

STAFF REPORT

SUBJECT: Amendment 1 to Memorandum of Understanding with the City of Dublin for the Shared Autonomous Vehicle Testing Project

FROM: Jonathan Steketee, Customer Service and Contract Compliance Manager

DATE: December 2, 2019

Action Requested

Staff requests the Board of Directors authorize the Executive Director to execute Amendment Number 1 to the Memorandum of Understanding between the City of Dublin and LAVTA for the Shared Autonomous Vehicle (SAV) Testing Project.

Background

In February 2018, the City of Dublin, with support from LAVTA, was awarded an Innovative Deployments to Enhance Arterials (IDEA) grant from the Metropolitan Transportation Commission (MTC) in the amount of \$385,000 to deploy an SAV on streets in the City of Dublin and/or implement transit connected-vehicle applications in order to improve arterial operations and enhance safety along identified corridors in Dublin (Project). Accordingly, in September 2018, LAVTA's Board of Directors approved a Memorandum of Understanding (MOU) with the City of Dublin guiding cooperation surrounding grant-funded activities (Attachment 1).

As collaboration on the grant-funded activities began with preliminary systems engineering work, staff from MTC, the City of Dublin, and LAVTA identified opportunities to streamline delivery and administration of transit-focused aspects of the Project by having LAVTA procure certain project components involving deployment of the SAV. In September 2019, MTC revised the IDEA Program of Projects to add LAVTA as a partner agency to the Project in addition to the City of Dublin. In November, the LAVTA Board of Directors authorized the Executive Director to enter into a funding agreement directly with MTC to utilize IDEA grant funds for this purpose.

Discussion

With LAVTA now identified as a co-sponsor of the IDEA-funded Project, City of Dublin and LAVTA staff have agreed upon terms to amend the existing MOU to update each agency's respective roles and responsibilities in carrying out the Project, as set forth in Attachment 2. The proposed MOU Amendment allows for LAVTA's existing funding commitment from the Bay Area Air Quality Management District (BAAQMD) to satisfy MTC's local match requirements when applicable.

As project engineering proceeds, MTC, the City of Dublin, and LAVTA will determine collaboratively which agency will lead which procurements on a case-by-case basis to maximize efficiency and expediency of project delivery. In cases where LAVTA leads procurements related to the Project, the City of Dublin will substantively participate in the procurement efforts.

Fiscal Impact

None specific to the MOU or Amendment. A separate item detailing the related IDEA Program funding agreement with MTC for the Project was approved by the Board of Directors in November.

Next Steps

Dublin’s City Council approved the MOU Amendment at their November 18 meeting. Following LAVTA Board approval, the Amendment will be finalized and executed by LAVTA and the City of Dublin. Staff will continue to provide regular updates to the Board on the progress of the SAV Project.

Recommendation

Staff requests that the Board of Directors authorize the Executive Director to execute Amendment 1 to the Memorandum of Understanding between the City of Dublin and LAVTA for the Shared Autonomous Vehicle Testing Project.

Attachments:

1. September 2018 Memorandum of Understanding between the City of Dublin and LAVTA for the Shared Autonomous Vehicle Testing Project
2. Amendment 1 to Memorandum of Understanding between the City of Dublin and LAVTA for the Shared Autonomous Vehicle Testing Project

Approved: _____

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DUBLIN AND THE
LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY FOR THE SHARED
AUTONOMOUS VEHICLE TESTING PROJECT**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into as of Sept 21, 2018, by and between the CITY OF DUBLIN (CITY), a municipal corporation of the State of California, and the LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY (LAVTA), a joint exercise of powers authority established pursuant to California Government Code Section 6500 et seq.

RECITALS

- A. The California Legislature enacted AB 1444, which provided authority for testing Shared Autonomous Vehicle (SAV) in Dublin through May 1, 2018.
- B. The California Department of Motor Vehicles has adopted new regulations that have allowed further testing along public streets beyond the May 1, 2018 sunset date of AB1444.
- C. LAVTA is in the process of finalizing the testing plan for its SAV project and would like to initiate the testing.
- D. CITY and LAVTA have agreed to implement SAV testing along public streets in the general vicinity of the East Dublin/Pleasanton BART Station (the "TESTING SITE").
- E. CITY received grant funding in the amount of \$385,000 from Metropolitan Transportation Commission (MTC) through the Innovative Deployments to Enhance Arterials (IDEA) program to support the SAV testing and to enhance bicycle and pedestrian safety in the vicinity of the TESTING SITE.
- F. CITY and LAVTA, in cooperation with MTC, desire to implement SAV testing and coordinate on grant funded improvements at a total of six (6) signalized intersections ("PROJECT"). The PROJECT will allow signal equipment to communicate with SAVs, LAVTA buses, and other vehicles.
- G. The PROJECT will be implemented by CITY with coordination and support from LAVTA.
- H. LAVTA represents that it has \$966,000 in funds from the Bay Area Air Quality Management District committed and available for the implementation of the SAV testing in CITY and part of this funding will be used to acquire and make available the SAV for the PROJECT.
- I. MTC, in coordination with CITY, has prepared various PROJECT documents including a Scope of Work for a consultant to design and implement the PROJECT.

- J. LAVTA represents that it will support CITY in completing the PROJECT.
- K. City will waive encroachment permit fees associated with the PROJECT.
- L. LAVTA, as part of its participation in the PROJECT, is ready and able to contribute staff time and resources through the design, construction and operational phases of the PROJECT.

NOW THEREFORE, the Parties hereby agree as follows:

**SECTION I
PROJECT DESIGN, CONSTRUCTION AND ADMINISTRATION**

A. LAVTA AGREES:

1. To cooperate in reviewing PROJECT procurement documents, and the construction contract documents.
2. To designate a LAVTA representative, at its own expense, to work with CITY in coordinating all aspects of the PROJECT including planning, engineering, construction and installation work.
3. To cooperate in CITY's implementation of the MTC's IDEA grant, including any SAV vehicle testing data sharing as permitted by the law and as requested by CITY's SAV consultant for the sole purpose of implementing the PROJECT.
4. To acquire and make available a SAV for the PROJECT.
5. To assist in implementing communications between the PROJECT equipment and the SAV. This may include testing of equipment at off-site facilities used by LAVTA for the SAV testing in CITY.

B. CITY AGREES:

1. To pay for all costs associated with the design and construction of the PROJECT, except for the work that is being performed under MTC's contract relating to the development, design, and construction of the PROJECT.
2. To cooperate with LAVTA and its staff, agents, in planning, designing, constructing, testing, and implementing the PROJECT.

3. To designate, at its own expense, a CITY representative to work with LAVTA in coordinating all aspects of the PROJECT including planning, engineering, construction and installation work.


SECTION II MISCELLANEOUS PROVISIONS

PARTIES MUTUALLY AGREE:

1. Upon CITY completing and accepting all work on the PROJECT under this MOU, ownership and title to materials, equipment and appurtenances in relation to the PROJECT installed on LAVTA buses will automatically vest in LAVTA. No further agreement will be necessary to transfer ownership. LAVTA will be the sole owner and will be responsible for operation and maintenance of all PROJECT equipment installed on LAVTA buses as part of the PROJECT.
2. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties, or affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation, improvement or maintenance of public facilities different or greater than the standard of care imposed by law.
3. Neither LAVTA, nor its directors, officers and employees, shall be responsible for any damage, loss, expense, costs or liability occurring by any act or omission by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless LAVTA and its directors, officers and employees from all claims, suits or actions brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of any act or omission by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
4. Neither CITY, nor its officers and employees, shall be responsible for any damage, loss, expense, costs or liability occurring by reason of any act or omission by LAVTA under or in connection with any work, authority or jurisdiction delegated to LAVTA under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, LAVTA shall fully defend, indemnify and save harmless the CITY, and its officers and employees from all claims, suits or actions brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of act or omission by LAVTA under or in connection with any work, authority or jurisdiction delegated to LAVTA under this Agreement.
5. The PARTIES shall work together in the spirit of good faith and cooperation to successfully implement this Agreement. To the extent there are disagreements between the CITY and LAVTA, those disagreements shall immediately be raised between the parties. Prior to initiating any legal action, the parties hereto agree to meet in good faith to attempt to resolve any dispute.

6. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situations shall remain in full force and effect. Notwithstanding the foregoing, if any term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.
7. Either the CITY or LAVTA may terminate this Agreement upon 60 days prior written notice to the other party.
8. This Agreement and all work performed thereunder shall be interpreted under and pursuant to the laws of the State of California.
9. Neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other.
10. This Agreement shall commence as of the date entered and shall continue in effect until the parties reach a mutually agreeable date for termination of the Agreement after all work required by this Agreement has been completed.
11. All of the terms, provisions and conditions of the Agreement hereunder, shall be binding upon and inure the parties hereto and their respective successors, assigns and legal representatives.
12. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all such agreements entered into prior hereto are revoked and superseded by this agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

LIVERMORE AMADOR
VALLEY TRANSIT
AUTHORITY



CITY OF DUBLIN

Chris L. Foss
City Manager

RECOMMENDED FOR APPROVAL

RECOMMENDED FOR APPROVAL

Gary Huisingsh
Public Works Director

APPROVED AS TO FORM



General Counsel

APPROVED AS TO FORM

John Bakker
City Attorney

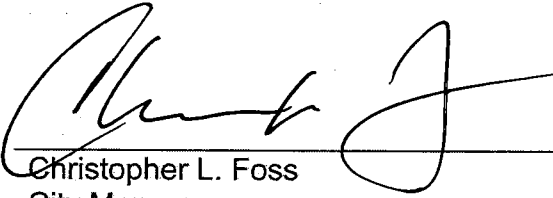
Dated:

9/21/2018

Dated:

LIVERMORE AMADOR
VALLEY TRANSIT
AUTHORITY

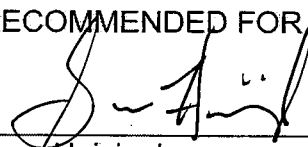
CITY OF DUBLIN



Christopher L. Foss
City Manager

RECOMMENDED FOR APPROVAL

RECOMMENDED FOR APPROVAL



Gary Huisingh
Public Works Director

APPROVED AS TO FORM

APPROVED AS TO FORM



John Bakker
City Attorney

Dated: _____

Dated: 10/2/2018

**FIRST AMENDMENT TO THE
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DUBLIN AND THE
LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY FOR THE SHARED
AUTONOMOUS VEHICLE TESTING PROJECT**

This FIRST AMENDMENT to the Memorandum of Understanding Between the City of Dublin and Livermore Amador Valley Transit Authority for the Shared Autonomous Vehicle Testing Project (“First Amendment”) is made and entered into as of this ___ day of _____, 2019 (“Effective Date”) by and between the CITY OF DUBLIN a municipal corporation of the State of California (“City”), and the LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY, a joint exercise of powers authority established pursuant to California Government Code Section 6500 et seq. (“LAVTA”). The CITY and LAVTA are each individually referred to as a “PARTY” and collectively referred to as the “PARTIES.”

RECITALS

- A. CITY and LAVTA previously entered into a Memorandum of Understanding (the “MOU”) dated September 18, 2018, in support of the testing of the Shared Autonomous Vehicles (SAV) within the City of Dublin (“PROJECT”).
- B. CITY received grant funds, in the amount of \$385,000, from Metropolitan Transportation Commission (“MTC”) through the Innovative Deployments to Enhance Arterials (“IDEA”) Program to support the PROJECT and to enhance bicycle and pedestrian safety.
- C. Subject to the MOU, the PARTIES agreed to implement SAV testing along public streets in the general vicinity of the East Dublin/Pleasanton BART Station.
- D. The PARTIES desire to streamline administration of Metropolitan Transportation Commission (MTC) grant funds for the PROJECT and expedite project delivery by adding LAVTA as a partner agency to the grant-funded project in order to access some MTC-administered funds directly.
- E. MTC approved this change to its Program of Projects by MTC Resolution No. 4202, dated on September 4, 2019.
- F. The PARTIES further desire to amend the MOU to include LAVTA as an MTC grant recipient in addition to CITY.

NOW, THEREFORE, for the mutual consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereby agree as follows:

SECTION I. Amendment to Section I.

Section I of the MOU, entitled “PROJECT DESIGN, CONSTRUCTION AND ADMINISTRATION” is hereby amended by replacing Section I, Paragraph A (3). as follows:

LAVTA AGREES:

3. To cooperate with CITY and MTC in establishing LAVTA as a partner agency to CITY within MTC's IDEA Program for the purposes of grant administration; and to work cooperatively with CITY to implement the IDEA grant as per the IDEA grant provisions and as agreed upon by parties to MOU, including any SAV vehicle testing data sharing as permitted by the law and as requested by CITY's SAV consultant for the sole purpose of implementing the Project.

Section I of the MOU, entitled "PROJECT DESIGN, CONSTRUCTION AND ADMINISTRATION" is hereby amended by replacing Section I, Paragraph B (1) as follows:

CITY AGREES:

1. To coordinate with MTC and LAVTA in establishing LAVTA as a partner agency to CITY within MTC's IDEA Program for the purposes of grant administration; and to pay for any agreed upon costs for local match for the IDEA grant and for any other costs in the Project implementation as identified and agreed upon by parties to MOU, other than those local match funds which LAVTA can utilize based on prior funding commitments and in accordance with MTC's grant requirements; and to work collaboratively with MTC and LAVTA as the project proceeds to determine which agency will lead which procurement based on what would be the most efficient and expeditious approach to meeting the project delivery schedule; and to provide substantive participation in LAVTA-led procurement activities related to implementing the Project.

SECTION II. General Provisions

A. Counterparts

This Amendment may be executed by parties in one or more counterparts, each of which shall be deemed as original, and all of which in the aggregate shall constitute one and same document.

B. Effective Provisions

Excepting only the amendments specifically set forth in this Amendment, the terms and provisions of the MOU shall remain in full force and effect.

C. Conflicting Provisions

In the event of a conflict between the terms and provisions of the MOU and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control.

LIVERMORE AMADOR
VALLEY TRANSIT
AUTHORITY

CITY OF DUBLIN

Michael S. Tree
Executive Director

Christopher L. Foss
City Manager

APPROVED AS TO FORM

APPROVED AS TO FORM

Michael S. Conneran,
Hanson Bridgett LLP
General Counsel to LAVTA

John Bakker
City Attorney

Dated:

Dated:
