

Resolution No. 2006-231

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH
SACRAMENTO REGIONAL TRANSIT DISTRICT TO EXCHANGE FEDERAL
TRANSIT ADMINISTRATION FUNDS FOR AN
EQUAL AMOUNT OF RT AGENCY FUNDS**

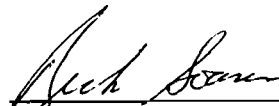
WHEREAS, the Sacramento Area Council of Governments has programmed \$890,853 in Federal Transit Administration Section 5307 funds to the City of Elk Grove; and

WHEREAS, RT wishes to assist the City in claiming these funds through performing a fund exchange; and

WHEREAS, the City will use this funding for preventative maintenance and other capital related projects to improve the infrastructure of the transit system.

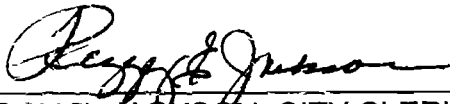
NOW, THEREFORE, BE IT RESOLVED that the Elk Grove City Council does authorize the City Manager to execute an agreement with Sacramento Regional Transit District (RT) to exchange the City's Federal Transit Administration (FTA) Section 5307 funds for an equal amount of RT agency funds.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of September 2006.



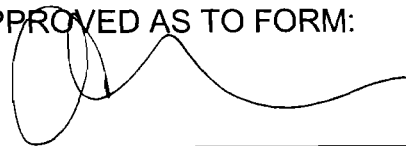
RICK SOARES, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

**AGREEMENT FOR AN EXCHANGE OF FUNDS WITH THE
CITY OF ELK GROVE FOR SECTION 5307 FEDERAL TRANSIT FUNDS**

THIS AGREEMENT is entered into on _____, 2006 between **SACRAMENTO REGIONAL TRANSIT DISTRICT**, a public corporation, hereinafter referred to as "RT", **CITY OF ELK GROVE**, a municipal corporation, hereinafter referred to as "CITY," and **SACRAMENTO AREA COUNCIL OF GOVERNMENTS**, hereinafter referred to as "SACOG".

RECITALS

WHEREAS, RT is the designated recipient for the Sacramento Urbanized Area for Federal Grant Assistance administered by the US Department of Transportation, Federal Transit Administration (hereinafter "FTA"), under 49 USC Chapter 53, including grant assistance provided under 49 USC Section 5307; and

WHEREAS, in FY 2006 SACOG programmed \$890,853 in Federal Section 5307 Urbanized Area Formula Funds (hereinafter the "Section 5307 Funds") for CITY so that it could complete a number of capital and preventive maintenance projects; and

WHEREAS, CITY is not an agency certified by the FTA to apply for and administer federal transit funds; and

WHEREAS, CITY desires to exchange the Section 5307 Funds initially programmed by SACOG for CITY for an equal amount of RT agency funds; and

WHEREAS, on May 22, 2006, RT's Board of Directors authorized staff to amend the FY 2006 Operating Budget to include the Section 5307 Funds and increase other non-operating exchange transaction expenses by \$890,853 (hereinafter "Agency Funds") to pay CITY for the Section 5307 Funds that were applied to RT's FY 2006 Operating Budget; and

WHEREAS, SACOG has taken official action to delete the Section 5307 Funds allocated to CITY from its FY 2006 allocation budget and instead programmed those funds for RT's Preventive Maintenance project in the Metropolitan Transportation Improvement Program; and

WHEREAS, the parties now desire to enter into this fund exchange agreement whereby RT will apply for an FTA grant for the Section 5307 Funds and whereby CITY will receive \$890,853 in Agency Funds from RT after RT draws down the Section 5307 Funds.

WITNESS

NOW, THEREFORE, THE PARTIES DO MUTUALLY AGREE AS FOLLOWS:

1. PURPOSE AND SCOPE

The purpose of this Agreement is to set out the terms and conditions applicable to the exchange of the Section 5307 Funds for RT Agency Funds.

2. RT ACTIONS AND OBLIGATIONS

Actions: RT hereby acknowledges it has submitted FTA Grant application No. CA-90-Y471 to FTA requesting approval to receive the Section 5307 Funds originally programmed by SACOG for CITY.

Obligations: After acceptance and approval of RT's application by FTA for the Section 5307 Funds, RT will submit all required documentation to draw down the Section 5307 Funds. Upon receipt of the Section 5307 Funds under FTA Grant No. CA-90-Y471, RT will provide CITY with \$890,853 in RT Agency Funds.

3. CITY ACTIONS AND OBLIGATIONS

Actions: CITY hereby acknowledges that it has relinquished its right to receive the Section 5307 Funds and notified SACOG of its desire that RT receive said funds.

Obligations: CITY must expend the Agency Funds that it receives on the capital and preventative maintenance projects identified in attached Exhibit A (hereinafter "City Projects"). Exhibit A is incorporated herein by this reference. CITY must provide SACOG with a copy of such reports and other writings as may reasonably be required by SACOG pertaining to CITY's use of the Agency Funds in order to permit SACOG to verify that CITY expended the Agency Funds to complete CITY Projects.

4. SACOG ACTIONS AND OBLIGATIONS

Actions: SACOG hereby acknowledges that it took all necessary actions to reprogram the Section 5307 Funds for RT's Preventative Maintenance Project budget in the Metropolitan Transportation Improvement Project.

Obligations: SACOG is responsible for determining whether CITY's use of the Agency Funds complies with the approved purposes.

5. TERM

This Agreement will be effective as of the date first hereinabove appearing and will continue in full force and effect until all the parties have performed all obligations and responsibilities imposed upon them pursuant to this Agreement.

6. THIRD PARTY OBLIGATIONS

CITY will be solely liable to third parties with whom it enters into contracts to effectuate the purposes of the Agency Funds for CITY's projects. CITY will pay directly such parties for all amounts due under said arrangements. CITY will indemnify, defend and hold RT harmless from any and all claims and liabilities in any way related to CITY's contracts with such third parties.

7. INDEMNITY

A. Pursuant to California Government Code Section 895.4: (1) each party as Indemnitor, shall defend, hold harmless and indemnify the other party, as Indemnitee, against any claim, obligation, loss, penalty, fine, demand damage, cost, expense or liability, including attorneys' fees, (hereafter collectively referred to as "Claim(s)") caused by the negligent or wrongful act or omission of the Indemnitor (including, without limitation, Indemnitor's officers, agents or employees) arising out of or resulting from Indemnitor's performance of this Agreement; and (2) if a party is held liable upon any judgment for damages caused by a negligent or wrongful act or omission occurring in the performance of this Agreement and that party pays in excess of its share based on principles of comparative fault, that party is entitled to a contribution from the other party to the extent of the other party's comparative fault. If any excess amount remains outstanding after the foregoing contribution is made, the other party will contribute a fraction of that excess equal to: its percentage of fault divided by the total percentage of fault of the parties to this Agreement.

B. Indemnitor must, upon Indemnities request, defend at its sole cost any suit asserting a Claim covered by this indemnity. The parties will cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity. In addition, Indemnitor must reimburse Indemnitee for all costs, including reasonable attorney's fees, associated with efforts to enforce this indemnification provision.

C. The foregoing right to indemnity will be in addition to, and not exclusive of, any other legal, equitable or statutory right(s) of indemnification or insurance to which a party may be entitled. Nothing set forth in this Agreement will establish a standard of care for, or create any legal rights in, any person not a party to this Agreement.

8. NOTICES

All notices and other communications under this Agreement must be in writing and will be deemed to have been duly given (i) on the date of delivery, if delivered personally to the party to whom notice is given, or if made by telecopy directed to the party to whom notice is to be given at the telecopy number listed below, or (ii) at the earlier of actual receipt or the second business day following deposit in the United States mail, postage prepaid. Notices and other communications must be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, its telecopy number, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Article.

RT: Teri Sheets, Grants Manager
Sacramento Regional Transit District
Finance Department
P.O. Box 2110
Sacramento, CA 95812-2110
Phone: (916) 321-3893
Fax: (916) 444-3156
E-Mail: Tsheets@sacrt.com

ELK GROVE: Carlos Tobar, Transit Manager
City of Elk Grove
Development Services, Transit Services
10250 Iron Rock Way
Elk Grove, CA 95624
Tel: (916) 687-3030
Fax: (916) 714-4635
E-Mail: ctobar@elkgrovecity.org

SACOG: Jim Brown
Sacramento Area Council of Governments
1415 L Street, Suite 3000
Sacramento, CA 95814
Tel: (916) 341-6221
Fax: (916) 321-9551
E-Mail: ctobar@elkgrovecity.org

9. TERMINATION

Either party may cancel this Agreement for breach in whole or in part after providing written notice to the other party setting forth the basis for cancellation and providing a reasonable period to cure the default.

10. RELATIONSHIP BETWEEN THE PARTIES

Nothing in this Agreement is intended to create, and nothing herein shall be considered as creating, any partnership, joint venture, or agency relationship between and among RT, CITY and/or SACOG.

11. SUCCESSORS AND ASSIGNS

This Agreement will be binding upon and the benefits and obligations will inure to the successors of the parties hereto. This Agreement may not be assigned by either party. The references herein to the Federal Transit Administration or FTA includes any successor agency or department of the United States Government.

12. MODIFICATION

No waiver, alteration, modification, or termination of this Agreement will be valid unless made in writing and signed by the authorized parties hereof.

13. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute but one and the same instrument.

14. CAPTIONS

The headings or captions to the Articles of this Agreement are not a part of the Agreement and will have no effect upon the construction or interpretation of any part thereof.

15. SEVERABILITY

If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of the Agreement will remain in effect.

16. NONWAIVER

Waiver of any breach or default hereunder will not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

17. GOVERNING LAW

The interpretation and enforcement of the Agreement will be governed by the laws of the State of California, the state in which this Agreement is signed. The parties agree to submit any disputes arising under the Agreement to a court of competent jurisdiction located in Sacramento, California.

18. AUTHORITY

Each of the signatories to this Agreement represent that he or she is authorized to sign the Agreement on behalf of such party. This Agreement is subject to the approval of each party's governing body.

19. AMBIGUITIES

The parties have each carefully reviewed this Agreement and have agreed to each term of this Agreement. No ambiguity shall be presumed to be construed against either party.

20. INTEGRATION

This Agreement embodies the entire Agreement of the parties in relation to the scope of services herein described, and no other agreement or understanding, verbal or otherwise, exists between the parties.

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IN WITNESS HEREOF, the parties have entered into this Agreement on the date first hereinabove appearing.

CITY OF ELK GROVE

**SACRAMENTO REGIONAL
TRANSIT DISTRICT**

By: _____
JOHN DANIELSON
City Manager

By: _____
ROGER DICKINSON, Chair

By: _____
BEVERLY A. SCOTT
General Manager/CEO

Approved as to Content:

Approved as to Content:

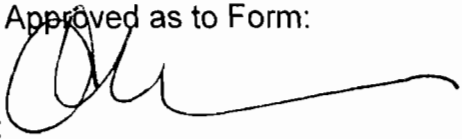
By: _____
CARLOS F. TOBAR
Transit Manager

By: _____
MICHAEL R. WILEY
Deputy General Manager

By: _____
GLORIA BOYCE
Chief Financial Officer

Approved as to Form:

Approved as to Form:

BY: 

ANTHONY MANZANETTI
City Attorney

By: _____
MARK GILBERT
Chief Legal Counsel

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**SACRAMENTO AREA COUNCIL
OF GOVERNMENTS**

By: _____
MIKE McKEEVER
Executive Director

Approved as to Legal Form:

By: _____
KIRK TROST
SACOG Attorney

EXHIBIT A

CITY OF ELK GROVE CAPITAL AND
PREVENTATIVE MAINTENANCE PROJECTS

PROJECT NAME	ESTIMATED COST
Preventative Maintenance	\$375,853
Park-n-Ride Lot Improvements	\$200,000
Security Cameras	\$180,000
Bus Benches	\$ 65,000
Bus Shelters	\$ 50,000
Non-Revenue Vehicles (Road Supervision)	\$ 20,000
Total Project Costs	\$890,853

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2006-231**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

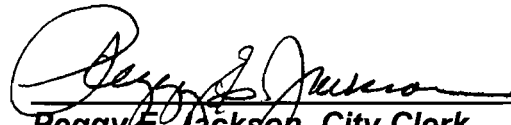
I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 13, 2006 by the following vote:

AYES : **COUNCILMEMBERS:** **Soares, Scherman, Briggs, Cooper**

NOES : **COUNCILMEMBERS:** **None**

ABSTAIN : **COUNCILMEMBERS:** **None**

ABSENT: **COUNCILMEMBERS:** **Leary**



**Peggy E. Jackson, City Clerk
City of Elk Grove, California**

