

**Amended and Restated
Joint Powers Agreement
Establishing The
Tuolumne County Transportation Council**

THIS AMENDED AND RESTATED AGREEMENT ("Agreement") is made and entered into in the County of Tuolumne, State of California, this 6th day of July, 2010, by and between the City of Sonora and the County of Tuolumne, a political subdivision of the State of California, and is based upon the following recitals:

WITNESSETH:

Whereas, California Government Code section 6500 et seq. authorizes two or more public agencies, by a joint powers agreement entered into respectively by them and authorized by their legislative or governing bodies, to exercise jointly any power or powers common to the contracting parties; and

Whereas, Section 29532, of the California Government Code, authorizes local governmental agencies to establish a council of governments to act as a transportation planning agency; and

Whereas, the parties herein recognize that the County of Tuolumne and the City of Sonora are experiencing continued expansion and the development of formerly undeveloped areas; and

Whereas, by reason of this growth, transportation problems involving incorporated and unincorporated areas jointly are arising and are expected to increase in the future; and

Whereas, the parties herein recognize that there exists transportation planning problems which require area-wide consideration; and

Whereas, it is necessary and desirable that a single wholly independent agency be created with the capability of dealing with these area-wide transportation issues and problems; and

Whereas, the creation of such an agency is necessary to qualify the City, County and other agencies within Tuolumne County for certain State and Federal funds; and

Whereas, these needs and concerns led to the creation and establishment of the Tuolumne County and Cities Area Planning Council ("TCCAPC") on December 18, 1967 ("1967 Agreement"); and

Whereas, in accordance with the provisions of Article 11, of Chapter 2, of Division 3, of Title 3, of the Government Code, on July 20, 1972, the Secretary of the Business and Transportation Agency of the State of California designated the TCCAPC as the transportation planning agency for the County of Tuolumne; and

Whereas, on September 16, 2003, the Parties entered into a new Joint Powers Agreement ("2003 JPA"), which superseded the 1967 Agreement, in order to establish the duties and powers of a new entity, the Tuolumne County Transportation Council ("TCTC"), to succeed the powers and functions of the TCCAPC; and

Whereas, Regional Transportation Planning Agencies ("RTPAs") have the responsibility of developing both the Regional Transportation Plans and Regional Transportation Improvement Programs, and to implement these plans for the area within their respective jurisdictions; and

Whereas, the establishment of the TCTC has:

- a) Provided a forum for the discussion and study of area-wide transportation problems of mutual concern to the governmental entities in Tuolumne County;
- b) Provided for the establishment of an agency responsible for identifying, clarifying and planning for solutions to regional transportation problems requiring multi-jurisdictional cooperation;
- c) Provided for the establishment of an agency capable of developing regional plans and policies and performing area-wide transportation planning duties; and
- d) Facilitated eligibility for and receipt of State and Federal funds for transportation activities and projects.

Whereas, the Parties desire to amend and restate the 2003 JPA through this Agreement in order to establish changes in the employee organizational structure, provide for the hiring of employees that will directly serve at the pleasure of the TCTC, and to transfer the responsibilities of the Public Transportation System from the County Board of Supervisors to the TCTC.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION 1

STATEMENT OF PURPOSE

1.A. Specific Purposes. The City and the County have joined together to establish the TCTC for the following purposes:

- 1.A. (1) Provide a forum for discussion and study of county-wide transportation problems of mutual interest to the Member Agencies.
- 1.A. (2) Identify, inventory and comprehensively plan for the solution of regional transportation problems requiring multi-governmental cooperation.
- 1.A. (3) Facilitate actions and agreements among the Member Agencies' units for specific project development.
- 1.A. (4) Act as the lead planning, programming, monitoring and administrative agency for transportation projects and programs in Tuolumne County.
- 1.A. (5) Take action as necessary to qualify local transportation projects and programs for funding.
- 1.A. (6) Provide policy direction and general oversight and administration of the Public Transportation System.

SECTION 2

ESTABLISHMENT

- 2.A. Separate Entity.** Upon the effective date of this Agreement, the Parties hereto hereby establish the Tuolumne County Transportation Council, as a public entity separate and distinct from the Parties, as the entity to exercise the common powers provided for in this Agreement and to administer or otherwise execute this Agreement.
- 2.B. Continuation of Duties.** The Tuolumne County Transportation Council shall continue to function, without interruption in its duties, as the Regional Transportation Planning Agency ("RTPA"), as designated by the Secretary of Business and Transportation Agency of the State of California.

SECTION 3

COMPOSITION

- 3.A. Member Agencies.** The TCTC shall be composed of the City of Sonora and County of Tuolumne, together hereinafter referred to as the "Member Agencies".

SECTION 4

BOARD AND VOTING

- 4.A. Board.** The Tuolumne County Transportation Council, hereinafter referred to as the "TCTC", shall be governed by a board, four members of which shall be appointed by the Member Agencies, and the fifth member shall be appointed by a majority of the other four members.
- 4.B. Board Members.** Members of the governing board shall be appointed as follows:
- 4.B. (1) The County of Tuolumne shall have two (2) members who shall be members of and appointed by the Board of Supervisors.
 - 4.B. (2) The City of Sonora shall have two (2) members who shall be members of and appointed by the City Council.
 - 4.B. (3) The County and City TCTC Members shall appoint a "citizen" member who shall be a resident of Tuolumne County, living in the incorporated or unincorporated area. The fifth member shall be impartially chosen to represent the interest of both the City and County without partiality for either such entity or special interests thereof.
- 4.C. Voting.** Each TCTC Member or Alternate shall be entitled to one vote on all matters coming before the TCTC; provided such votes of Member Agency representatives are subject to any necessary and legal approval of their acts by their respective Member Agency governing body.
- 4.D. Alternate Representatives.** Each Member Agency shall designate at least one alternate representative for each board member appointed by that Member Agency. Said alternates shall be members of and appointed by their respective Member Agency's governing body. The County alternate(s) may represent either County member and the City alternate(s) may

represent either City member. The Member Agencies may designate more than one alternate for each representative, as deemed prudent by that Member Agency.

An alternate(s) for the "citizen" member may be appointed by a majority of the City and County TCTC members. As with the "citizen" member, the alternate(s) shall be a resident of Tuolumne County, living in the incorporated or unincorporated area, and impartially chosen to represent the interest of both the City and County without partiality for either such entity or special interests thereof. Due to the technical nature of items before the TCTC, appointed members of the Citizens Advisory Committee should be given consideration as the TCTC Citizen Member Alternate.

To be eligible to cast the vote of the TCTC Member, an Alternate must be designated, and notice of said designation given to the Executive Director at least twenty-four (24) hours prior to the first meeting at which that alternate is to attend on behalf of the appointed TCTC member.

SECTION 5

TERM OF OFFICE

- 5.A. Elected Officials.** The term of office of each TCTC member and alternate for that member shall correspond with the board member's term of office on the legislative body he or she represents, or until such board member or alternate is removed by the legislative body making the appointment.
- 5.B. Citizen Member.** The term of office of the "citizen" board member shall be four years and may serve additional terms if reappointed by a majority vote of the other TCTC members. The "citizen" member may removed at any time by a majority vote of the other TCTC members.
- 5.C. Vacancies.** Vacancies shall occur as provided for in the California Government Code for public officers. Vacancies shall be filled in the same manner as an initial appointment.

SECTION 6

QUORUM AND MAJORITY REQUIREMENTS

- 6.A. Quorum and Majority Requirements.** The presence of at least three TCTC members or their alternates shall constitute a quorum. A quorum shall be necessary for the purpose of conducting official business. Except as otherwise required by law, a majority vote of those present shall be required to take any action.

SECTION 7

PUBLIC MEETINGS

- 7.A. Meeting Time and Place.** The Tuolumne County Transportation Council shall establish a time and place for regular meetings. Regular meetings of the TCTC shall be held at least once every quarter. All meetings shall be conducted in accordance with the Ralph M. Brown Act, California Government Code, Section 54950 et seq.

SECTION 8

COMMITTEES

- 8.A.** The Tuolumne County Transportation Council shall establish the following committees:
- 8.A. (1) **Technical Advisory Committee.** The Technical Advisory Committee (TAC) shall act as a clearinghouse and technical review body for all items to be considered by the TCTC.
 - 8.A. (2) **Citizens Advisory Committee.** The Citizens Advisory Committee (CAC) shall act as an advisory committee to the TCTC on all matters relating to the regional transportation system.
 - 8.A. (3) **Social Services Transportation Advisory Council.** The Social Services Transportation Advisory Council (SSTAC) shall act as an advisory committee to the TCTC on all matters pertaining to the transit needs of transit dependent and transit disadvantaged persons. The input of this committee shall be considered and made an integral part of the annual "unmet transit needs" hearing and findings process of the TCTC.
- 8.B. Other Committees.** The TCTC may establish and maintain other committees as it deems necessary or convenient for the exercise of its powers and functions.
- 8.C. Committee Creation.** Each committee shall be created and operated in accordance with the bylaws of the TCTC, except the Social Services Transportation Advisory Council, which is subject to the requirements of Public Utilities Code Section 99238.

SECTION 9

POWERS AND FUNCTIONS

- 9.A. Powers and Functions.** The Tuolumne County Transportation Council shall function as a public entity separate from the Member Agencies. The TCTC shall have the common power of the Member Agencies to establish and administer an independent area transportation planning agency and, in the exercise of that power, when required to discharge any statutory or regulatory duty or power imposed on or delegated to the TCTC, the Tuolumne County Transportation Council is authorized in its own name to:
- 9.A. (1) Adopt bylaws for the election of officers and other matters concerning its governance, and adopt rules and regulations for the administration of its functions. The bylaws shall provide for the positions of chairperson and vice chairperson to be elected annually.
 - 9.A. (2) Take actions as necessary to fulfill obligations required by any public or private agency or individual, or the United States, the State of California, or any department, instrumentality, or agency thereof, for the TCTC, or any Member Agency or other funding applicant being eligible to receive funds for transportation purposes.
 - 9.A. (3) Employ agents and employees.
 - 9.A. (4) Administer the Public Transportation System for the Tuolumne County Region.

- 9.A. (5) Contract for professional services unable to be performed by TCTC staff or by those personnel provided to the TCTC by the Member Agencies.
- 9.A. (6) Make and enter into contracts.
- 9.A. (7) Acquire, improve, hold, lease, convey and dispose of real and personal property of all types.
- 9.A. (8) Incur debts, obligations and liabilities.
- 9.A. (9) Accept contributions, grants or loans for financing its activities.
- 9.A. (10) Invest money that is not needed for immediate necessities, in the same manner and upon the same conditions as other local entities in accordance with Section 53601 of the California Government Code.
- 9.A. (11) Reimburse TCTC members, alternates and TCTC employees for all reasonable expenses and costs relating to official business of the TCTC.
- 9.A. (12) Do all other acts reasonable and necessary to carry out the purposes of this Agreement.
- 9.A. (13) Sue and be sued, in its own name only, but not in the name or stead of any Member Agency.
- 9.A. (14) Establish and maintain such committees as it deems necessary for the performance of its responsibilities.
- 9.A. (15) The powers to be exercised by the Tuolumne County Transportation Council are subject to such restrictions upon the manner of exercising such powers as are imposed upon the Member Agencies in the exercise of similar powers. The TCTC shall be held strictly accountable for all funds received, held and disbursed by it.
- 9.A. (16) Seek designation as necessary from any public or private agency or individual, or the United States, the State of California, or any department, instrumentality, or agency thereof, having funds available for transportation purposes, as the local agency with authority over transportation planning within the combined jurisdictions of the Member Agencies, when action or participation by such a combined agency is required for the TCTC, Member Agencies or other funding applicant to receive such funds.
- 9.A. (17) File, with 30 days of the effective date of this Agreement, a Notice of Agreement with the office of the California Secretary of State, pursuant to California Government Code, Section 6503.5.

9.B. Manner of Exercising Power. Pursuant to Government Code section 6509, the powers of the TCTC are subject to the restrictions in the manner of exercising such powers of one of the Member Agencies. The County of Tuolumne is hereby designated as that Member Agency.

9.C. Powers of Member Agencies. Nothing contained in this Agreement shall be construed as limiting in any manner the power of the Member Agencies, or other public agencies in the City or County, from initiating or completing a public project within its respective jurisdiction. The TCTC shall take no action to preclude, inhibit or discourage any appeal by any Member Agency, or other public agency in the City or County, to any public or private agency or individual, or the United States, the State of California, or any department, instrumentality, or agency thereof, for financial or other assistance, when eligibility for or receipt of such assistance is available to the respective agency without regard to the recommendation of the TCTC.

SECTION 10

PERSONNEL

10.A. Executive Director: The Executive Director is responsible for the general administration of TCTC activities and policy oversight.

The Executive Director plans, organizes and manages the daily activities of the TCTC and its staff, and directs the Overall Work Programs implementation. The specific powers and duties of the Executive Director are identified in the TCTC Organization and Procedures Manual.

10.B. Other Personnel.

Additional professional and administrative staff will serve as employees of the TCTC to provide the support needed to carry out TCTC's responsibilities as the regional transportation planning agency for the Tuolumne County Region. TCTC employees are "at will" and serve at the pleasure, and under the direct supervision, of the Executive Director. The specific positions and their duties and responsibilities are identified in the TCTC Organization and Procedures Manual.

Upon request of the Executive Director, the County Administrative Officer or City Manager may assign County or City personnel to perform work for the TCTC..

TCTC work assigned to County and/or City employees should be programmed and approved in the TCTC's annual Overall Work Programs and included in the TCTC's annual budgets. Compensation for the direct and indirect costs of work performed for the TCTC by County and City employees will be reimbursed to the respective Member Agency by the TCTC at the rate mutually agreed upon in advance.

The TCTC may annually negotiate an agreement with the Member Agencies for services that may include, but are not limited to, Treasurer, Auditor-Controller, Legal Services, Information Technology (IT) and Human Resources.

SECTION 11

TREASURER

11.A. Treasurer. The Treasurer of the County shall be the Treasurer of the TCTC. The Treasurer shall:

11.A. (1) Receive and receipt all money of the TCTC and place it in the treasury of the County to the credit of the TCTC.

- 11.A. (2) Be responsible upon the Treasurer's official bond for the safekeeping and disbursement of all TCTC money held by the Treasurer.
- 11.A. (3) Pay any sums due from the TCTC from the TCTC funds held by the Treasurer or any portion thereof, upon warrants of the Auditor-Controller designated herein.
- 11.A. (4) Verify and report in writing on the first day of July, October, January and April of each year to the TCTC and its Member Agencies, upon request by it, the amount of money the Treasurer holds for the TCTC, the amount of receipts and disbursements since the Treasurer's last report, and any interest accrued to those funds.

SECTION 12

AUDITOR-CONTROLLER

12.A. Auditor-Controller. The Auditor-Controller of the County shall be the Controller for the TCTC. The Auditor-Controller shall:

- 12.A. (1) Draw warrants to pay demands against the TCTC when the demands have been approved by the TCTC and/or the TCTC Executive Director. The Controller shall be responsible on the Controller's official bond for the Controller's approval of disbursements of the TCTC money.
- 12.A. (2) Keep and maintain records and books of account on the basis of generally accepted accounting practices.
- 12.A. (3) Make an audit of, or make available, all the financial records of the TCTC to a certified public accountant or public accountant contracted by the TCTC to make an audit of the accounts and records of the TCTC as required by Government Code Section 6505.

12.B. Approvals. The Executive Director of the TCTC and the Chairperson of the TCTC shall together have the power to approve the auditor demands against the TCTC. The Vice Chairperson of the TCTC shall be substituted in the absence or vacancy of the Chairperson. The Transportation Program Coordinator of the TCTC shall be substituted in the absence or vacancy of the Executive Director.

SECTION 13

COMPENSATION

13.A. The TCTC shall determine the compensation of, and pay from TCTC funds (including payment from funds which the TCTC may receive from time to time in the form of Federal and State grants) the salaries, wages, fees and other compensation of such planning, engineering, legal, financial or other technical and professional personnel, consultants and other employees of the TCTC.

SECTION 14

ANNUAL BUDGET

- 14.A.** On or before May 1st each year, the TCTC shall prepare budget estimates of the expenses of conducting the TCTC and Public Transportation System for the ensuing fiscal year.
- 14.B.** The budget estimates shall be in such form as the TCTC may prescribe using the guidelines of the California State Controller. The budget estimates shall contain a summary of the fiscal policy of the TCTC for the budget year and shall include data showing the relation between the total proposed expenditures and the total anticipated income or other means of financing the budgets for the ensuing year, contrasted with the corresponding data for the current year. The budget estimates may include unappropriated balance items to be available for appropriation in the ensuing fiscal year to meet contingencies other than contingencies resulting from temporary insufficiencies in the revenues of the TCTC and Public Transportation System.
- 14.C.** After preparation of the budget estimates, the TCTC shall fix a time and place for hearing by the TCTC thereon. The TCTC shall cause notice of such hearing to be published at least ten (10) days prior to the date set for hearing in a newspaper of general circulation in the area pursuant to Sections 6060 and 6061 of the Government Code, and shall give mailed notice of such hearing to each Member Agency.

At the budget hearing, the TCTC may increase or decrease any item in the budget estimates and may delete any item therefrom or add any new item thereto.

Upon the conclusion of the budget hearing and not later than July 1st of each year, the TCTC shall approve the budget estimates, as revised by the TCTC, and thereupon the same shall constitute the final budgets for the ensuing fiscal year.

The several items of the final budgets shall be deemed appropriated for the ensuing fiscal year in the amounts and for the purposes specified in the final budgets.

SECTION 15

FINANCING AND SUPPORT

- 15.A. Financing.** The Tuolumne County Transportation Council shall obtain its financing from funds provided by any public or private agency or individual, or the United States, the State of California or any department, instrumentality or agency thereof, having funds available for transportation purposes.
- 15.B. Fiscal Year.** The fiscal year of the TCTC shall commence on July 1st of each year and shall terminate on June 30th of the following year.
- 15.C. Support from Member Agencies.** The County and City, in the exercise of the reasonable discretion of their governing bodies, may provide support for the TCTC, its staff and its professional consultants, including, but not limited to, quarters, janitorial services and maintenance, supplies, printing and duplication, postage, utilities and transportation services.
- 15.D. Other Support.** The TCTC shall apply for available private, State, Federal and local support funds, and shall make new and additional applications from time to time as appropriate.
- 15.E. Reimbursement to Member Agencies.** The TCTC shall reimburse a Member Agency which provides personnel, including board members or other support, that may include, but

not be limited to, services of the treasurer, auditor-controller, legal services, human resources or information technology (IT) support, for the direct and indirect cost of such services and support, as agreed upon between the TCTC and the respective Member Agency.

- 15.F. Liability.** Pursuant to Government Code Section 6508.1, the debts, liabilities and obligations of the TCTC shall be its own and shall not be or constitute debts, liabilities and obligations of the Member Agencies.

SECTION 16

RECORDS AND ACCOUNTS

- 16.A.** The TCTC shall cause to be kept accurate and correct books of account, showing in detail the costs of administration, bond interest, bond redemption, operation and maintenance, and all financial transactions of the TCTC. Said books of account shall be open to inspection at all times by any representative of any of the parties hereto, or by any accountant or other person authorized by any party hereto to inspect said books of account. The Auditor-Controller shall, in accordance with Section 6505 of the Government Code, cause the books of account and other financial records of the TCTC to be audited annually. The financial transactions of the TCTC shall be accounted for separately and its records kept for the period of time required under applicable laws and regulations.

SECTION 17

TERMINATION AND DISSOLUTION

- 17.A. No Specific Term.** This Agreement shall continue in force without specific term.
- 17.B. Termination.** This Agreement may be terminated at any time by either Member Agency by giving at least thirty (30) days' notice in writing prior to the date such termination becomes effective.
- 17.C. Continuation of Authority.** In the event of termination, the TCTC shall have continuing authority to take action upon all applications filed with it prior to receipt of the thirty (30) day notice of termination, and shall take action with respect thereto as required by the law, regulation or policy established by the entity or individual from which financial or other assistance is being sought by the application.
- 17.D. Distribution of Assets.** If this Agreement is terminated, all personal property owned by the TCTC shall be distributed to the Federal, State or local funding agency or party to this Agreement that supplied the property or whose funding provided for the acquisition of the property unless other distribution is provided by law. Should the origin of any personal property be undeterminable, that property shall be liquidated and disbursed to the Member Agencies in proportion to the size of the jurisdiction as delineated in the latest California Department of Finance estimate of population.
- 17.E. Surplus Funds.** In the event of termination, all funds in the treasury and unencumbered shall be returned pro-rata to the entity or individual from which they were received unless return is refused, in which event the funds shall be disbursed to the Member Agencies in proportion to the size of the jurisdiction as delineated in the latest California Department of Finance estimate of population.

17.F. Continues in Effect Until Distribution. This Agreement shall not terminate until all actions have been taken in accordance with this Section.

SECTION 18

MISCELLANEOUS

- 18.A. Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- 18.B. Severability.** Should any part, term, portion or provision of this Agreement be finally decided to be in conflict with any law of the United States, or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which the Member Agencies intended to enter into in the first instance.
- 18.C. Amendments.** After this Agreement becomes effective, it may be amended upon ratification by resolution of the Member Agencies.
- 18.D. Headings.** The section titles and headings are for convenience only and are not to be construed as modifying or governing the text in the section to which the title and heading refers.
- 18.E. Law Governing.** This Agreement is made in the State of California, County of Tuolumne.
- 18.F. No Drafting Party.** The Member Agencies have jointly drafted, reviewed with counsel and approved this Agreement so no presumption against any Member Agency arising from the drafting of the Agreement may effect its interpretation.

SECTION 19

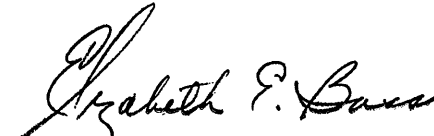
EFFECTIVE DATE OF AGREEMENT

19.A. Effective Date. This Agreement shall become effective upon ratification by resolution of the Tuolumne County Board of Supervisors and the City Council of the City of Sonora.

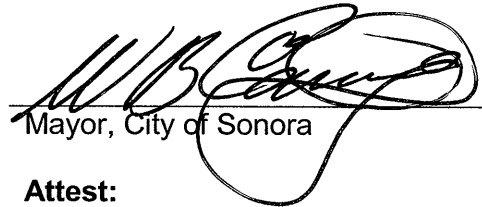
IN WITNESS WHEREOF, the Parties hereto have executed the Agreement on the dates shown in the respective signature blocks.

COUNTY OF TUOLUMNE

CITY OF SONORA



Chair, Board of Supervisors 7/6/10
Date



Mayor, City of Sonora 7-6-10
Date

Attest:

Attest:



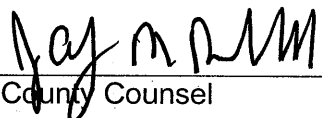
Clerk, Board of Supervisors



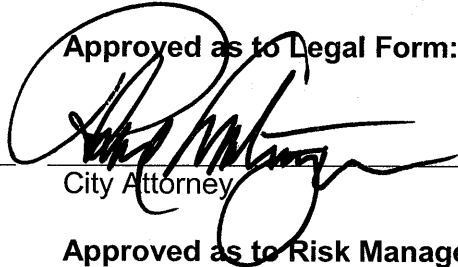
Clerk, Sonora City Council 7/6/10

Approved as to Legal Form:

Approved as to Legal Form:




County Counsel 6/28/10
Date




City Attorney 7/6/10
Date

Approved as to Risk Management:

Approved as to Risk Management:



County Risk Manager 6/28/10
Date



City Risk Manager 7/6/10
Date

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I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

By: 

AECIA L. JAMAR
Clerk of the Board