

Attachment A

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AMENDMENT #1 TO MEASURE X MASTER PROGRAMS FUNDING AGREEMENT
BETWEEN
THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND
COUNTY OF MONTEREY

THIS AMENDMENT No. 1 to the agreement originally dated August 31, 2017, between the Transportation Agency for Monterey County, hereinafter referred to as “TAMC,” and County of Monterey, hereinafter referred to as “Jurisdiction,” is hereby entered into between TAMC and the Jurisdiction.

RECITALS:

- A. **WHEREAS**, TAMC and Jurisdiction entered into a Measure X Master Programs Funding Agreement on August 31, 2017, hereinafter referred to as “Agreement;”
- B. **WHEREAS**, both the Agreement and Measure X implementing ordinance (Ordinance 2016-01) included a Maintenance of Effort requirement defined as an average of the prior three years spent for local transportation purposes; and
- C. **WHEREAS**, subsequent to the adoption of Measure X, the State of California adopted “SB 1,” which provided, among other things, funding to local jurisdictions based upon a different Maintenance of Effort calculation, thus creating potential confusion and conflicts in such calculations for Measure X jurisdictions; and
- D. **WHEREAS**, TAMC also received feedback from local jurisdictions during the Fiscal Year 2017/18 Measure X Annual Reporting period that this Maintenance of Effort calculation would penalize local jurisdictions that make large one-time investments in transportation maintenance improvements;
- E. **WHEREAS**, on July 16, 2019, the Measure X Citizens Oversight Committee recommended that the Maintenance of Effort definition be revised to “an amount not less than the annual average of its expenditures from its general fund during the preceding three fiscal years 2009-10, 2010-11, and 2011-12 fiscal years, but not less than what was expended in 2016-17 (when Measure X passed), as reported to the Controller pursuant to Streets and Highways Code section 2151. This baseline amount will be indexed annually to the Engineering News Record construction index.”;
- F. **WHEREAS**, on October 23, 2019, the TAMC Board of Directors, with support from the Measure X Citizens Oversight Committee and Jurisdiction, duly approved Ordinance 2019-01, which amended the Measure X implementing ordinance (Ordinance 2016-01) to revise the definition for calculating the Maintenance of Effort, as described above; and
- G. **WHEREAS**, TAMC and Jurisdiction desire to amend the Agreement to make the Maintenance of Effort definition consistent with Ordinance 2019-01.

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. Article I, Paragraph 4

The definition of “Maintenance of Effort Report” shall be replaced in its entirety with the following:

Maintenance of Effort Report: A report to be adopted by a jurisdiction, no later than December 31 of each year the Measure X tax is in effect, verifying that Measure X funds received by the reporting jurisdiction have been used to augment, and not supplant, local resources spent in the fiscal year, as described in Article IV Section A.6. The amount of local resources spent for the fiscal year is calculated as the annual average of its expenditures from its general fund during the 2009-10, 2010-11, and 2011-12 fiscal years, but not less than what was expended in 2016-17 (when Measure X passed), as reported to the Controller pursuant to Streets and Highways Code section 2151. This baseline amount will be indexed annually to the Engineering News Record construction index.”

2. Article IV, Section A, Paragraph 6

Article IV, Section A, Paragraph 6 shall be replaced in its entirety with the following:

6. RECIPIENT shall certify, no later than August 31, 2017 and December 31st of each year thereafter, in an annual Maintenance of Effort Report verification that these Measure X funds are used to augment and not supplant local resources spent. RECIPIENT shall expend each fiscal year from its general fund for street and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 2009-10, 2010-11, and 2011-12 fiscal years, but not less than what was expended in 2016-17 (when Measure X passed), as reported to the Controller pursuant to Streets and Highways Code section 2151 (“Maintenance of Effort”). This baseline amount will be indexed annually to the Engineering News Record construction index.”

3. REMAINDER OF TERMS UNCHANGED

All other terms of the Agreement remain in full effect.

An executed copy of this Amendment No. 1 shall be attached to the Agreement and shall be incorporated as if fully set forth therein.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Agreement with Consultant.

County of Monterey (Recipient)

Transportation Agency for
Monterey County (TAMC)

By: _____
Carl P. Holm Date
Director Resource Management Agency

By: _____
Debra L. Hale Date
Executive Director

Approved as to Form and Legality:

Approved as to Form and Legality:

By: _____
Mary Perry Date
Deputy County Counsel

By: _____
Kathryn Reimann Date
TAMC Counsel

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