California High-Speed Rail Authority

RFP No.: HSR 13-57

Request for Proposal for Design-Build Services for Construction Package 2-3

Book II, Part B.2 – Cooperative Agreement Comcast

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California High-Speed Rail Project

Cooperative Agreement

Comcast

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PARTIES

THIS AGREEMENT, entered into this 1st day of February , 2014 (the "Agreement"), by and between the California High Speed Rail Authority, an agency of the State of California, whose principal place of business and mailing address is 770 L Street, Suite 800, Sacramento, California 95814, hereinafter referred to as the "Authority", and

Comcast of Sacramento, LLC ,

a Limited Liability Company whose principal mailing address is

3055 Comcast Place, Livermore, CA 94551 ,

hereinafter referred to as the "Facility Owner".

RECITALS

WHEREAS, the Facility Owner owns, operates, or maintains certain Facilities, as defined herein, of which certain Facilities may be operated under regulations of the California Public Utilities Commission; and

WHEREAS, the Authority is responsible for the High Speed Rail Project (the "HSR Project, as defined herein, and from time to time the HSR Project involves Relocation, as defined herein, of the Facility Owner's Facilities; and

WHEREAS, the Authority and the Facility Owner desire to enter into an agreement which establishes the contractual terms and conditions applicable to the Relocation of the Facility Owner's Facilities.

NOW AND THEREFORE, for and in consideration for the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the Facility Owner agree as follows:

1 DEFINITIONS

As used in this agreement, the following terms have the following meanings:

1.1 Authority's Contractor

The "Authority's Contractor" means a company, joint venture, partnership, limited liability company, or person, other than an agency of the State of California or a municipality, that enters into a contract with the Authority for the performance of Facility Work, as defined herein.

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1.2 Authority Designated Holiday

"Authority Designated Holiday" means New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), President's Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Thanksgiving Day (fourth Thursday in November), the day after Thanksgiving (fourth Friday in November), and Christmas Day (December 25).

1.3 Betterment

"Betterment" means the difference in cost between the intended relocation of the Facility Owner's Facilities as proposed and submitted by the Facility Owner and the cost of any upgrades to the Facility not attributable to the HSR Project and made solely for the benefit and at the election of the Facility Owner.

Betterment does not include those differences in cost caused by changes in manufacturing standards, availability of materials, regulatory requirement, or any upgrading required by any applicable standard specifications, standards of practice and construction methods applied to comparable Facilities constructed by or for the Facility Owner at its own expense, which are in effect as of the date of execution of the Task Order.

1.4 Days

"Days" means calendar days, unless otherwise stated.

1.5 Facility

"Facility" or "Facilities" means any Utility, as defined herein, or any publicly owned and operated road, street, bridge, or grade separation.

1.6 Facility Work

"Facility Work" means all services, labor, materials, and other efforts to be provided and performed including the following general categories: scheduling, utility relocation, demolition, permitting, survey, geotechnical, design, environmental mitigation, construction, quality control, and quality assurance for design and construction, community relations, quality inspection and testing, construction safety and security program, systems testing, preparation of CADD As-Builts, implementation of warranty after construction completion, coordination with jurisdictional authorities (governments, public and private entities), utility companies, railroad companies, and local communities, and other efforts necessary or appropriate to complete the design and construction of the HSR Project associated with Relocation of Utilities.

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1.7 Hazardous Material

"Hazardous Material(s)" means any hazardous substance, hazardous material, or hazardous waste as defined under state or federal law and/or any substance, material, waste, or other material of any nature whatsoever which may give rise to liability under state or federal law.

1.8 High-Speed Rail Property

"High-Speed Rail Property" means any real property rights owned by the California High-Speed Rail Authority.

1.9 HSR Project

"HSR Project" means the development and implementation of intercity high-speed rail service throughout the State of California as defined under current provisions of Sections 2704 et seq. of the Streets and Highways Code and Sections 185030 et seq. of the Public Utilities Code. Any portion of the HSR Project for which design or construction work, including Facility Work, is performed, managed, contracted, or directed (by a Notice to Owner or otherwise) by another agency of the State of California or a municipality is specifically excluded from the definition of HSR Project.

1.10 Notice to Proceed

"Notice to Proceed" means written authorization by the Authority to begin performance of Facility Work as specified in Task Orders.

1.11 Party

"Party" refers to the Authority or the Facility Owner, as the context may require and "Parties" means the Authority and the Facility Owner, collectively.

1.12 Relocation

"Relocation" means alteration, removal, relocation, replacement, reconstruction, support, protection, including provision of temporary facilities as necessary, of any and all of the Facility Owner's Facilities that is necessary in order to accommodate or permit construction of the HSR Project.

1.13 Right-of-way of Facility Owner

"Right-of-way of Facility Owner" means a property right held by the Facility Owner in the form of either a recorded or fully executed deed in the usual form or other recorded or fully executed valid instrument that conveys a permanent property right to the Facility Owner for the Facility to be located in a defined area of real property, or a defined area within the HSR Project right-of-way that is subject to a recorded Joint Use Agreement or Consent to Common Use Agreement.

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1.14 Service Line

"Service Line" means (a) any Utility line, the function of which is to directly connect the improvements on an individual property (e.g., a single family residence or an industrial warehouse) to another Utility line located off such property, which other Utility line connects more than one such individual line to a larger system, and (b) any cable or conduit that supplies an active feed from the Facility Owner's Facilities to activate or energize governmental lighting and electrical systems, traffic control systems, communication systems or irrigation systems. The term "Service Line" also includes any Utility on public or private property that services structures located on such property.

1.15 Task Order

"Task Order" means a work order or agreement among the Authority, the Authority's Contractor, and the Facility Owner, authorizing and providing for the performance of specific work and or services and/or the purchase of materials and equipment.

1.16 Unforeseen Work

"Unforeseen Work" means any new and extra work not covered by any of the various Task Orders or by combination of such Task Orders.

1.17 Utility

"Utility" means, a privately, publicly, or cooperatively owned line, facility or system (including municipal and/or government lines, facilities and systems) for transmitting or distributing communications, cable television, power, electricity, gas, oil, crude products, water, steam, sewage, waste, storm water or any other similar commodity that directly or indirectly serves the public, including any irrigation system and any fire or police signal system. The necessary appurtenances to each Utility facility (including fire hydrants as appurtenances to water lines) shall be considered part of such Utility. Without limitation, any Service Line connecting directly to a Utility shall be considered an appurtenance to that Utility, regardless of the ownership of such Service Line. However, when used in the context of the removal, relocation and/or protection of facilities to accommodate the HSR Project, the term "Utility" or "utility" specifically excludes (a) storm water facilities that provide drainage solely for the HSR Project right-of-way, and (b) traffic signals, street lights, and crossing equipment, as well as any electrical conduits and feeds providing service to such facilities. For this purpose, all electrical lines that connect (directly or indirectly) to traffic signals, street lights, and/or crossing equipment shall be deemed to provide service to such facilities if they do not carry electricity that will serve any other types of facilities.

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1.18 Wasted Work

"Wasted Work" means design or construction work performed upon written direction from the Authority, for Relocation rendered useless or unnecessary as a result of the Authority's cancellation and/or changes in the scope of work as agreed to by both Parties. This term includes any other design or construction work that is needed to accomplish the scope of work for the Relocation and is subsequently rendered unnecessary at some later date.

1.19 Working Days

"Working Days" means each weekday that is not an Authority Designated Holiday.

2 WORK TO BE COMPLETED

2.1 Facility Work

Facility Work specific to a particular Facility's Relocation shall be detailed in a subsequently executed Task Order.

2.2 Task Orders

The format of Task Orders and their contents shall be mutually agreed upon by the Authority, the Authority's Contractor and the Facility Owner. Unexecuted Task Orders are drafts and their contents may not be relied upon by either Party. Task Orders for execution shall be prepared by the Authority's Contractor.

2.3 Betterment Work at the Facility Owner's Request

Any work considered Betterment made at the Facility Owner's request shall be agreed upon in advance by the Parties and detailed in a Task Order along with costs and allocation of responsibility for such costs.

2.4 Unforeseen Work

If any Unforeseen Work arises during the performance of Facility Work, it shall be performed under the Task Order that is applicable to the Facility Work under which it arose in connection with. If Unforeseen Work does not arise in connection with any Facility Work, it shall be treated as a separate phase or segment of the HSR Project under this Agreement.

3 LIABILITY AND PAYMENT FOR WORK

3.1 Prior Rights

A. Liability for the cost of Facility Work shall be referred to as "Prior Rights" and determined as follows for privately owned facility:

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i. When the Authority requires Facility Owner to remove any Facility lawfully maintained in any High-Speed Rail Property to a location entirely outside High-Speed Rail Property, the Authority shall pay the reasonable and necessary cost of the removal. This includes both the cost of removal and the cost of relocation to a new location outside of the High-Speed Rail Property.

ii. This section does not apply to a Facility Owner relocation of a Facility from one point in High-Speed Rail Property to another point in that property, including relocation in any service road of the High-Speed Rail Property or from one point of crossing of the High-Speed Rail Property to another reasonable point of crossing.

iii. When the Authority requires a privately owned facility to relocate within a High-Speed Rail Property any Facility, other than one used solely to supply water, which Facility is lawfully maintained in any High-Speed Rail Property that was not used for high-speed rail purposes at the time the Facility was originally installed, and it is established by the Facility Owner that the Facility is not under express contractual obligation to relocate the Facility at its own expense, the Authority shall pay the cost of the relocation.

iv. A permit containing a contractual obligation that was accepted by the Facility Owner for maintenance or minor improvement of the Facility after the property became High-Speed Rail Property shall not constitute a contractual obligation to relocate a Facility at its own expense within the meaning of this section.

B. Nevertheless, Facility Owner will be liable for Facility Work where:

i. Facility Work is mutually determined by the Parties in advance to be a Betterment as defined in Section 1.3 and will be detailed in a Task Order; or

ii. The Facility Owner is unable to produce documentation of its real property rights to the property area where its Facility is located.

3.2 Cost of Facility Work

The cost of all work to complete the Relocation of Facility Owner's existing Facilities necessitated by Authority's HSR Project shall be calculated pursuant to the provisions of Section 3.1 and shall be performed at the Authority's sole expense.

Cost of Relocation includes the actual and reasonable cost of all necessary engineering, labor and transportation, and all necessary materials exclusive of any dismantled Facilities used in any Relocation, together with reasonable and usual indirect and overhead charges attributable

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to that work, and any necessary new private Facility right-of-way involved in the Relocation, except:

A. When the Authority has cost liability for the Facility Work, the Authority shall be entitled to credits as follows:

i. The salvage value of any materials or parts salvaged if retained by the Facility Owner, provided, however, the Facility Owner will have the option to retain or dispose of salvage materials or parts.

ii. If a new Facility or portion thereof is constructed to accomplish such Relocation, an amount bearing the same proportion to the original cost of the displaced facility or portion thereof as its age bears to its normal expected life.

$$\text{Credit} = \frac{\text{Age of facility}}{\text{Normal expected life}} \times \text{Original cost}$$

3.3 Claims by the Authority's Contractor

In the event the Authority's Contractor makes any claim against the Authority relating to Facility Work, the Authority will notify the Facility Owner of the claim and the Facility Owner will reasonably cooperate with the Authority in the Authority's resolution of the claim, provided that such resolution is at no more than de minimis to the Facility Owner. Any resolution of any portion of the claim directly between the Facility Owner and the Authority's Contractor shall be in writing, shall be subject to written concurrence by the Authority, and shall specify the extent to which it resolves the claim against the Authority.

Since Facility Work may be reimbursable to the Facility Owner under this Agreement, the Authority may withhold reimbursement to the Facility Owner until final resolution (including any actual payment required) of all claims against the Facility Owner relating to Facility Work. The right to withhold shall be limited to actual claim payments made by the Authority to the Authority's Contractor to perform work the Facility Owner was obligated to perform.

3.4 Relocation within High-Speed Rail Property

If Authority requires the Relocation within High-Speed Rail Property of any Facility more than once during a ten-year period, Authority shall pay the cost of that second Relocation, and any subsequent additional Relocations of that Facility within such ten-year period on any subsequent or additional project.

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3.5 Invoicing Procedures

Invoicing procedures will be mutually agreed upon by the Authority, the Authority's Contractor and the Facility Owner set forth in the Task Order(s).

3.6 Disputes

In the event the Parties, agree to refer a dispute to binding arbitration, then within 30 days after such request, the Parties will seek to appoint one arbitrator with not less than 10 years of experience each in complex construction disputes involving public works transportation projects. If the Parties cannot agree on one arbitrator, then each Party shall appoint one arbitrator, with the two so selected choosing the third arbitrator; in each instance, such arbitrator shall meet the relevant qualifications. The arbitration proceeding shall be conducted in accordance with the procedures specified in California Public Contract Code Section 10240 et seq. and the implementing regulations thereto. The decision of the arbitrators shall be binding on the Parties and any judgment on the award there rendered may be entered in the Superior Court for Sacramento County.

If it is determined, on appeal, that the Authority's interpretation of the Agreement, direction to the Facility Owner, or any other action required by the Authority's decision was an erroneous determination of the rights and obligations of the Parties under the Agreement, the Facility Owner's claim and any award by resolver of the dispute shall be limited to the incremental costs incurred by the Facility Owner with respect to the disputed matter (crediting the Authority for any corresponding reduction in the Facility Owner's other costs) and shall in no event exceed the amounts allowed for the disputed matter under this Agreement.

4 PERFORMANCE OF WORK

4.1 General

All Facility Work (design and construction phases) or portion thereof shall be performed by the Party designated in the Task Order. Specific procedures that shall be followed in performance of Facility Work, along with costs and division of responsibility for cost, for the various portions of Facility Work shall be detailed in the Task Order for that work.

4.2 Facility Owner Performs Facility Work

When all or a portion of the utility work is to be performed by the Facility Owner, the Facility Owner agrees to provide and furnish all necessary labor, materials, tools, and equipment required, and to execute said work diligently to completion and to:

A. Perform work with its own forces, or
B. Cause the work to be performed by a contractor, pursuant to a written contract with Facility Owner in existence prior to the execution of this Agreement, or

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C. Cause the work to be performed through a contract with the lowest, responsive, and qualified bidder within the Facility Owner approved vendor list, selected pursuant to a valid competitive bidding procedure to perform work of this type.

Upon the issuance of a Notice to Proceed, Facility Owner shall diligently undertake, or cause to be undertaken, the Facility Work in accordance with the timeline as specified in the Task Orders. The Facility Owner agrees to be solely responsible for all costs to the Authority and/or the Authority's Contractor associated with any delay solely due to the Facility Owner not completing Facility Work in accordance with the timeline specified in the Task Order for that specific Facility Work.

The Facility Owner shall submit a written notice of completion of Facility Work to the Authority within 30 days of the completion of Facility Work.

Pursuant to Public Works Case No. 2001-059 as determined by the California Department of Industrial Relations and dated October 25, 2002, work performed by the Facility Owner is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. Additionally, the Facility Owner shall fully comply with the provisions of Title VI of the Civil Rights Act of 1964 and any subsequent revisions thereto. The Facility Owner shall verify compliance with these requirements in the administration of its contracts referenced above.

4.3 Authority's Contractor Performs Work

When all or portion of Facility Work is to be performed by the Authority or the Authority's Contractor, the Facility Owner shall have access to all phases of Facility Work for the purpose of inspection to ensure that the work is completed in accordance with Task Orders, however, all questions regarding the work being performed will be directed to the Authority or its authorized agent for evaluation and final disposition.

Upon the Authority's written Notice to Proceed, the Facility Owner shall consider the Authority's Contractor as acting on behalf of the Authority on all matters pertaining to the HSR Project that are specifically identified in said notice and shall treat any direction given by the Authority's Contractor on those identified matters as if it were given by the Authority and the Authority shall have the same liability for such directions as if it were given by the Authority.

4.4 Stakeholder Collaboration

In signing this Agreement, the Facility Owner agrees to cooperate with the Authority, the Authority's Contractor, and any other third-party entities affected by the HSR Project, including regulatory agencies, local agencies, and public and private facility owners, hereinafter referred to as stakeholders, to identify methods for resolving issues that may arise as part of the HSR

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Project and/or Facility Work in an effort to achieve a quality HSR that meets the HSR Project schedule and budget.

Stakeholders will attend an initial kick-off workshop as well as subsequent periodic meetings as scheduled throughout the duration of the HSR Project. During the initial workshop, stakeholders will develop procedures and agreements (including Task Orders) as specified in Appendix A, "STAKEHOLDER PROCEDURES AND AGREEMENTS," included herein, facilitating the cooperative relationship and aid in identifying and resolving issues as they arise throughout the HSR Project.

Facility Owner shall be reimbursed for the cost of participation in the initial workshop and subsequent stakeholder meetings. Reimbursement to the Facility Owner for the cost of participation in the initial workshop and subsequent stakeholder meetings shall be made, at the Authority's discretion by either the Authority or the Authority's Contractor.

Subject to the requirements of the Public Information Act, no statements made or materials prepared during or relating to stakeholder meetings, including any statements made or documents prepared by the facilitator, shall be admissible or discoverable in any judicial or other dispute resolution proceeding without (i) the consent of the party whose statements or materials disclosure is being sought or (ii) a court order compelling disclosure.

5 GENERAL CONDITIONS

5.1 Default

In the event that the Facility Owner materially breaches any provision of this Agreement for which Facility Owner fails to cure after receipt of written notice, then in addition to any other remedies which are otherwise provided for in this Agreement or by law, the Authority may exercise one or more of the following options:

A. Pursue a claim for damages suffered by the Authority.
B. Perform any work with its own forces or through contractors and seek repayment for the reasonable cost thereof.

In the event that the Authority materially breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement or by law, the Facility Owner may pursue a claim for damages suffered.

Termination of this Agreement shall not relieve either Party from any obligations it has pursuant to other agreements or Task Orders not associated with this Agreement between the Parties, nor from any statutory obligations that either Party may have with regard to the subject matter hereof.

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The Authority may unilaterally cancel this Agreement for the knowing refusal by the Facility Owner to allow access to all public documents, papers, letters, or other material that is made or received by the Facility Owner in conjunction with this Agreement.

If the HSR Project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by the Facility Owner, the Authority will notify the Facility Owner in writing, and the Authority reserves the right to terminate this Agreement. In the event the Authority elects to terminate this Agreement, the Parties shall negotiate mutually acceptable terms and conditions for terminating the Agreement.

Notwithstanding any dispute, the Parties agree that they will continue their respective performances required hereunder, including payment of undisputed billings, and such continued efforts and payments of billings (whether or not disputed) shall not be construed as a waiver of any legal right or power of any Party under this Agreement or any other agreement or Task Orders executed pursuant hereto, or otherwise available pursuant to applicable law. The Parties acknowledge and agree that delays in Relocations may impact the public convenience, safety and welfare, and that monetary damages could be inadequate to compensate for delays in the construction of the HSR Project. Consequently, the Parties shall be entitled to specific performance in the event of any breach of this Agreement that imminently threatens to delay HST Project construction.

5.2 Force Majeure

Neither the Facility Owner nor the Authority shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by the following:

A. Earthquake exceeding 3.5 on the Richter scale;
B. Tidal wave;
C. Epidemic, blockade, rebellion, war, riot, act of terrorism or civil commotion;
D. Discovery at, near or on the Site of any archaeological, paleontological, cultural, biological or other protected resources, provided that the existence of such resources was not disclosed in the Contract;
E. Lawsuit seeking to restrain, enjoin, challenge or delay construction of the Project or the granting or renewal of any Governmental Approval of the Project; or
F. Strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence occurring within the vicinity of the Project where each participant in such occurrence is not a Facility Owner related entity.

Force Majeure excludes:

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A. Fire or other physical destruction or damage, including lightning, explosion, drought, rain, flood, earthquakes equal to or under 3.5 on the Richter scale, hurricane, storm or action of the elements or other acts of God;
B. Except as provided in C of the definition of Force Majeure above, explosion or malicious or other acts intended to cause loss or damage or other similar occurrence;
C. Strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence (unless all participants in such occurrence are not a Facility Owner related entity); and
D. All other matters not caused by or beyond the control of the Authority or a Facility Owner related entity and not listed in the definition of Force Majeure above.

The Force Majeure exclusions above, do not apply when the Facility Owner is responsible for performing Facility Work.

Provided that it is beyond its control and not due to an act or omission of the Facility Owner related entity or the Authority and could not have been avoided by due diligence or use of reasonable efforts and the party claiming the excuse from performance has:

A. Promptly notified the other party of the occurrence and its estimated duration,
B. Promptly remedied or mitigated the effect of the occurrence to the extent possible, and
C. Resumed performance as soon as possible.

If any such event of Force Majeure occurs, the affected Party, if requested by the other Party, to accelerate its efforts if reasonably feasible in order to regain lost time, so long as the Authority agrees to reimburse the Facility Owner for the reasonable and actual costs of any such efforts by the Facility Owner.

5.3 Facility Owner's Facility and Right-of-way

The Facility Owner's Facilities shall at all times remain the property of and be properly protected and maintained by the Facility Owner.

Whenever the Facility Owner's affected Facilities will remain within the Authority's right-of-way, the Authority and the Facility Owner shall jointly execute an agreement for common use of the subject area.

Whenever the Facility Owner's affected Facilities are to be relocated from the existing Right-of-way of the Facility Owner to a new location that falls outside such existing Right-of-way of the Facility Owner, the Authority shall convey or cause to be conveyed a new right-of-way for such relocated Facilities as will correspond to the existing Right-of-way of the Facility Owner. For such Relocated Facilities, the Authority shall issue, or cause to be issued, to the Facility Owner,

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without charge to the Facility Owner or credit to the Authority, appropriate replacement rights in the new location mutually acceptable to both the Authority and the Facility Owner for those rights previously held by the Facility Owner in its existing right-of-way. In discharge of the Authority's obligations under this Section, in the event that the new location falls within the right-of-way under the jurisdiction of the Authority, the Authority and the Facility Owner shall jointly execute an agreement for joint use. In consideration for these replacement rights being issued by the Authority, the Facility Owner shall subsequently convey to the Authority, or its nominee, within the Authority's right-of-way, all of its corresponding right, title and interest within the Facility Owner's existing right-of-way so vacated.

If the existing Right-of-way of Facility Owner includes fee title, the Authority shall acquire from the Facility Owner, for just compensation under State law, those property rights required by the Authority for its Facilities by separate transaction, leaving to the Facility Owner those remaining property rights appropriate for the placement and operation of the Facility Owner's Facilities in the Right-of-way of Facility Owner.

Upon completion of Facility Work by the Authority, the new Facilities shall become the property of the Facility Owner, and the Facility Owner shall have the same rights in the new location that it had in the old location.

5.4 Applicability

This Agreement applies to the Relocation of Facility Owner's Facilities to accommodate or permit construction of the HSR Project. Another State Agency or Municipality may perform construction activities adjacent to the HSR Project. Any Facility Work related to these construction activities is specifically excluded from the terms and conditions of this Agreement.

5.5 Agreement Final Expression of the Parties

This Agreement constitutes the complete and final expression of the Parties with respect to the subject matter and supersedes all prior agreements, understandings, or negotiations, except that the Parties understand and agree that the Authority will have written policies and procedures which shall be applicable as written at the time of this Agreement; provided, however, that where the terms of the Authority's general policies and procedures conflict with the specific terms of this Agreement, the terms of this Agreement shall apply. Copies of the Authority policies and procedures will be provided to the Facility Owner as soon as practicable after they become available. The Authority shall pay for any damages suffered by or costs incurred by the Facility Owner for activities that may be required as a result of the Authority's policies and procedures. Such activities will be set forth in the Task Order specific to that Facility Work. This Agreement cannot be modified except by an instrument, in writing, signed by each of the Parties.

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5.6 Severability

Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

5.7 Governing Law and Venue

This Agreement shall be governed by the laws of the State of California. Venue for any action shall lie exclusively in Sacramento County, California.

5.8 Notices

All required notices may be sent by first class United States Mail, hand delivery, or express mail and shall be deemed to have been received by the end of five (5) business days from the proper sending thereof unless proof of prior actual receipt is provided, in which case service is effective on the date of actual receipt. Each Party shall have a continuing obligation to notify the other party of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to Facility Owner:

COMCAST CABLE COMMUNICATIONS, LLC
Attn: General Counsel
Address: 1701 John F. Kennedy Blvd.
Philadelphia, PA 19103

If to AUTHORITY:

Authority: CALIFORNIA HIGH SPEED RAIL AUTHORITY
Person in Charge: Thomas Fellenz, Chief Counsel
Address: 770 L Street, Suite 800
Sacramento, CA 95814

5.9 Wasted Work

The Authority will pay, in its entirety, that portion of the cost of Facility Work constituting Wasted Work. The remainder of the cost of that Facility's Relocation shall be borne pursuant to the cost allocation provisions defined in the Task Order for that work.

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5.10 Hazardous Material

Upon discovery of Hazardous Material in connection with Facility Work, both the Facility Owner and the Authority's Contractor shall immediately confer to explore all reasonable alternatives and agree on a course of action, and the Facility Owner shall immediately reschedule the work in accordance with the Authority's Contractor reasonable schedule and in compliance with existing statutes or regulations concerning the disposition of Hazardous Material.

A. The Authority will pay, in its entirety, those costs for additional necessary effort undertaken within the Authority's right-of-way to comply with existing statutes or regulations concerning the disposition of Hazardous Material found as a consequence of that Facility Work, unless such conditions are solely attributable to the Facility Owner's existing installation or operation.
B. Those costs for additional necessary efforts undertaken within the area of the replacement property right located outside the Authority's right-of-way which is required to comply with existing statutes or regulations concerning the disposition of Hazardous Material shall be allocated between the Parties pursuant to the provisions of Section 3, "PAYMENT FOR WORK."
C. Each Party to this Agreement retains the right to pursue recovery of its share of any such Hazardous Material related costs from the other Party or third parties in accordance with existing law.

5.11 Successors and Assigns

This Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of the Parties.

5.12 Third Parties

This Agreement is not intended to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this Agreement, except as expressly set forth in this Agreement. This Agreement is not intended to affect the legal liability of Parties by imposing any standard of care for completing Facility Work different from the standards imposed by law.

5.13 State Funds

No state funds or resources are allocated or encumbered as against this Agreement and the Authority's obligations and duties expressed herein are conditioned upon the passage of the annual State Budget Act and the allocation of funds by the California Department of Finance and the encumbrance of funds under a subsequently executed Task Order.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective the day and year last written below.

Facility Owner:

Signature 3.4.14
Date

Richard Sbragia
Typed Name

Vice President Finance and Accounting
Typed Title

California High Speed Rail Authority

Signature
Date:

Jeff Morales
Typed Name

Chief Executive Officer
Typed Title

Approved as to Form

Signature

Authority Legal Counsel

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Appendix A: Stakeholder Procedures and Agreements

In order to accomplish the HSR Project through the most effective means available, a cooperative relationship will be formed as agreed to by Parties in Section 4.4 As part of this cooperative relationship, a management team would be developed, which would draw on the strengths of each team member in an effort to achieve a quality project within budget and on schedule. The identified procedures will be available for use by the stakeholders to resolve issues that may arise during the performance of Facility Work.

INITIAL KICK-OFF WORKSHOP

In order to achieve effective and efficient completion of the HSR Project the stakeholders agree to conduct a kick-off workshop where they will identify issues for resolution that are present or foreseeable and engage in joint problem solving and action planning on the issues identified.

At a minimum, during this workshop, participants will develop the following procedures and agreements to facilitate the cooperative relationship and aid in identifying and resolving issues as they may arise throughout the HSR Project:

A. **"Issues Resolution Ladder" (IRL)** – a hierarchy of those individuals within the HSR Project including the stakeholders and extending across organizational boundaries to address issues as they arise to facilitate communication and address issues before those issues are elevated to the next ladder rung.

B. **"Stakeholder Implementation Plan" (SIP)** – the intention of the SIP is to sustain the cooperative relationship after the kick-off meeting by establishing monthly or quarterly schedule of stakeholder meetings and any procedures necessary for the identification and resolution of any issues during the performance of the Facility Work to be addressed by the stakeholders.

C. **"Stakeholder Charter"** – the charter will express the vision for the project, a statement of mutual goals and positive behavior practices and will be a visual reminder of mutual commitment to the stakeholder vision, goals and relationship.

STAKEHOLDER MEETINGS

The purpose of the stakeholder meetings will be to evaluate the efficacy of the cooperative relationship and review its processes as necessary to improve or correct any procedures/practices and efficiently identify and resolve the HSR Project issues.

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