **AUTHORITY** from any other Measure M funds due **CITY**.

b. By mutual consent of both parties, this Agreement may be terminated at any time. Upon termination by mutual consent, **CITY** shall repay to **AUTHORITY** any unexpended funds originally provided to **CITY** under this Agreement, and any interest that has accrued thereon.

4. Indemnity. **CITY** agrees to accept all responsibility for loss or damage to any person or entity, including but not limited to **AUTHORITY**, and to defend, indemnify, hold harmless, reimburse and release **AUTHORITY**, its officers, agents, employees, successors and assigns from and against any and all actions, claims, damages, disabilities, liabilities and expense including, but not limited to attorneys' fees and the cost of litigation incurred in the defense of claims as to which this indemnity applies or incurred in an action

by **AUTHORITY** to enforce the indemnity provisions herein, whether arising from personal injury, property damage or economic loss of any type, that may be asserted by any person or entity, including **CITY**, arising out of or in connection with the receipt or use of funds provided pursuant to this Agreement, whether or not there is concurrent negligence on the part of **AUTHORITY**, but, to the extent required by law, excluding liability due to the sole or active negligence or due to the willful misconduct of **AUTHORITY**. If there is a possible obligation to indemnify, **CITY**'s duty to defend exists regardless of whether it is ultimately determined that there is not a duty to indemnify. **AUTHORITY** shall have the right to select its own legal counsel at the expense of **CITY**, subject to **CITY**'s approval, which approval shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for **CITY** or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

5. Notices. Any notice which may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal service, or by certified or registered mail, return receipt requested, to the addresses set forth below, or to such addresses which may be specified in writing to the parties hereto.

To **CITY**: Richard Moshier
Director of Public Works
City of Santa Rosa
69 Stony Circle
Santa Rosa, CA 95401
707.543.3820
rmoshier@srcity.org

To **AUTHORITY**: Suzanne Smith
Executive Director
Sonoma County Transportation Authority
490 Mendocino Avenue, Suite 206
Santa Rosa, CA 95401
(707) 565-5373
suzsmith@sctainfo.org

6. 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.

7. 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.

8. 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.

9. Independent Agency. CITY renders its services under this Agreement as an independent agency. None of the CITY's agents or employees shall be agents or employees of the AUTHORITY.

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


11. Successors. This Agreement shall be binding upon the successor(s), assignee(s) or transferee(s) of the AUTHORITY or CITY 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.

12. 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.

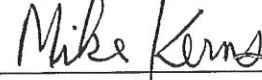
13. Limitation. All obligations of AUTHORITY under the terms of this Agreement are expressly subject to AUTHORITY's continued authorization to collect and expend the sales tax proceeds provided by Measure M. If for any reason AUTHORITY's right to collect or expend such sales tax proceeds is terminated or suspended in whole or part, AUTHORITY shall promptly notify CITY, 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; provided, that any future obligation to fund from the date of the notice shall be expressly limited by and subject to (i) the lawful ability of AUTHORITY to expend sales tax proceeds for the purposes of the Agreement; and (ii) the availability, taking into consideration all the obligations of AUTHORITY under all outstanding contracts, agreements to other obligations of AUTHORITY, of funds for such purposes.

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

CITY OF _____

By: 
Mayor

SONOMA COUNTY
TRANSPORTATION AUTHORITY

By: 
SCTA Chair

ATTEST:

By: 

APPROVED AS TO SUBSTANCE:

By: 
Executive Director

APPROVED AS TO LEGAL FORM
FOR CITY:

By: 
City Attorney

By: 
Legal Counsel
Authority

**COOPERATIVE FUNDING AGREEMENT NO. M71406
BETWEEN
THE SONOMA COUNTY TRANSPORTATION AUTHORITY
AND
CITY OF SANTA ROSA**

EXHIBIT A

DESCRIPTION OF THE PROJECT

Identify key east – west access points across Highway 101. The City of Santa Rosa has requested \$50,000 in Measure M funds which will be matched with \$200,000 of city funds to complete a feasibility study for a bicycle and pedestrian overcrossing in the vicinity of Santa Rosa Junior College.

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AND
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EXHIBIT B

FINANCIAL PLAN AND SCHEDULE (2004 Dollars)

<u>Phase</u>	<u>Amount</u>	<u>Schedule</u>
Scoping/Feasibility Study	\$250,000 ¹	June 2007 – June 2008

¹This amount includes \$200,000 of city funds.

COOPERATIVE FUNDING AGREEMENT NO. M71406
BETWEEN
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AND
CITY OF SANTA ROSA

EXHIBIT C

REQUEST FOR FUNDING APPROPRIATION

May 16, 2008

SCTA Chair
Sonoma County Transportation Authority
490 Mendocino Avenue, Suite 206
Santa Rosa, CA 95401

FUNDING APPROPRIATION REQUEST
PROJECT NAME: BIKE-PEDESTRIAN ACCESS ACROSS HIGHWAY 101
AGREEMENT NO. M71406

Dear SCTA Chair Kerns:

The City of Santa Rosa hereby requests that the Sonoma County Transportation Authority (SCTA) take action to appropriate funds at its next Board meeting for the Bike-Pedestrian Access Across Highway 101.

The City has entered into a cooperative funding agreement with the SCTA (Cooperative Agreement No. M71406 and is ready to begin work on the Scoping/Feasibility Study phase of the project. Below is the specific appropriation request information.

Project Name & Description:	Bike-Pedestrian Access Across Highway 101
Project Category:	Bicycle/Pedestrian Project
Phase Development Phase of this Appropriation:	Scoping/Feasibility Study
Amount of Measure M Appropriation Request:	\$50,000
Amount of Local Funding Match:	Not applicable
Sources of Local Funding Match:	Not applicable
Total Project Cost:	\$250,000

The current schedule for the Bike-Pedestrian Access Across Highway 101 is as follows:

Project Development Phase	Begin	Complete
Scoping/Feasibility Study	June 2007	June 2008
Environmental	n/a	n/a
Right of Way	n/a	n/a
PS&E	n/a	n/a
Construction	n/a	n/a

Thank you for your consideration.

Sincerely,

Richard Moshier
Director of Public Works

c: Nancy Adams, Transportation Planner
Steve Dittmer, Supervising Engineer

COOPERATIVE FUNDING AGREEMENT NO. M71406
BETWEEN
THE SONOMA COUNTY TRANSPORTATION AUTHORITY
AND
CITY OF SANTA ROSA

EXHIBIT D
PROJECT REPORTING LETTER

PROJECT SPONSOR LETTERHEAD

Date

Sonoma County Transportation Authority
 490 Mendocino Avenue, Suite 206
 Santa Rosa, CA 95401

Bike-Pedestrian Access Across Highway 101 - Annual Reporting Letter – FY _____

Dear SCTA Chairman Kerns:

The City of Santa Rosa is pleased to present information related to Measure M funding for the following project for FY _____ Reported:

Work was performed on the following project using Measure M funds including:

A.	Project Name:	
	Project Phase/Development Phase:	
B.	Total Amount of Unexpended Appropriations from Prior FY	\$ -
C.	Amount Appropriated in FY 07/08	\$ -
D.	Reimbursements Received in FY 07/08	\$ -
E.	Amount of Matching Funds Provided	\$ -
F.	Total Measure M Reimbursements Received in Prior Years	\$ -
G.	Total Measure M Funding Reimbursed to Date	\$ -
H.	Total Appropriation Remaining Balance to Rollover to FY 08/09	\$ -

- I. Describe work completed this fiscal year.
- J. How were bike/pedestrian needs considered?

K.	Overall Status of Project by Phase	% Complete	Est. Completion Date
	Scoping		
	Environmental		
	Design		
	Right of Way		
	Construction & Construction Management		

- L. Describe where you displayed the Measure M logo, such as on signs at the construction site or on vehicles? Please enclose pictures.
- M. Provide digital pictures of projects before, during and after construction.
- N. Did you identify Measure M on your web site? Please provide link.
- O. Identify project benefits and discuss how Measure M funds assisted in project delivery.

To meet our reporting requirements we are submitting an original signed copy on our letterhead. In addition we have also emailed an electronic copy to the SCTA.

We have also attached prints of photographs and/or have provided the same photos in jpeg file format.

If you have any questions regarding this project information please contact:

Name:

Phone:

Email:

Sincerely,

Richard Moshier
Director of Public Works

RESOLUTION NO. 27078

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA
APPROVING THE COOPERATIVE FUNDING AGREEMENT NO. M71406
WITH SONOMA COUNTY TRANSPORTATION AUTHORITY FOR MEASURE
M FUNDS FOR A FEASIBILITY STUDY FOR A BIKE-PEDESTRIAN ACCESS
ACROSS HIGHWAY 101

WHEREAS, the 2004 Sonoma County Traffic Relief Act Expenditure Plan includes \$1,000,000 in 2004 dollars to be used to identify key east-west bike-pedestrian access points across Highway 101; and

WHEREAS, the City of Santa Rosa seeks funding from the Sonoma County Transportation Authority (SCTA) to complete a feasibility study (study) of bike-pedestrian access across Highway 101 in the area of the Santa Rosa Junior College; and

WHEREAS, the SCTA approved 2007 Measure M Strategic Plan commits \$50,000 between Fiscal Year 2007/08 and Fiscal Year 2011/12 for Bike-pedestrian access across Highway 101 in the area of the Santa Rosa Junior College.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa approves and authorizes the Mayor to execute the Cooperative Funding Agreement No. M71406 (Cooperative Agreement) with the SCTA to provide \$50,000 in funding to City for the study.

BE IT FURTHER RESOLVED that the \$50,000 of Measure M funds, when received, be appropriated into Account Number 8287 - Highway 101 Bike/Pedestrian Overcrossing.

BE IT FURTHER RESOLVED that the City's Director of Public Works is hereby authorized to submit to the SCTA, on behalf of the City, Request(s) for Appropriation of Funds for this project on an as needed basis, provided that the aggregate amount of all such Request(s) for Appropriation of Funds does not exceed the funding set forth in the Cooperative Agreement.

BE IT FURTHER RESOLVED that the Director of Public Works is authorized and directed to execute such other documents as may be required by the SCTA, consistent with this resolution and the Cooperative Agreement, to secure the funding described in the Cooperative Agreement for the project.


IN COUNCIL DULY PASSED this 22nd day of April, 2008.

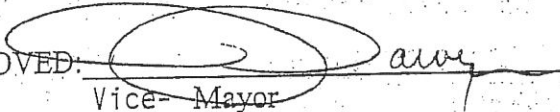
AYES: (5) Vice-Mayor Sawyer; Councilmembers Bender; Gorin, Jacobi, Pierce

NOES: (0)

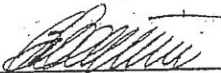
ABSENT: (2) Mayor Blanchard; Councilmember Déan

ABSTAIN: (0)

ATTEST: 
City Clerk

APPROVED: 
Vice-Mayor

APPROVED AS TO FORM:


City Attorney