



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Adopt resolution authorizing the City Manager to execute a Memorandum of Understanding between the Capital SouthEast Connector JPA and the City of Elk Grove related to an exchange of funding in the amount of \$3,459,000 for the Kammerer Rd Phase 1-Two Lane Extension I-5 to Bruceville Road Project (WTR014) and amending the FY 2021-22 Budget and 2021-2026 Capital Improvement Program by an equal amount

MEETING DATE: October 13, 2021

PREPARED BY: Kevin Bewsey, Capital Program Manager

DEPARTMENT HEAD: Jeffrey R. Werner, P.E., Public Works Director/
City Engineer

RECOMMENDED ACTION:

Staff recommends the City Council adopt a resolution:

- 1) Authorizing the City Manager to execute a Memorandum of Understanding between the Capital SouthEast Connector Joint Powers Authority (JPA) and the City of Elk Grove related to an exchange of funding for the Kammerer Rd Phase 1 Two Lane Extension I-5 to Bruceville Road Project (WTR014);
- 2) Amending the Fiscal Year 2021-22 Budget by \$3,459,000 in Elk Grove Roadway Fee (Fund 328) to reflect the exchange of funding.

BACKGROUND INFORMATION:

In April 2021, the JPA was awarded \$3.459 million in Statewide Transportation Improvement Program (STIP) funding by the Sacramento Area Council of Governments (SACOG) for construction of the realignment

of Scott Road to the intersection with Prairie City and White Rock Roads (the “Scott Road Realignment Project”). However, the JPA was subsequently informed that the funding would not be available for several years. Acknowledging that the Scott Road Realignment Project is ready for construction and the potential for competitive bids, JPA staff explored all options to expedite construction through a funding exchange with SACOG and member agencies. The funding exchange would be local dollars in exchange for the STIP funding.

ANALYSIS:

The JPA approached the City about the possibility of this funding exchange and the City looked at its existing projects to determine if there was a logical project. In order for this exchange to make sense, the City needed to identify a project with federal or state funding and local funds, where an increase in federal or state funds and a decrease in local funds would not create any local match challenges. The City was able to identify that the Kammerer Rd Phase 1-Two Lane Extension I-5 to Bruceville Road (WTR014) (the WTR014 Project) would be the most logical choice. This project is also Segment A1 of the Capital SouthEast Connector.

As a member agency of the JPA and to assist the JPA with completing construction of the Scott Road Realignment Project in 2022 as scheduled, the City is recommending the exchange of local funds for the JPA’s STIP funding. This exchange will provide the JPA with an immediate ability to advertise the Scott Road Realignment Project, while maintaining the City’s construction funding for the WTR014 Project.

The JPA and the City are working collaboratively to program the STIP funding for the construction phase of the WTR014 Project. It is not anticipated that the timing of the STIP funding would delay the WTR014 Project.

The funding exchange between the City and JPA will be accomplished via a Memorandum of Understanding (MOU), with the transfer of funds occurring within 30 days of the execution of the MOU and a letter agreement with SACOG confirming programming of the STIP funding to the WTR014 Project. The letter agreement with SACOG would be executed at a City staff level, consistent with previous general authority provided to the City Manager or designee to execute such agreements. (See City Resolution 2018-149.) The proposed form of the letter agreement is attached.

Staff anticipates that the exchange can be finalized by the end of October. Should SACOG not be able to program these funds, the JPA will return the

local funds to the City and the parties will have no responsibility to perform their obligations under the MOU.

See attachment 2 for the MOU and attachment 3 for SACOG letter agreement.

ALTERNATIVE ACTIONS:

The alternate action is to not approve the MOU. Should the City Council move forward with this alternative action, delivery of the Scott Road Realignment Project would be delayed, but this would have no impact on the schedule the WTR014 Project.

Staff is not recommending this alternative action as the Scott Road Realignment Project is needed and will align with Segment D3/E1 of the Capital SouthEast Connector.

FISCAL IMPACT:

The proposed Funding Exchange is shown in Table 1.

Table 1 – Funding Exchange

Funding Source	Funding Amount
Elk Grove Roadway (Fund 328) to JPA	-\$3,459,000
Federal Capital Grants (Fund 301) to City for WTR014	\$3,459,000
Total Funding	\$0

The Elk Grove Roadway Fee (Fund 328) funding is coming from available fund balance. The City will work with SACOG to program the \$3.459 million in STIP funds to the WTR014 Project in the Metropolitan Transportation Improvement Program (MTIP).

Once these funds are programmed, the City can move forward with amending the Capital Improvement Program (CIP). It is likely this change would occur with the annual update to the CIP.

ATTACHMENTS:

1. Resolution
2. MOU
3. Letter Agreement with SACOG

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF
UNDERSTANDING BETWEEN THE CAPITAL SOUTHEAST CONNECTOR JPA AND
THE CITY OF ELK GROVE RELATED TO THE EXCHANGE OF FUNDING; AND
AMENDING THE FISCAL YEAR 2021-22 BUDGET BY \$3,459,000 IN ELK GROVE
ROADWAY FEE (FUND 328) FOR THE EXCHANGE OF FUNDING**

WHEREAS, the Capital SouthEast Connector JPA (the “JPA”) was awarded \$3.459 million in State Transportation Improvement Plan (STIP) funding by the Sacramento Area Council of Governments (SACOG) for construction of the realignment of Scott Road to the intersection with Prairie City and White Rock Roads (the “Scott Road Realignment Project”); and

WHEREAS, the JPA was subsequently informed that STIP funding would not be available for several years and the Scott Road Realignment Project is ready for construction; and

WHEREAS, the JPA staff explored options to expedite construction through a funding exchange with SACOG and member agencies; and

WHEREAS, the City looked at existing projects to determine if there was a logical City project for this funding exchange and determined that the Kammerer Rd Phase 1-Two Lane Extension I-5 to Bruceville Road Project (WTR014) would be the most logical choice as the City’s project would not be delayed or impacted, and is also segment A1 of the Capital South East Connector; and

WHEREAS, the City and JPA prepared a Memorandum Of Understanding (MOU) outlining the terms of the Funding Exchange.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby:

- 1) Authorizes the City Manager to execute a Memorandum of Understanding between the Capital SouthEast Connector JPA and the City of Elk Grove related to the exchange of funding in substantially the form presented; and,
- 2) Amends the Fiscal Year 2021-22 Budget by an increase of \$3,459,000 in the Elk Grove Roadway Fee (Fund 328) to be paid to the Capital SouthEast Connector JPA in accordance with the Memorandum of Understanding.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of October 2021.

BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

**Memorandum of Understanding Between the
Connector JPA and the City of Elk Grove
Related to the Exchange of Funding**

This Memorandum of Understanding (“MOU”) is made and entered into this ___day of_____, 2021, by and between the CAPITAL SOUTHEAST CONNECTOR JPA, a joint powers authority (“JPA”), and the CITY OF ELK GROVE, a municipal corporation (“City”). The parties to this Amendment may sometimes be collectively referred to herein as the “Parties” and individually as a “Party.”

RECITALS

- A. **WHEREAS**, on April 1, 2021, the Sacramento Area Council of Governments (“SACOG”) awarded 2021 Regional and Community Design funds. SACOG awarded the JPA and its Scott Road Realignment Project \$3,459,000.00 in state or federal funding; and
- B. **WHEREAS**, the funds awarded by SACOG are programmed to become available for use as early as State Fiscal Year 2024 and the JPA desires to complete the Scott Road Realignment Project (the “Project”) sooner to address public concerns and maximize economic efficiencies that may be available due to active construction in the vicinity of the Project, including construction on White Rock Road; and
- C. **WHEREAS**, the City has expressed a desire to help facilitate the Project by providing available local funds in exchange for receipt of the JPA’s grant funds.

NOW, THEREFORE, based on the Recitals set forth above, and the Parties’ desire to undertake efforts in a cooperative manner, the JPA and City agree as follows:

1. The above recitals are hereby incorporated into this Amendment.
2. Exchange of Funds.
 - A. JPA Obligations. The JPA shall transfer to the City all of the JPA’s rights, title and interest to Three Million Four Hundred Fifty-Nine Thousand Dollars (\$3,459,000) in grant funds (“Grant Funds”) programmed and awarded to the JPA by SACOG. The JPA further agrees to execute all documents necessary to accomplish and effectuate the transfer of Grant Funds from the JPA to the City. The provisions of this section shall survive the termination of this MOU except in the case of termination pursuant to Section 2.C.
 - B. City Obligations. Within thirty (30) days of execution of this MOU and SACOG’s written agreement to process the administrative MTIP amendment, the City shall transfer to the JPA Three Million Four Hundred Fifty-Nine Thousand Dollars (\$3,459,000) in local funds. The provisions of this section shall survive the termination of this MOU.

- C. Exchange Approval. The JPA will initiate and support the effort to obtain SACOG approval of an administrative MTIP amendment to transfer the SACOG Grant Funds to the City for City Project(s). If SACOG does not approve the transfer, or any other necessary approvals cannot be obtained, this MOU will be terminated, the Three Million Four Hundred Fifty-Nine Thousand Dollars (\$3,459,000) in local funds shall be returned to the City, and the parties will have no responsibility to perform their obligations under this MOU, as set forth below.
3. No Additional Funding. Except as otherwise provided in this MOU, neither party shall be responsible for contributing any additional funds.
4. Term. This MOU shall terminate on April 1, 2022.
5. Other Provisions.
- A. This MOU may be executed in counterparts, which together shall constitute on and the same instrument.
 - B. This MOU is entered into exclusively for the benefit of the Parties. Nothing contained herein is intended, nor shall this MOU be construed, as an agreement to benefit any third parties, and nothing contained in this MOU shall give or allow any claim or right of action whatsoever by any third party.
 - C. City and JPA are responsible for their own acts and omissions. Each party (the "Indemnifying Party") agrees to indemnify, defend, and hold harmless the other party, its governing body, officers, employees, and agents, from and against any and all actions, claims, demands, losses, damages, liabilities, costs, and expenses, including reasonable attorney's fees and costs, resulting from the Indemnifying Party's negligent acts or omissions or willful misconduct. The provisions of this section will survive the termination of this MOU.
 - D. Time is of essence of this MOU.
 - E. The terms and conditions of this MOU, which are contractual in nature and not mere recitals, shall be interpreted under the laws of the State of California. Should any judicial proceeding be brought relating to this MOU, venue shall lie exclusively in a court of competent jurisdiction located in Sacramento County.
 - F. The Parties declare and represent that no promise, inducement or other agreement has been made conferring any benefit upon any party except those contained herein. The Parties further declare and represent that the MOU contains the entire agreement of the Parties pertaining to the subject matter thereof, and that this MOU supersedes any prior or contemporaneous negotiations, representations, agreements, and understandings of the Parties with respect to such matter,

whether written or oral. Parol evidence shall be inadmissible to show agreement by and between the Parties to any term or condition contrary to or in addition to the terms and conditions contained in this MOU.


IN WITNESS WHEREOF, the parties hereto have executed this MOU effective as of the date first written above.

CAPITAL SOUTHEAST CONNECTOR JPA



Derek Minnema, Executive Director

Approved as to Form:



Sloan Sakai Yeung & Wong LLP
Legal Counsel to JPA

CITY OF ELK GROVE

Jason Berhmann, City Manager

Approved as to Form:

Jonathan P. Hobbs

Jonathan P. Hobbs
City Attorney

ATTEST

Jason Lindgren
City Clerk



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September 20, 2021

Derek Minnema
Executive Director
Capital SouthEast Connector JPA
10640 Mather Blvd, Suite 120
Mather, CA 95655

Jeff Werner
Public Works Director
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

**RE: Capital Southeast Connector JPA/City of Elk Grove Fund Transfer from
"Scott Rd." (SAC25300) to "Kammerer Rd." (SAC24094)**

Dear Mr. Minnema and Mr. Werner:

This letter confirms the agreement between the Capital SouthEast Connector JPA ("JPA"), City of Elk Grove ("City"), and the Sacramento Area Council of Governments ("SACOG") to transfer funding between the JPA and the City of Elk Grove to facilitate the expeditious and efficient delivery of transportation projects in the MTP/SCS.

BACKGROUND

Connector Segment D3 - Scott Road Realignment (SAC25300, "Scott Rd.")

The JPA was awarded \$3,459,000 from the 2021 Flexible Funding Round, Maintenance & Modernization Program to construct the Scott Rd project. The project is CEQA approved, final design is complete, right of way is secured, and construction permitting has been completed through the South Sacramento Habitat Conservation Plan. The project is scheduled to be publicly advertised for construction in November/December 2021, however State-only STIP funds cannot be allocated until 2023. The JPA is seeking an alternative source of funding to construct the project per the schedule outlined in the funding application.

Auburn
Citrus Heights
Colfax
Davis
El Dorado County
Elk Grove
Folsom
Galt
Isleton
Lincoln
Live Oak
Loomis
Marysville
Placer County
Placerville
Rancho Cordova
Rocklin
Roseville
Sacramento
Sacramento County
Sutter County
West Sacramento
Wheatland
Winters
Woodland
Yolo County
Yuba City
Yuba County

September 20, 2021

Capital Southeast Connector JPA/City of Elk Grove Fund Transfer from “Scott Road” (SAC25300) to “Kammerer Rd.” (SAC24094)

Connector Segment A - Kammerer Road Extension (SAC24094, “Kammerer Rd”)

The project is currently in the PA/ED phase and is CEQA approved, with NEPA clearance anticipated in 2023. SACOG has awarded funds to the project. (Outside of this agreement, the City is seeking funding for the construction phases of Kammerer Rd., as additional funds are needed to fill a funding gap.)

AGREEMENT FOR PROGRAMMING THE FUNDING TRANSFER

The City agrees to provide the JPA with local funding to facilitate the JPA’s needs for construction of Scott Rd and in exchange the JPA agrees to transfer the SACOG funds to the City to facilitate the City’s needs to fund Kammerer Rd. The JPA and City have prepared a Memorandum of Understanding to facilitate the funding transfer between agencies.

JPA agrees to deliver Scott Rd. as described in SACOG MTIP. The JPA agrees to submit project status updates on Scott Rd. to SACOG by e-mail no less than annually on July 1st of each year, beginning July 1, 2022. The JPA agrees that Scott Rd. will be completed (open to the public) using local funds by December 31st, 2025. Upon completion, no later than July 1, 2026, the JPA agrees to submit a final report with photographs of the physical construction, including any relevant documentation needed to demonstrate full project delivery. The JPA acknowledges that failure to perform on or deliver the project may be considered by SACOG as a disqualifying or discounting factor for existing or future projects proposed through SACOG’s funding programs.

SACOG already has delivery and reporting requirements in place for Kammerer Rd., so no requirements are set forth for Kammerer Rd.

SACOG agrees to work in cooperation with the JPA and the City to transfer the funding from Scott Rd to City projects via an amendment to the Metropolitan Transportation Improvement Program. SACOG agrees to program the funding via revision to the Metropolitan Transportation Improvement Plan by January 1, 2022.

SACOG will program the funds as follows:

Project No.	Project Name	Amount	Project Phase	Funding Type
SAC24094	Connector Segment A - Kammerer Road Extension	\$3,459,000	Construction	STIP

Any unspent funds from the projects listed in the above table would be eligible for the City's use on future phases or other City projects contingent upon consistency with the MTP/SCS and timely delivery.

I, the undersigned, concur with the terms stipulated in the above letter.



James Corless
Executive Director
SACOG

9/22/21

Date



Derek Minnema
Executive Director
Capital SouthEast Connector JPA

9/23/21

Date

Jeff Werner
Public Works Director
City of Elk Grove

Date

Cc: Kristina Svensk, SACOG
José Luis Cáceres, SACOG
Dustin Foster, SACOG
Matt Lampa, SouthEast Connector JPA
Kevin Bewsey, City of Elk Grove