

RESOLUTION NO. 2023-145

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, APPROVING AMENDMENT NO. 3 TO COOPERATIVE AGREEMENT NO. 16-1001477 (AGREEMENT) WITH THE SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY (SBCTA) FOR ROLES AND RESPONSIBILITIES FOR THE MT. VERNON AVENUE VIADUCT PROJECT (PROJECT) TO INCREASE SBCTA AND CITY DEVELOPER IMPACT FEES (DIF) BY A TOTAL OF \$13,331,534 FOR A NEW SBCTA SHARE OF \$8,674,116 AND DIF SHARE FUNDING OF \$4,657,418 TO COVER PROJECT FUNDING SHORTFALLS DUE TO COST ESCALATION IN MATERIAL SUPPLIES AND LABOR AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 3

WHEREAS, the replacement of the Mt Vernon Avenue bridge has been a high priority transportation project for the City for over 18 years; and

WHEREAS, on June 6, 2016, the Mayor and City Council entered into Cooperative Agreement No. 16-1001477 (Agreement) with San Bernardino County Transportation Authority (SBCTA), establishing SBCTA as the lead agency on the Mt. Vernon Avenue Viaduct Project (“Project”); and

WHEREAS, the Agreement delineates roles, and provides for project funding through Federal Highway Bridge Program (HBP) funds, public share funding through San Bernardino’s Measure I Arterial funds, and the City’s local share funding through Developer Impact Fees (DIF); and

WHEREAS, Amendment No. 1 to the Agreement, effective September 9, 2018, added in the design-build phase of work, clarified right of way activities, and revised the funding table in Attachment A to the Agreement; and

WHEREAS, the Project has now received proposals for the design-build contract and the costs from the lowest responsible, responsive proposer were significantly higher than the engineer’s estimate, creating a funding shortfall; and

WHEREAS, Amendment No. 2 to the Agreement effective May 6, 2020 the City and SBCTA agreed to provide additional funding of \$10,127,219; and

WHEREAS, the Project delay caused extension costs when concurrent activities became sequential; and

WHEREAS, the Project extension and escalation costs significantly exceed the planned funding; and

WHEREAS, the City and SBCTA agree to provide additional funding in the amount of \$13,331,534 to fully fund the Project and reflect these added funding contributions in a revised funding table as part of an amendment to this Agreement.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Manager is hereby authorized and directed to sign and execute Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the San Bernardino County Transportation Authority (SBCTA) to increase SBCTA and City developer impact fees (DIF) by a total of \$13,331,534 a copy of which is attached as Exhibit “A” and incorporated herein.

SECTION 3. The City Council finds this Resolution is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as in this case, that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

SECTION 5. Effective Date. This Resolution shall become effective immediately.

APPROVED and **ADOPTED** by the by the Mayor and City Council and signed by the Mayor and attested by the Acting City Clerk this 6th day of September, 2023.

Helen Tran, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF SAN BERNARDINO)

I, Genoveva Rocha, CMC, Acting City Clerk, hereby certify that the attached is a true copy of Resolution No. 2023-145, adopted at a regular meeting held at the 6th day of September, 2023 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this ____ day of _____ 2023.

Genoveva Rocha, CMC, City Clerk