



# Joint Exercise of Powers Agency

City of Antioch City of Brentwood City of Oakley County of Contra Costa

## Board of Directors

Thursday, February 8, 2007  
7:45 p.m.

Tri-Delta Transit Meeting Room  
801 Wilbur Avenue  
Antioch, California

1. Call to Order
2. Closed Session

Conference with legal counsel - Existing Litigation (Gov. Code, §54956.9(a))

1. *State Route 4 Bypass Authority v. Lopez-Nunn Ranch, et al.*, C.C.C. Superior Court, No. C05-01026
2. *State Route 4 Bypass Authority v. Bruna M. Del Chiaro, et al.*, C.C.C. Superior Court No. C05-01129
3. *State Route 4 Bypass Authority v. Irwin Brent Pomeroy, et al.* C.C.C. Superior Court No. C05-01025
4. *State Route 4 Bypass Authority v. Immanuel Baptist Church, et al.* C.C.C. Superior Court No. C06-00002
5. *State Route 4 Bypass Authority v. H. John Bloomfield, Trustee, et al.*, C.C.C. Superior Court No. C05-02371
6. *State Route 4 Bypass Authority v. Franklin Maggiore, et al.* , C.C.C. Superior Court Case No. C05-01768
7. *State Route 4 Bypass Authority v Anthony Marlan Massoni, Trustee, et al.* , C.C.C. Superior Court Case No. C05-01745

3. Public Comment
4. Consent Items

- A. **APPROVE** Minutes of January 11, 2007 meeting.
- B. It is recommended that the Board take the following actions:

1. **APPROVE** the Right of Way Contracts and **ACCEPT** the Grant Deeds and Grant of Easements listed below:

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Doris May Polari, Trustee Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees Loretta Oliveri and Christine Oliveri, Co-Trustees	59663 & 59664	2/07	Placer Title Company Escrow #615-7881 & 8016 981 N. Broadway #100 Walnut Creek, CA 94596	\$207,000.00

**Board of Directors:**  
Mary N. Piepho, Chair  
Donald P. Freitas, Vice Chair  
Annette Beckstrand  
Brad Nix

**Authority Staff Office:**  
Contra Costa County  
255 Glacier Drive  
Martinez, CA 94553  
(925) 686-0619

2. **AUTHORIZE** the Secretary or Designee to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority (Authority).
3. **APPROVE** payments as listed above for said property rights and **AUTHORIZE** the Auditor-Controller to issue checks in said amounts payable to listed payees, to be forwarded to the Real Property Division for delivery.
4. **DIRECT** the Real Property Division of Contra Costa County to deliver the above referenced Grant Deeds and Grant of Easements to the Placer Title Company for recording in the office of the Contra Costa County Recorder.

- C. **APPROVE** Resolution 2007/02 accepting the Segment 1, Package 1 project as complete (Project No. 4460-6X4476-05) and **DIRECT** the Secretary or designee to sign the resolution on behalf of the Authority pursuant to Civil Code Section 3093.
- D. **APPROVE** Right of Entry Agreement to enter onto Contra Costa County Flood Control and Water Conservation District (CCCFCWCD) land to complete construction of underground service points for the SR4 Bypass Segment 1 Project, and **AUTHORIZE** the Secretary or Designee to sign the agreement on behalf of the Authority.
- E. **APPROVE** Consulting Services Agreement amendment with PB Americas (PB) in the amount of \$1,649,566 for a not-to-exceed contract amount of \$8,176,976 for continued construction management services for Segment 1, Packages 1 and 2, the Laurel Road Extension and Lindsey Detention Basin projects, and **AUTHORIZE** the Secretary, or designee, to sign the amendment on behalf of the Authority.

5. Determination Items

- A. **RECEIVE** status report on Segment 1, Segment 3 and the Laurel Road Extension projects (*no staff report*).
- B. **RECEIVE** status report on construction activities for Segment 1, Segment 3 and the Laurel Road Extension projects (*no staff report*).
- C. **APPROVE** Cost Proposal and Scope Description to provide survey support services during Segment 3 construction by Contra Costa County Public Works Department, Right of Way Engineering Section, estimated at \$42,000.
- D. **APPROVE** Cost Proposal and Scope Description for Contra Costa County Public Works Department, Survey Section to complete Right of Way Engineering Services for the Transfer of the SR4 Bypass (Segments 2 and 3) to Caltrans, estimated at \$350,000.

6. Board Member Comments

7. Correspondence

8. Adjournment

*The Authority will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Program Manager at least 24 hours before the meeting, at (925) 686-0619.*

1/10/07 4A1

**STATE ROUTE 4 BYPASS AUTHORITY  
Antioch - Brentwood - Oakley and Contra Costa County**

**A JOINT EXERCISE OF POWERS AGENCY**

**MINUTES**  
January 11, 2007

The STATE ROUTE 4 BYPASS AUTHORITY meeting was called to order in the Tri-Delta Transit Meeting Room, 801 Wilbur Avenue, Antioch, California by Chair Mary N. Piepho at 7:35 P.M.

**ROLL CALL**

PRESENT: Donald Freitas (Antioch), Brad Nix (Oakley), and Chair Mary N. Piepho (Contra Costa County)

ABSENT: Bob Taylor (Brentwood)

STAFF: Dale Dennis, Program Manager

**ELECTION OF OFFICERS**

Chair/Vice Chair

Brad Nix nominated Donald Freitas as the Chair and Bob Taylor as the Vice Chair of the State Route 4 Bypass Authority for 2007. Donald Freitas seconded the nominations. There were no other nominations. The nominations were closed. **Donald Freitas** was unanimously selected as the Chair and **Bob Taylor** was unanimously selected as the Vice Chair of the State Route 4 Bypass Authority for 2007.

Chair Freitas chaired the meeting at this time.

Director Piepho requested that the Closed Session item be moved to the end of the agenda.

**PUBLIC COMMENT**

Bruce Ohlson, East Bay Bicycle Coalition, reminded the SR4 Bypass Authority that the bicycle community still expected the bicycle and pedestrian bridge for the Mokelumne Trail crossing over the SR4 Bypass

**CONSENT ITEMS**

On motion by Director Piepho, seconded by Director Nix, members of the Authority unanimously adopted the Consent Items, as follows:

- 4/12
- A. APPROVED minutes of November 9, 2006 meeting. (*December 14, 2006 meeting canceled*)
  - B. APPROVED Resolution No. 2007/01 Accepting the Undergrounding and Relocation of East Contra Costa Irrigation District (ECCID) Facilities Project as Complete (Project No. 4460-6X4476-05) and AUTHORIZED the Secretary or designee to sign the resolution.
  - C. APPROVED Contract Change Order Nos. 47, 58, 61 and 67 with De Silva Gates Construction/FCI Constructors JV for an estimated cost increase of \$220,000 for Segment 1, Package 2, and AUTHORIZED the Secretary or designee to sign the contract change orders on behalf of the Authority.
  - D. APPROVED a \$68,825 amendment to the Consulting Services Agreement with Parsons Brinckerhoff (PB) for a revised not-to-exceed contract amount of \$3,783,310 for on-call biological monitoring services during the construction of Segment 3 as directed by Authority staff, and AUTHORIZED the Secretary or designee to sign the amendment on behalf of the Authority.
  - E. APPROVED Consulting Services Agreement with Wood Biological Consulting in the amount of \$40,100 for Riparian Implementation Assistance and Post-construction Monitoring services for Segment 3, and AUTHORIZED the Secretary or designee to sign the agreement on behalf of the Authority.
  - F. APPROVED a \$38,500 amendment to the Consulting Services Agreement with Nolte Associates Inc. for a revised not-to-exceed contract amount of \$255,300 to provide engineering construction support services related to the Marsh Creek Trail crossing of Segment 3, and AUTHORIZED the Secretary or designee to sign the amendment on behalf of the Authority.
  - G. APPROVED Electrical Facility Cost Sharing Agreement with Caltrans and Contra Costa County for electrical facilities at the intersection of Marsh Creek Road and Byron Highway and AUTHORIZED the Secretary or designee to sign it in substantially the same form on behalf of the Authority.

#### **DETERMINATION ITEMS**

- A. RECEIVE Status Report on the Segment 1, Segment 3 and the Laurel Road Extension Projects

Program Manager Dale Dennis stated that all three projects were under construction and had been for two to three months.

Mr. Dennis reported that things were moving well with follow-up utility issues on Segment 1 and the Laurel Road Extension projects and a coordination of utilities at Segment 3 near the Concord Terminal. Work was also ongoing to finish the right-of-way acquisition parcels. He reported that the work was on schedule.

B. RECEIVE Status Report on Construction Activities for Segment 1, Segment 3 and the Laurel Road Extension Projects

Bart Littell of Parsons Brinckerhoff Construction Services presented updated construction photographs of Segment 1 and Segment 3. For Segment 1, he advised that the bridge work had been ongoing through the winter. He detailed the ongoing work on those bridges, reported that sound wall No. 2 was under construction, and highlighted the joint trench work on Lone Tree Way along with significant electrical work.

For the Laurel Road Extension Project, Mr. Littell described major drainage work and reported that some grading had also been done given the dry weather. He stated that Segment 1 was 58 percent complete, 49 percent on time.

Speaking to the paving repair for SR4, Mr. Littell explained that the repair would have to be done at night and 50 degrees was required to be able to do that paving. With Segment 3, he stated that detention basin 2 had been completed, the detour on Orchard Lane had been completed to allow the construction of Marsh Creek Road and the grading on Marsh Creek Road had been completed. There were temporary signals at Walnut and Marsh Creek with utility relocations, the Fairview Bridge had been done and some grading had also been done.

Mr. Dennis stated that no phone calls from residents had occurred for Segment 3 and construction was moving along well without calls or complaints.

Director Piepho stated that she had not seen any major congestion or issues in that area in that the detours, signage and orange soft delineators at Concord and Walnut appeared to be working well. She expressed her appreciation to staff in that regard.

Chair Freitas suggested that a tour might be in order to allow the new member of the Authority an opportunity to see the work that had been done and was ongoing.

Chair Freitas also emphasized the need for project readiness to qualify for available funds. He suggested a future discussion of ultimate project options and emphasized the need to discuss the concept of ultimate design while pursuing additional sources of revenue.

Brad Nix asked that the discussion of project readiness be agendaized for the next meeting.

4/14

**CLOSED SESSION**

Chair Freitas adjourned into Closed Session at 7:44 P.M.

Conference with Legal Counsel – Existing Litigation (Government Code § 54956.9(a))

*State Route 4 Bypass Authority vs. Irwin Brent Pomeroy, et al., Contra Costa County Superior Court No. C05-01025*

Chair Freitas reconvened at 8:13 P.M. and advised that there was no reportable action from the Closed Session.

**BOARDMEMBER COMMENTS**

There were no Boardmember comments.

**CORRESPONDENCE**

There was no correspondence.

**ADJOURNMENT**

With no further business to come before the State Route 4 Bypass Authority, Chair Freitas adjourned the meeting at 8:14 P.M. to the next meeting scheduled for February 8, 2007.

Respectfully submitted,


Anita L. Tucci-Smith  
Minutes Clerk

4B

STATE ROUTE 4  
BYPASS AUTHORITY

DATE: February 8, 2007

TO: Board of Directors

FROM: Dale Dennis, Program Manager 

SUBJECT: State Route 4 Bypass Project, Segment 3. Brentwood Area.  
Project No.: 4660-6X4493 ACCT: 3540 TASK: ACQ

**Recommendation:**

A. **APPROVE** the Right of Way Contract and **ACCEPT** the Grant Deeds and Grant of Easement listed below:

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Doris May Polari, Trustee Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees Loretta Oliveri and Christine Oliveri, Co-Trustees	59663 & 59664	2/07	Placer Title Company Escrow #615-7881 & 8016 981 N. Broadway #100 Walnut Creek, CA 94596	\$207,000.00

B. **AUTHORIZE** the Secretary or Designee to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority (Authority).

C. **APPROVE** payment as listed above and **AUTHORIZE** the Auditor-Controller to issue a check in said amount payable to listed payees, to be forwarded to the Real Property Division for delivery.

D. **DIRECT** the Real Property Division of Contra Costa County to deliver the above referenced Grant Deeds and Grant of Easement to the Placer Title Company for recording in the office of the Contra Costa County Recorder.

**Discussion:**

These property rights are required for the State Route 4 Bypass –Segment 3 project in accordance with approved plans and specifications. Payment totaling \$207,000.00 for the purchase of these property rights comes from State Route 4 Bypass funds.

If the Authority were not to acquire these property rights, the project will not have sufficient land rights to allow construction in accordance with the approved plans and specifications.

ACTION OF BOARD ON \_\_\_\_\_

APPROVED AS RECOMMENDED \_\_\_\_\_

OTHER \_\_\_\_\_

VOTE OF DIRECTORS

\_\_\_\_\_ UNANIMOUS (ABSENT \_\_\_\_\_)

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

ATTESTED: \_\_\_\_\_

Secretary to the Authority

# RIGHT OF WAY CONTRACT -- STATE HIGHWAY

RW 8-3 (Rev. 6/95)

Page 1 of 7

\_\_\_\_\_, California  
\_\_\_\_\_, 2007

District	County	Route	Parcel #	Project #
4	CC	SR4 Bypass	59663 & 59664	4660- 6X4493

This Contract is entered into by and between State Route 4 Bypass Authority, a joint exercise of powers entity (hereinafter "Authority") and Doris May Polari, Trustee of the 2003 Doris May Polari Revocable Trust dated 12/5/03; Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees under the will of Frank Joseph Polari, deceased; Loretta Olivieri and Christine Olivieri, successor co-trustees of the Olivieri Family Trust UDT dated 3/9/90 and successor co-trustees of the Olivieri Tax Credit Shelter Trust dated 3/9/90, (hereinafter "Grantors").

## RECITALS

- A. On November 1, 2006, Authority brought an eminent domain action against Grantors in Contra Costa County Superior Court, Case No. C06-02214 entitled *State Route 4 Bypass Authority v. Doris May Polari, Trustee, et al.*, seeking to acquire property rights upon, over, across, and in parcels of land to which Grantors own fee title for the purposes of constructing a public roadway and related improvements.
- B. The purpose of this Contract is to convey to Authority property interests necessary for the construction of the road project and related improvements.
- C. Both Authority and Grantors recognize the expense, time, effort, and risks to both parties in determining the compensation for the property by eminent domain litigation. In lieu of such litigation, the parties have agreed that Authority will pay Grantors compensation in exchange for the real property interests described below in resolution of any and all disputes arising from the eminent domain action pursuant to the terms contained herein. The parties have herein set forth the whole of their Contract. The performance of this Contract constitutes the entire consideration for said document and shall relieve the Authority of all further obligation or claims on this account, or on account of the location, grade or construction of the public improvements.

## AGREEMENT

**NOW THEREFORE**, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

- Effective Date.** It is understood that this Contract is subject to approval by the Authority's Governing Board. This Contract is effective on the date approved by the Authority's Governing Board ("Effective Date"). This Contract will be submitted to Grantors first for approval, and thereafter to the Authority's Board of Directors.
- Public Purpose.** Authority requires the Grantors' Property described below for State highway purposes, a public use for which Authority has authority to exercise the power of eminent domain.
- Description of Property Interests to be Conveyed.** Grantors agree to convey to Authority

and Authority agrees to accept the following described property interests subject to the terms of this Contract.

(a) fee title to Parcel 1 (commonly known as APN#011-180-003), as more particularly described in Exhibit 1(A), and shown on Exhibit 1(B), attached hereto and incorporated herein by reference;

(b) fee title to a portion of the parcel having APN#011-180-044, hereinafter Parcel 3 (59663-3), as more particularly described in Exhibit 2(A), and shown on Exhibit 2(B), attached hereto and incorporated herein by reference;

(c) a utility easement affecting Parcel 4 (59663-4), as more particularly described in Exhibit 3(A), and shown on Exhibit 3(B), attached hereto and incorporated herein by reference;

(d) an aerial easement affecting Parcel 5 (59663-5), as more particularly described in Exhibit 3(A), and shown on Exhibit 3(B), attached hereto and incorporated herein by reference.

These real property interests are hereinafter collectively referred to as "Grantors' Property".

4. **Purchase Price.** The total consideration for the acquisition of Grantors' Property to Authority shall be payment of the sum of Two Hundred and Seven Thousand Dollars (\$207,000.00) to Grantors ("Purchase Price") under the terms and conditions set forth herein. The total consideration described herein includes consideration for the Authority's use and possession of all property referenced in the Order for Immediate Possession that was filed on November 3, 2006 in the aforementioned eminent domain action.

4.1 Authority shall deposit the Purchase Price in the amount of Two Hundred and Seven Thousand Dollars (\$207,000.00) into escrow to be delivered to Grantors at the Close of Escrow (as defined below).

4.2 All ad valorem real property taxes and any penalties and costs thereon, and all installments of any bond or assessment that constitutes a lien on the Grantors' Property shall be cleared and paid by Grantors as of the date title shall vest in Authority by the recordation of the deed herein pursuant to Sections 4986, 5082, and 5086 of the Revenue and Taxation Code of the State of California, if unpaid as of the date title vests.

5. **Conditions to Authority's Performance.** The Authority's obligation to perform under this Contract is subject to the following conditions:

5.1. Grantors' representations and warranties in this Contract being correct as of the date of this Contract and as of the Close of Escrow.

5.2. Grantors' performance of all obligations under this Contract.

5.3. The vesting of title to Parcels 1 and 3 (59663-3), in the Authority by grant deed in fee simple absolute, free and clear of all liens, encumbrances, assessments, leases (recorded and/or unrecorded), and taxes, except for the "Approved Exceptions" as described in Section 6.2 A and B herein, and to the easements affecting Parcel 4 (59663-4) and Parcel 5 (59663-5), as described in Exhibit 3(A).

If Authority determines that any of these conditions have not been met, Authority will have all rights and remedies allowed at law or in equity, including but not limited to specific performance.

6. **Escrow.** Two escrows have already been established (collectively "Escrow") by Placer Title Company ("Title Company"), 1981 N. Broadway, #100, Walnut Creek, California, for Parcels 1 and 3 (59663-3), consisting of Escrow No. 615-7881 for Parcel 1 and Escrow No. 615-8016 for Parcel 3 (59663-3). Grantors hereby authorize Authority to prepare and file escrow instructions with said Title Company, on behalf of Grantors, in accordance with this Contract. This includes authorization of the Title Company to withhold pro rata taxes, liens and assessments on the Grantors' Property to be conveyed to Authority.
- 6.1. **Fees and Title Insurance.** The Authority shall pay all escrow and recording fees incurred in the conveyance of Grantors' Property to Authority.
- 6.2. **Grantors' Deposit into Escrow.** On or before the Close of Escrow, Grantors will deliver into Escrow with the Title Company the following documents:
- A. A Grant Deed, in recordable form and properly executed on behalf of Grantors, in the form attached as Exhibit 1, conveying to Authority Parcel 1 described in Exhibit 1(A) in fee simple absolute, subject only to the following Approved Exceptions: 5, 6, 7, 8, 9, 11 and 12, as outlined in the Preliminary Title Report #615-7881 dated January 3, 2007 by Placer Title Company.
  - B. A Grant Deed, in recordable form and properly executed on behalf of Grantors, in the form attached as Exhibit 2, conveying to Authority Parcel 3 (59663-3) described in Exhibit 2(A) in fee simple absolute, subject only to the following Approved Exceptions: 4, 5, 6, 7, 8, 10, 15 as outlined in the Preliminary Title Report #615-8016 dated August 17, 2006 by Placer Title Company.
  - C. A Grant of Easement, in recordable form and properly executed on behalf of Grantors, in the form attached as Exhibit 3, conveying to Authority the utility and aerial easements affecting Parcel 4 (59663-4) and Parcel 5 (59663-5) as described in Exhibit 3(A).
- 6.3. **Deposit of Payment Into Escrow by Authority.** Prior to the Close of Escrow, Authority will deposit \$207,000.00 into Escrow with the Title Company.
- 6.4. **Close of Escrow.** Escrow shall close upon the conveyance of the Grantors' Property to the Authority and Authority's payment of the Purchase Price to Grantors ("Close of Escrow"). On the closing date, the Title Company shall close Escrow as follows:
- A. Record the Grant Deeds and Grant of Easements, marked for return to the County in care of Carmen Piña-Sandoval, Real Property Agent for the Authority (which shall be deemed delivery to the Authority);
  - B. Issue the title policies;
  - C. Prorate taxes, assessments, rents and other charges on the Grantors' Property as provided by this Contract;
  - D. Disburse to Grantors the final payment of \$207,000 in the following proportions, less prorated amounts and charges to be paid by or on behalf of Grantors:

25% made payable to "Doris May Polari, Trustee of the 2003 Doris

Polari Revocable Trust";  
25% made payable to "Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees under the will of Frank Joseph Polari"  
50% made payable to "Loretta Olivieri and Christine Olivieri, trustees of the Olivieri Family Trust and Olivieri Tax Credit Shelter Trust".

- E. Prepare and deliver to Authority and to Grantors one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify Authority and Grantors and retain all funds and documents pending receipt of further instructions from Authority and Grantors.

7. **Grantors' Representations and Warranties.** Grantors make the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by Authority. Grantors represent and warrant to Authority that as of the date of this Contract and as of the Close of Escrow:
- 7.1. **No Unapproved Exceptions.** The Grantors Property is clear of restrictions, leases, liens and other encumbrances, subject only to the Approved Exceptions. No leases, licenses, or other agreements allowing any third party rights to use the Grantors' Property are or will be in force unless prior consent has been given by the Authority in writing. Commencing with the full execution of this Contract by both parties and until the Close of Escrow, Grantors shall not permit any liens, encumbrances or easements to be placed on Grantors' Property other than the Approved Exceptions, nor shall Grantors enter into any agreement that would affect the Grantors' Property that would be binding on Authority after the Close of Escrow without the prior written consent of Authority.
- 7.2. **Other Matters Affecting Grantors' Property.** To the best of Grantors' knowledge, there are not presently any actions, suits, or proceedings pending (other than the condemnation action referenced herein) or, to the best of Grantors' knowledge, threatened against or affecting the Grantors' Property or the interest of Grantors in the Grantors' Property or its use that would affect Grantors' ability to consummate the transaction contemplated by this Contract. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of Grantors' Property. Grantors have no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes, on, from, or under Grantors' Property. Grantors shall promptly notify Authority of any of these matters arising in the future.
- 7.3. **Grantors' Authority.** That this Contract and all other documents delivered prior to or at the Close of Escrow have been properly authorized, executed, and delivered by Grantors; are binding obligations of Grantors; and are collectively sufficient to transfer all of Grantors' rights to Grantors' Property.
8. **Release.** Authority's payment of the consideration described in paragraph 4 above, constitutes full payment for all of the real property or interests in real property acquired by Authority from Grantors; for all landscaping and improvements; and for all costs, interest and damages of every kind and nature accruing by reason of the acquisition of Grantors'
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Property and the construction thereon of a public improvement as proposed by Authority, including without limitation loss of goodwill pursuant to Code of Civil Procedure Section 1263.510, business relocation assistance and benefits under Government Code Section 7260 et seq. and 42 United States Code section 4601 et seq., and severance damages pursuant to Code of Civil Procedure Section 1263.420.

Grantors, on behalf of themselves, their successors and assigns, hereby waive, release and discharge Authority, its governing body, officers, agents and employees, from any and all rights, claims, demands, causes of action, obligations, damages and liabilities, including without limitation, attorneys' fees and costs, which Grantors now have or could assert now or at any time in the future against Authority arising from Authority's acquisition of Grantors' Property. This waiver includes any claims Grantors may have to attorney's fees and litigation costs under the Eminent Domain Law (Code of Civil Procedure section 1230.010 et. seq.) or otherwise, including but not limited to any rights related to abandonment under Code of Civil Procedure sections 1268.510, 1268.610 and 1268.620. Grantors expressly waive all rights under Section 1542 of the Civil Code of the State of California, which Grantors understand provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Grantors have no other right or claim to compensation arising out of or connected with Authority's acquisition of Grantors' Property, except as specifically set forth in this Contract, and agree never to assert such a claim.

- 9. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Contract, including paragraphs 7 and 8, shall survive the assignment, expiration or termination of this Contract and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.
- 10. **Dismissal from Condemnation Action.** The undersigned Grantors hereby agree and consent to their dismissal from the condemnation action described in Recital A above. Additionally, Grantors and Authority hereby agree that each party shall bear its respective costs and attorney's fees pertaining to this matter, including but not limited to costs and fees incurred in connection with this Contract and with the negotiation, drafting and conveyance of the property rights described herein.
- 11. **Assignment and Successors.** This Contract shall inure to the benefit of and shall be binding upon the parties to this Contract and their respective heirs, successors, and assigns.
- 12. **Notices.** All notices (including requests, demands, approvals or other communications) under this Contract shall be in writing. The place for delivery of all notices given under this Contract shall be as follows:

Grantors: Doris May Polari and  
Frank Joseph Polari, Jr.  
620 Baldwin Drive  
Brentwood, CA 94513

Christine Olivieri  
807 San Miguel Road  
Concord, CA 94518

Patricia Ann Hoffner  
6751 Balfour Road  
Brentwood, CA 94513  
With a copy to:

Loretta Olivieri  
3351 Alfonso Drive  
Concord, CA 94518

Shannon B. Jones Law Group  
Attn: Denise Hannan  
175 East Prospect Avenue, Suite 210  
Danville, CA 94526  
(925) 837-2315

Authority: Real Property Division  
Public Works Department  
Attn: Carmen Piña-Sandoval  
255 Glacier Drive  
Martinez, CA 94553  
Telephone: (925) 313-2012

or to such other addresses as Authority and Grantors may respectively designate by written notice to the other.

13. **Entire Contract.** The parties have herein set forth the whole of their Contract. The performance of this Contract constitutes the entire consideration for said document and shall relieve the Authority of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
  14. **Construction.** The section headings and captions of this Contract are, and the arrangement of this instrument is, for the sole convenience of the parties to this Contract. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Contract. This Contract shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. The parties to this Contract and their counsel have read and reviewed this Contract and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Contract. The Recitals are and shall be enforceable as a part of this Contract.
  15. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances under this Contract, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Contract.
  16. **Severability.** If any term or provision of this Contract shall, to any extent, be held invalid or unenforceable, the remainder of this Contract shall not be affected.
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17. **Governing Law and Venue.** This Contract shall be governed and construed in accordance with California law. The venue of any litigation pertaining to this Contract shall be Contra Costa County, California.

**STATE ROUTE 4 BYPASS AUTHORITY**

**GRANTORS**

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
Doris May Polari, Trustee of the 2003 Doris May Polari Revocable Trust dated 12/5/03

By \_\_\_\_\_  
Real Property Agent

\_\_\_\_\_  
Patricia Ann Hoffner, Co-Trustee under the will of Frank Joseph Polari

By \_\_\_\_\_  
Principal Real Property Agent

\_\_\_\_\_  
Frank Joseph Polari, Jr., Co-Trustee under the will of Frank Joseph Polari

APPROVED:

By: \_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
Loretta Olivieri, successor co-trustee of the Olivieri Family Trust UDT dated 3/9/90 and successor co-trustee of the Olivieri Tax Credit Shelter Trust dated 3/9/90

Date: \_\_\_\_\_  
(Date of Board Approval)

\_\_\_\_\_  
Christine Olivieri, successor co-trustee of the Olivieri Family Trust UDT dated 3/9/90 and successor co-trustee of the Olivieri Tax Credit Shelter Trust dated 3/9/90

APPROVED AS TO FORM

Silvano B. Marchesi  
County Counsel

APPROVED AS TO FORM:

Shannon B. Jones Law Group

By: \_\_\_\_\_  
Deputy

By: \_\_\_\_\_  
Denise Hannan, Esq.

**NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED**

Exhibit 1 –Grant Deed of Parcel 1; (A) Legal Description; (B) Parcel Map

Exhibit 2 –Grant Deed of Parcel 3; (A) Legal Description; (B) Plat Map

Exhibit 3 –Grant of Utility and Aerial Easements affecting Parcels 4 and 5; (A) Legal Description; (B) Plat Map