

11 Madera County

- Master Agreement
- Task Order No. 1 (Roads)

ADDENDUM 7



EXHIBIT A

DESIGN BUILD PROCEDURES

The following process shall apply separately to each phase or segment of the Project, as established in accordance with the agreement between the Authority's Contractor and the AUTHORITY.

A-1 Initial Coordination.

- (a) The AUTHORITY will develop 15% design submittals of the Rail Facilities, showing locations of existing MID Facilities.
- (b) MID will furnish markups to the AUTHORITY of the 15% submittals within thirty (30) working days.
- (c) The AUTHORITY will prepare proposed preliminary design plans that indicate which MID Facilities are to be Relocated and conceptual arrangements of the Relocated facilities.
- (d) MID will verify, to the best of its ability, the correctness of the proposed preliminary design plans prepared by the AUTHORITY.
- (e) These plans will form the basis of the Plans and Specifications. Once the Plans and Specifications have been approved by MID, MID shall have sole and full responsibility for the accuracy of depicted MID Facilities.

A-2 Plans and Specifications. The Authority's Contractor, together with the Engineer, shall perform all design services for the MID Facilities Work in connection with each Project.

- (f) The Authority's Contractor will provide a preliminary copy of Project-specific Plans and Specifications to MID according to the AUTHORITY's Contractor's approved schedule and may include intermediate, Released for Construction (RFC) and As Built Stages.
- (g) MID shall have thirty (30) working days from receipt of the preliminary Plans and Specifications intermediate submittal to review them, and to provide comments to the Authority's Contractor. MID shall also provide any applicable technical provisions and standard drawings along with its comments.
- (h) At such time as the Authority's Contractor has prepared RFC Plans and Specifications for the MID Facilities Work, the Authority's Contractor will provide a copy thereof to MID. The RFC Plans and Specifications shall incorporate the comments of MID provided that the comments are reasonable.

(i) MID shall have thirty (30) working days from receipt of the RFC Plans and Specifications to review them and provide final comments to the Authority's Contractor.

(j) The Authority's Contractor shall make final corrections to the RFC Plans and Specifications and provide a copy to MID.

(k) The Authority's Contractor shall perform the MID Facilities Work in accordance with the RFC Plans and Specifications as corrected by MID.

(l) The Authority's Contractor shall provide MID with as-built drawings of MID Facilities Work within ninety (90) days of completion. The as-built drawings shall be in the format provided for in the Task Order for that particular MID Facilities Work.

MID's failure to provide review and comment of the RFC Plans submitted by the AUTHORITY or the AUTHORITY'S CONTRACTOR, including but not limited to Plans and Specifications, shall be deemed approval of plans allowing the AUTHORITY to proceed with design and construction of Facility Work. Time for review shall not commence until the RFC Drawings have been accepted by MID.

EXHIBIT B

General Project Construction Requirements

B-1 Replacement of Existing Pipelines and Small/Medium Channel Open Canals.

- (a) All open channels and existing pipelines shall be replaced with ASTM C-361 Rubber Gasket Reinforced Concrete Pipe (RGRCP).
- (b) All pipelines shall be buried to a minimum depth of 36 inches.
- (c) If an MID Facility is to be relocated, the AUTHORITY shall acquire an exclusive easement on MID's behalf, at MID's standard widths for such facility and on MID's standard terms and conditions.
- (d) All work shall conform to MID standards and specifications.

B-2 Large Canal Crossing Requirements. Crossings for large canals shall protect the canal's integrity for an urban setting, and shall be designed to convey the water in a safe and efficient manner without altering the existing conditions in a negative manner in regards to MID's operations and maintenance. Additional requirements include:

- (e) Minimum freeboard of 2.0 feet through the canal crossing shall be maintained where possible. Crossings shall clear span bridges with no obstructions within the canal whenever reasonably possible.
- (f) Multiple bay culverts or bridges with pilings design must include sufficient access to remove trash in a safe and efficient manner, including additional access easement rights if necessary. Maintenance accessibility for trash removal shall be evaluated based on channel size, the amount of trash anticipated at the location in question and accessibility. Galvanized steel or concrete catwalk will be required on the upstream side of the bridge/culvert structure for MID's crews to access the collected trash. Trash piers, board guides, aprons and ladders shall be constructed in accordance with MID's current requirements.
- (g) Sufficient easement rights for MID to dredge the canals in accordance with its standard practices, including access for heavy equipment and trucks.
- (h) Relocation of existing road crossings which parallel Rail Facilities, such as Golden State Boulevard, must include access to both canal banks from the road. In general, a 50-foot wide drive approach narrowing to 20 feet wide drive bank will be required for each canal bank; different road crossings may require different access routes.
- (i) Culverts are to be extended past the AUTHORITY's right-of-way such that MID's equipment can safely access both banks for operations and maintenance purposes. All culverts require a minimum a minimum of 20 feet for 1 ton vehicle access; some crossings may need to be extended for larger equipment.

(j) Sufficient turnaround areas to accommodate the types of equipment necessary to maintain the MID Facility in question. Larger turnaround areas will be required for larger trucks and equipment.

(k) Gaps between bridges and culverts shall be of sufficient length for MID to reasonably maintain the gap area. Gaps that are too small for MID to maintain, as determined by MID in its reasonable discretion, shall not be permitted, and the two crossings shall be combined into a single crossing.

(l) At transition areas between bridge/culvert and open canal:

(i) Canal slopes shall be stabilized as necessary to shape side slopes to 1.5:1 (H:V) and shall be compacted to a minimum of 93 percent of maximum density.

(ii) All disturbed soil shall be concrete lined (both side slopes and bottom). In areas close to the Rail Facilities where access will be potentially dangerous for maintenance workers, structurally reinforced concrete will be required to minimize on-going maintenance activities.

(iii) Drive banks must be sloped a minimum of 2% away from the canal with provisions made for rainfall. Drainage will not be accepted into and must be routed away from canals, and must be conveyed to nearby public streets or drainage system by drainage swales or other alternatives reasonably acceptable to MID.

(iv) Drive banks shall be overlaid with 3 inches of Class 2 aggregate base course for all-weather access.

(v) All existing trees, bushes, debris, old canal structures, pumps, canal gates, and other non- or in-active MID and private structures must be removed within the MID Right-of-Way.

(m) All work shall conform to MID standards and specifications.

B-3 Construction Windows. All construction must occur outside MID's irrigation season. An exception to the above construction window requirement can only occur by mutual written agreement between the Authority's Contractor and MID.

B-4 Stormwater Routings. Where MID Facilities are used for stormwater and flood control, a bypass may be required, depending on the canal system, construction schedule, water season, and storm season. If a bypass is not constructed, all water will be required to pass through the Project site.

(n) The Engineer, with MID's approval, will determine the minimum flow rate if a bypass is required. The Engineer shall design the bypass system at the Authority's Contractor expense. The bypass system shall include facilities as necessary to convey waters downstream and away from the Project, and shall be the responsibility of the Authority's Contractor to install and maintain at all times.

(o) Should a bypass channel be constructed, a drive bank on both sides of the channel shall be incorporated for maintenance and operation purposes.

(p) Cofferdams (if any) must be constructed one foot below the canal's high water level.

(q) The AUTHORITY shall obtain appropriate easements or other rights necessary for the construction and operation of any bypass facilities located outside the existing MID right of way. The AUTHORITY shall cause the landowner and any parties in possession of the property where the bypass channel is located to release MID from any liability in the operation of such bypass.

B-5 Elevated Rail Facilities. Where Rail Facilities are to be located above grade:

(r) Pilings or columns for elevated Rail Facilities crossing MID pipelines shall be located outside of the MID Right-of-Way. Alternatively, the AUTHORITY may cause the pipeline to be replaced with RGRCP as described in Section B-1 above, with large spread footings for pilings or columns.

(s) Pilings or columns for elevated Rail Facilities crossing MID open canals may not be located in MID Right-of-Way. Gaps between elevated Rail Facilities over open canals shall be of sufficient length for MID to reasonably maintain the gap area. Portions of canals within such gaps that are too small for MID to maintain, as determined by MID in its reasonable discretion, shall be replaced with underground pipe.

(t) Sufficient clearance shall be provided over both canal maintenance/access roads for MID's largest equipment being hauled on a large tractor truck and trailer, unless the Rail Facilities right-of-way is to be fenced, eliminating access.

(u) If the Rail Facilities right-of-way is to be fenced, the AUTHORITY shall pipe the canal or place the canal within a culvert, such that routine maintenance is no longer necessary, and shall provide MID with an additional upstream trash collection location.

EXHIBIT C – STAKEHOLDER COLLABORATION

In order to accomplish the AUTHORITY Project through the most effective means available, a collaborative relationship will be formed as agreed to by Parties in Section 3.16 “Stakeholder Collaboration.” As part of this collaboration, a cooperative 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. Cooperation and collaboration are strongly encouraged in preference to formal dispute resolution and adjudication mechanisms. Collaboration in this context is intended to be mandatory, but non-binding. The identified procedures will be available for use by the Stakeholders to resolve issues that may arise during the performance of MID Facilities Work.

INITIAL KICK-OFF WORKSHOP

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 collaborative relationship and aid in identifying and resolving issues as they may arise throughout the Project:

- A. “*Issues Resolution Ladder*” (IRL) – a hierarchy of those individuals within the 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. “*Collaboration Implementation Plan*” (CIP) – the intention of the CIP is to sustain the collaborative 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 MID Facilities Work to be addressed by the Stakeholders.
- C. “*Cooperative 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 stakeholders vision, goals and relationship. The charter will be signed by all Stakeholders.

STAKEHOLDER MEETINGS

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

EXHIBIT D – ARRA AND AUTHORITY PROVISIONS

1. ARRA T&C

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS

1. **ARRA FUNDED PROJECT:** Funding for this contract has been provided through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.
2. **ENFORCEABILITY:** Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.
3. **PROHIBITION ON USE OF ARRA FUNDS:** Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.
4. **REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS:** Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor nor its subcontractors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.
5. **WAGE RATE REQUIREMENTS:** In accordance with ARRA, Section 1606, the Contractor assures that it and its subrecipients shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.
6. **INSPECTION OF RECORDS:** In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA. Contractor shall include this provision in all of the contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA funded work.
7. **WHISTLEBLOWER PROTECTION:** Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds. Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.
8. **FALSE CLAIMS ACT:** Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
9. **REPORTING REQUIREMENTS:** Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a monthly (quarterly) basis:
 - a. The total amount of ARRA funds received by Contractor during the Reporting Period;
 - b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
 - c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including:

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**SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS**

- (i.) The name of the project or activity;
- (ii.) A description of the project or activity;
- (iii.) An evaluation of the completion status of the project or activity; and
- (iv.) An estimate of the number of jobs created and /or retained by the project or activity;

d. For any contracts equal to or greater than \$25,000:

- (i.) The name of the entity receiving the contract;
- (ii.) The amount of the contract;
- (iii.) The transaction type;
- (iv.) The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
- (v.) The Program source;
- (vi.) An award title descriptive of the purpose of each funding action;
- (vii.) The location of the entity receiving the contract;
- (viii.) The primary location of the contract, including the city, state, congressional district and country;
- (ix.) The DUNS number, or name and zip code for the entity headquarters;
- (x.) A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
- (xi.) The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; 2) \$25M or more in annual gross revenue from Federal awards and; 3) if the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986.;

e. For any contracts of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

Any other information reasonably requested by the State of California or required by state or federal law or regulation.

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalReporting.gov. The additional requirements will be added to this contract(s).

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2. CCC 307 – CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)
4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:** Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

(Continued on next page)

CCC 307 – CERTIFICATION

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with State of California.

6. **SWEATFREE CODE OF CONDUCT:**
 - a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

 - b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph a.

7. **DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

NOTE: This form represents only the certification portion of the Contractor Certification Clauses (CCC). Additional information about contracting with the State appears in the full text of the applicable CCC. Visit this web site to view the entire document:
<http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

3. GTC 610

DEPARTMENT OF GENERAL SERVICES TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. MID may not commence performance until such approval has been obtained.

2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT: This Agreement is not assignable by the MID, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT: MID agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. MID agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. MID agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, MID agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: MID agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by MID in the performance of this Agreement.

6. DISPUTES: MID shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the MID fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the MID under this Agreement and the balance, if any, shall be paid to the MID upon demand.

8. INDEPENDENT CONTRACTOR: MID, and the agents and employees of MID, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The MID shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, MID and its contractors and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. MID, its contractors, and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. MID, its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable

regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. MID, its contractors, and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

MID shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid MID, as provided herein, shall be in compensation for all of MID's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The MID by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the MID shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the MID acknowledges in accordance with Public Contract Code 7110, that:

a. The MID recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of

information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The MID, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the MID shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then MID must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then MID must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

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MCC #9644-C-2012

Financial Project ID:		Federal Project ID:	
County:	Madera MCC #9644-C-2012	AUTHORITY Document No:	

THIS AGREEMENT, entered into this ____ day of ____, 2012 (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 *County of Madera*, a political subdivision of the State of California whose principal mailing address is 200 W Fourth St, Madera CA, 93637, hereinafter referred to as the "LOCAL AGENCY".

RECITALS

WHEREAS, LOCAL AGENCY owns, operates or maintains certain FACILITIES, as defined herein, in the State of California of which certain FACILITIES may be operated under regulations of the California Public Utilities Commission and are located on a public road or publicly owned rail corridor; and

WHEREAS, AUTHORITY is currently engaging in a program throughout the State of California under current provisions of Section 2704.04 of the Streets and Highways Code ("S&H Code") and Sections 185033 and 185036 of the Public Utilities Code, to construct a high-speed rail system for the State of California (the "SYSTEM"), by undertaking a number of "PROJECT(s)," as defined herein; and

WHEREAS, from time to time work on a PROJECT will occur in areas where LOCAL AGENCY's FACILITIES are located; and

WHEREAS, work on a PROJECT may require the location (vertically and/or horizontally), protection, relocation, installation, removal, or some combination thereof, of LOCAL AGENCY's FACILITIES; and

WHEREAS, AUTHORITY and LOCAL AGENCY desire to enter into an agreement which establishes the contractual terms and conditions applicable to the location, protection, relocation, installation, removal or some combination thereof, of LOCAL AGENCY's FACILITIES.

ACCORDINGLY, for and in consideration of the mutual promises set out herein, the adequacy of which are hereby acknowledged, AUTHORITY and LOCAL AGENCY hereby agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms have the following meanings.

1.1 AUTHORITY

"AUTHORITY" means the California High Speed Rail Authority and its authorized representatives.

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1.2 AUTHORITY'S CONTRACTOR

"AUTHORITY'S CONTRACTOR" means the proposer who is awarded the design and construction of any of the PROJECT(s).

1.3 BETTERMENT

"BETTERMENT" means the cost of any upgrades to the FACILITIES not attributable to the AUTHORITY'S PROJECT(s) and made solely for the benefit, and at the election, of LOCAL AGENCY. As employed herein, for the sake of clarification, BETTERMENT does not include those differences in cost caused by changes in manufacturing standards, availability of materials, regulatory requirements or any upgrades required by the LOCAL AGENCY'S standard specifications, standards of practice and construction methods applied to comparable FACILITIES constructed by or for the LOCAL AGENCY at its own expense, that are in effect as of the date of execution of the specific TASK ORDER for that FACILITIES WORK.

1.4 CONSTRUCTION CONTRACT

"CONSTRUCTION CONTRACT" means the contract between the AUTHORITY and the AUTHORITY'S CONTRACTOR for construction (with or without design) of the PROJECT work that is impacting LOCAL AGENCY'S. All references herein to "the CONSTRUCTION CONTRACT" refer to the CONSTRUCTION CONTRACT(S) for the PROJECT(S) that impact the FACILITIES, and when used in reference to a particular FACILITY, refer to the CONSTRUCTION CONTRACT that impacts the referenced FACILITY.

1.5 FACILITY

"FACILITY" means a facility under the ownership or exclusive operation of LOCAL AGENCY, including but not limited to (a) any pole, poleline, pipe, pipeline, conduit, cable, aqueduct, or other structure used for public or privately owned utility services, and (b) any public streets, highways, bridges, retaining walls, alleys, parking lots, parks, public landscaping and trees, traffic control devices/systems, street lighting systems, and public police and fire alarm systems.

1.6 FACILITY WORK

"FACILITY WORK" means those activities related to the Relocation of a FACILITY that will be or remain the property of the LOCAL AGENCY.

1.7 HAZARDOUS MATERIAL

"HAZARDOUS MATERIAL" means any hazardous substance, hazardous material, or hazardous waste as defined under state or federal law.

1.8 PARTIES

"PARTIES" refers to the AUTHORITY and LOCAL AGENCY, collectively.

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1.9 PRIOR RIGHTS

"PRIOR RIGHTS" means, superior rights, prescriptive rights (under court order) contractual rights, permit or common law, as applicable (collectively referred to as "PRIOR RIGHTS")

1.10 PROJECT

"PROJECT" means a segment of the System (as determined by AUTHORITY) and the work undertaken or contracted for by AUTHORITY to construct, improve, maintain and/or operate such segment (including new construction as well as reconstruction of, or other modification of existing rail facilities). All references herein to "the PROJECT" refer to the PROJECT(S) that impact the FACILITIES, and when used in reference to a particular FACILITY, refer to the PROJECT that impacts the referenced FACILITY.

1.11 RELOCATION

"RELOCATION" means removal, relocation, protection or any other rearrangement or modification of LOCAL AGENCY'S FACILITIES as ordered and approved by AUTHORITY to accommodate any of AUTHORITY'S PROJECTS that may impact LOCAL AGENCY'S FACILITIES. RELOCATION shall include, but not be limited to preparation and submission of RELOCATION plans or drawings sufficiently engineered to allow construction of the ordered RELOCATION, and a detailed estimate by LOCAL AGENCY and/or AUTHORITY of the actual and necessary cost of the ordered RELOCATION including review and inspection, for approval by LOCAL AGENCY and AUTHORITY.

1.12 RIGHT OF WAY OF LOCAL AGENCY

"RIGHT OF WAY OF LOCAL AGENCY" means a property right held by LOCAL AGENCY in the form of either a fully executed deed in the usual form or other fully executed valid instrument, whether or not recorded, that conveys a permanent property right to LOCAL AGENCY for the FACILITIES to be located in a defined area of real property, or a defined area within a PROJECT's right of way that is subject to a recorded Joint Use Agreement or Consent to Common Use Agreement.

1.13 TASK ORDER

"TASK ORDER" means a work order or other agreement executed by the AUTHORITY, the AUTHORITY'S CONTRACTOR, and the LOCAL AGENCY detailing FACILITY WORK specific to a particular FACILITY'S RELOCATION.

1.14 UNFORESEEN WORK

"UNFORESEEN WORK" means any new and/or extra work found essential to the satisfactory completion of the PROJECT(s) and not covered by any of the various TASK ORDERS.

1.15 WASTED WORK

"WASTED WORK" means design, design review, construction work or inspection performed by LOCAL AGENCY upon written direction from AUTHORITY, for a RELOCATION rendered useless or unnecessary as a result of AUTHORITY'S

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cancellation and/or changes in the scope of work as agreed to by the PARTIES. This term includes any other design or construction work that is needed to accommodate the PROJECT and is subsequently rendered unnecessary.

2. WORK TO BE DONE

2.1 FACILITY WORK

In general, the FACILITY WORK will involve the RELOCATION of existing FACILITIES owned, operated, or maintained by the LOCAL AGENCY, or the construction of new FACILITIES (or any combination thereof) that will be and/or remain the property of LOCAL AGENCY, along with design, engineering, planning, inspection, permitting, testing, certifying and any miscellaneous related work. FACILITY WORK specific to a particular FACILITY'S RELOCATION shall be detailed in a subsequently executed Task Order Agreement (Task Order).

2.2 TASK ORDERS

FACILITY WORK specific to a particular FACILITY'S RELOCATION shall be detailed in a TASK ORDER executed by the AUTHORITY, the AUTHORITY'S CONTRACTOR and the LOCAL AGENCY. The TASK ORDER shall be generally in the form of Appendix B, and will set forth among other things, the arrangements among the three parties regarding scope of work, schedule, cost, cost apportionment, billing, payment, documentation, document retention, accounting and coordination as it relates to the FACILITY WORK for a specific FACILITY. The content of each Task Order shall be mutually agreed upon by the AUTHORITY, the AUTHORITY'S CONTRACTOR and the LOCAL AGENCY, subject to compliance with the requirements of this Agreement. Task Orders may cover RELOCATION of a single FACILITY, or of a group of FACILITIES.

2.3 BETTERMENT WORK AT LOCAL AGENCY'S REQUEST

Any work considered a BETTERMENT, as defined herein, made at LOCAL AGENCY'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 to LOCAL AGENCY.

2.4 UNFORESEEN WORK

If any UNFORESEEN WORK arises during the performance of the FACILITY WORK, it shall be performed under the TASK ORDER that is applicable to the FACILITY WORK to which it relates. If the UNFORESEEN WORK does not arise in connection with any FACILITY WORK, it shall be addressed in a separate TASK ORDER under this Agreement. Notwithstanding the foregoing, the AUTHORITY reserves the right to make the final determination as to whether any UNFORESEEN WORK will be performed and LOCAL AGENCY is obligated to comply with AUTHORITY'S determination.

3. LIABILITY FOR WORK

3.1 GENERAL

Liability for the cost of FACILITY WORK shall be determined by statute, superior

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rights, prescriptive rights (under court order) contractual rights, permit or common law, as applicable (collectively referred to as "PRIOR RIGHTS"). LOCAL AGENCY is responsible to prepare, document and submit a claim for its declared right of occupancy for each FACILITY for which it claims PRIOR RIGHTS, which claim shall be subject to AUTHORITY's approval. For each FACILITY, the allocation of liability determined pursuant to this Section 3 shall be stated in the relevant TASK ORDER.

3.2 AUTHORITY'S EXPENSE

Unless LOCAL AGENCY agrees otherwise in writing, FACILITY WORK will be performed at AUTHORITY's expense where PRIOR RIGHTS dictate that the cost for such work shall be borne by AUTHORITY. The burden of establishing PRIOR RIGHTS rests with the LOCAL AGENCY.

3.3 LOCAL AGENCY'S EXPENSE

FACILITY WORK will be performed at LOCAL AGENCY's EXPENSE where:

- (A) Work is mutually determined in writing to be a BETTERMENT as defined in herein;
- (B) LOCAL AGENCY is unable to produce documentation satisfactory to AUTHORITY of its PRIOR RIGHTS to the property area where its FACILITIES are located;
- (C) It is determined by PRIOR RIGHTS that the cost for such work shall be borne by LOCAL AGENCY; or
- (D) LOCAL AGENCY agrees in writing.

3.4 SHARED EXPENSE

FACILITY WORK will be performed at the shared expense of AUTHORITY and LOCAL AGENCY in circumstances where the PARTIES agree in writing to do so. The proportion of FACILITY WORK expense to be borne by each PARTY shall be clearly identified in the TASK ORDER for that FACILITY WORK.

3.5 LIABILITY IN DISPUTE

In signing this Agreement, neither the AUTHORITY nor the LOCAL AGENCY shall diminish their respective positions nor waive any of their respective rights nor does either PARTY accept liability for any disputed work. AUTHORITY and LOCAL AGENCY reserve the right to have disputes regarding liability resolved by future negotiations or in accordance with the dispute resolution terms of the CONSTRUCTION CONTRACT.

3.6 AUTHORITY'S CONTRACTOR CLAIMS

In the event the AUTHORITY'S CONTRACTOR provides a notice of intent to make a claim against the AUTHORITY relating to the FACILITY WORK, the AUTHORITY will, in accordance with the AUTHORITY's dispute resolution procedure, notify LOCAL AGENCY of the notice of intent.

In the event the AUTHORITY'S CONTRACTOR makes any claim against the AUTHORITY relating to the FACILITY WORK, the AUTHORITY will notify the LOCAL AGENCY of the claim and the LOCAL AGENCY will cooperate with the AUTHORITY in analyzing and resolving the claim within the time required by the CONSTRUCTION CONTRACT.

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Because the FACILITY WORK may be reimbursable to LOCAL AGENCY under this Agreement, the AUTHORITY may withhold reimbursement to the LOCAL AGENCY until final resolution (including any actual payment required) of all claims relating to the FACILITY WORK. The right to withhold shall be limited to actual claim payments made by the AUTHORITY to the AUTHORITY'S CONTRACTOR.

3.7 DISPUTES

The AUTHORITY and the LOCAL AGENCY agree that, as a general principle, the PARTIES shall attempt to resolve any and all disputes arising under this Agreement through a collaborative partnering process, which shall attempt to identify and resolve potential disputes without resort to formal legal process. In the event the LOCAL AGENCY disagrees with a determination or matter made by the AUTHORITY, the LOCAL AGENCY shall provide prompt written notice of its objection and the reasons for such objection. Thereafter, the PARTIES shall attempt to resolve such dispute through the partnering process, which may include escalation with the AUTHORITY at the AUTHORITY's discretion. If, within 14 days after conclusion of such partnering, the dispute persists, then the LOCAL AGENCY shall request a written statement of the AUTHORITY concerning its decision. The AUTHORITY shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the LOCAL AGENCY. The decision of the AUTHORITY shall be final and conclusive unless, on or before the 28th day from the date of receipt of such copy, the LOCAL AGENCY mails or otherwise furnishes a written appeal addressed to the AUTHORITY. The AUTHORITY shall then, within two weeks thereafter, either issue a modified decision, or such prior decision shall stand. If the dispute still remains after such decision, then either PARTY may, within 42 days after such decision is issued or deemed affirmed, refer the dispute to binding arbitration.

In connection with any appeal of the AUTHORITY'S decision, the LOCAL AGENCY shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. At all times during the course of the dispute resolution process, the LOCAL AGENCY shall continue with or permit the continuance of the Work as directed, in a diligent manner, and without delay; shall conform to any of the AUTHORITY'S responses, decisions, or orders; and shall be governed by all applicable provisions of the Agreement. Records of the Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in this Agreement irrespective of the ultimate outcome of any dispute.

In the event either PARTY, within the timeframe specified above, elect to refer a dispute to binding arbitration, then within 30 days after such request, the PARTIES will seek to appoint a panel of three arbitrators with not less than 10 years' experience each in complex construction disputes involving public works transportation projects. If the PARTIES cannot agree on a panel of three arbitrators, then each PARTY shall appoint one arbitrator, with the two so selected choosing the third arbitrator; in each instance,

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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 Madera County.

If it is determined, on appeal, that the AUTHORITY'S interpretation of the Agreement, direction to the LOCAL AGENCY, 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 LOCAL AGENCY'S claim and any award by resolver of the dispute shall be limited to the incremental costs incurred by the LOCAL AGENCY with respect to the disputed matter (crediting the AUTHORITY for any corresponding reduction in the LOCAL AGENCY'S other costs) and shall in no event exceed the amounts allowed hereunder with respect thereto.

4. PERFORMANCE OF WORK

4.1 GENERAL

All FACILITY WORK (design and construction phases) or portions thereof may be performed by the LOCAL AGENCY, the AUTHORITY or the AUTHORITY'S CONTRACTOR, as agreed by said parties. Specific procedures, if any, that shall be followed in performance of the FACILITY WORK, the costs therefor and the allocation of responsibility for performing the various portions of FACILITY WORK shall be clearly stated in the TASK ORDER for that work.

4.2 AUTHORITY'S CONTRACTOR PERFORMS WORK

When all or portion of the FACILITY WORK is to be performed by the AUTHORITY or the AUTHORITY'S CONTRACTOR, the LOCAL AGENCY shall have access to all phases of the FACILITY WORK for the purpose of inspection to verify that the work is completed in accordance with the TASK ORDER pertaining to that work; however, all questions regarding the work being performed will be directed the AUTHORITY or its authorized representative for evaluation and final disposition.

Upon AUTHORITY'S written notice to the LOCAL AGENCY, the LOCAL AGENCY shall consider AUTHORITY'S CONTRACTOR as acting on behalf of AUTHORITY for all matters pertaining to PROJECT(s) that are specifically identified in said notice.

4.3 STAKEHOLDER COLLABORATION

In signing this Agreement, the LOCAL AGENCY agrees to collaborate with the AUTHORITY, the AUTHORITY'S CONTRACTOR, and any other third-party entities affected by the PROJECT(s), including regulatory agencies, local agencies, and public and private utility owners, hereinafter referred to as STAKEHOLDERS, to identify collaborative methods for resolving issues that may arise as part of the PROJECT and/or FACILITY WORK in an effort to achieve a quality PROJECT(s) that meets the PROJECT schedule and budget.

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STAKEHOLDERS will attend an initial kick-off workshop as well as subsequent periodic meetings as scheduled throughout the duration of the PROJECT(s). During the initial workshop, STAKEHOLDERS will develop procedures and agreements (including TASK ORDERS) as specified in APPENDIX E, "STAKEHOLDER COLLABORATION," included herein, to facilitate the collaborative relationship and aid in identifying and resolving issues as they arise throughout the PROJECT(s).

Reimbursement to the LOCAL AGENCY 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.

Except to the extent otherwise required by law, neither the language of this clause, including the language in APPENDIX E, nor any 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.

5. PAYMENT FOR WORK

5.1 COST OF FACILITY WORK

Cost of FACILITY WORK includes the actual allowable, allocable 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 to that work, and any necessary new private FACILITY right of way involved in the FACILITY WORK, except as follows:

- (A) In any case in which the AUTHORITY is required under the provisions of this Agreement to pay its share of the cost of RELOCATION of any FACILITIES, the AUTHORITY shall be entitled to credits as follows:
 - (1) The amount of any BETTERMENT to the FACILITIES resulting from such RELOCATION.
- (B) A credit shall not be allowed against any portion of the cost that is otherwise chargeable to the LOCAL AGENCY.
- (C) A credit allowance for age shall not be applied to publicly owned sewers.
- (D) Eligible LOCAL AGENCY costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A. The LOCAL AGENCY agrees that costs referenced in Title 23 C.F.R. Part 645 Section 117(d)(2) are not eligible for reimbursement. These regulations can be found at: <http://www.access.gpo.gov/nara/cfr/waisidx/cfr-table-search.html>

In conjunction with the foregoing, the LOCAL AGENCY acknowledges and agrees that it shall have no right to salvage any of the materials or parts contained within the FACILITIES and hereby assigns all such salvage rights to the AUTHORITY.

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5.2 PAYMENT FOR THE COST OF FACILITY WORK

If the FACILITY WORK is at the AUTHORITY's expense, then the AUTHORITY shall pay or cause payment to be made to the LOCAL AGENCY in the amounts as established for the cost of FACILITY WORK performed by the LOCAL AGENCY, less the credits as determined in Section 5.1. At the AUTHORITY's discretion, the responsibility for making such payments to the LOCAL AGENCY may be delegated to AUTHORITY's CONTRACTOR; in such circumstances, the LOCAL AGENCY agrees to the AUTHORITY's delegation to the AUTHORITY's CONTRACTOR of the responsibility to make reimbursement payments to the LOCAL AGENCY.

If the FACILITY WORK is at the LOCAL AGENCY's expense and is performed by the AUTHORITY or the AUTHORITY's CONTRACTOR, the LOCAL AGENCY shall pay or cause payment to be made to the AUTHORITY or the AUTHORITY's CONTRACTOR (as designated by the AUTHORITY in written notice to LOCAL AGENCY) in the amounts established pursuant to this Agreement for the cost of FACILITY WORK, plus the amount of any credits as determined in Section 5.1. At the AUTHORITY's discretion, the AUTHORITY's CONTRACTOR is authorized to accept such payment from the LOCAL AGENCY; in such circumstances, the LOCAL AGENCY agrees to collection by the AUTHORITY'S CONTRACTOR of reimbursement directly from the LOCAL AGENCY.

5.3 INVOICING PROCEDURES

LOCAL AGENCY will invoice the AUTHORITY'S CONTRACTOR in accordance with the LOCAL AGENCY'S invoicing procedures.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

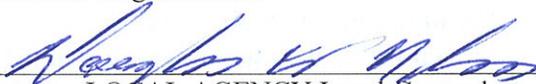
LOCAL AGENCY:

BY:  DATE: 7/24/12
Signature

Typed Name: JOHANNES J. HOEVERTSZ

Typed Title: ROAD COMMISSIONER

LOCAL AGENCY Legal Review

BY:  DATE: 6/27/12
Signature - LOCAL AGENCY Legal Counsel

Approval by the California High Speed Rail Authority

BY: _____ DATE: _____
Signature

AUTHORITY Legal Review

BY: _____ DATE: _____
Signature - AUTHORITY Legal Counsel

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APPENDIX A – GENERAL CONDITIONS

DEACTIVATED FACILITIES

The LOCAL AGENCY's FACILITIES shall not remain in the AUTHORITY's right of way after the FACILITIES are no longer active (DEACTIVATED), unless specifically authorized in writing by the AUTHORITY at its sole discretion. The following terms and conditions shall apply to DEACTIVATED FACILITIES allowed to remain within the AUTHORITY's right of way:

- A. The LOCAL AGENCY acknowledges its present and continuing ownership of and responsibility for the DEACTIVATED FACILITIES.
- B. If the AUTHORITY agrees to allow the LOCAL AGENCY to leave the DEACTIVATED FACILITIES located within the right of way, it shall be subject to the continuing satisfactory performance of the conditions of this Agreement by the LOCAL AGENCY. In the event of a breach of this Agreement by the LOCAL AGENCY, the DEACTIVATED FACILITIES shall be removed upon demand from AUTHORITY at the expense of the LOCAL AGENCY.
- C. The LOCAL AGENCY shall take such steps to secure the DEACTIVATED FACILITIES and otherwise make such DEACTIVATED FACILITIES safe in accordance with any and all applicable local, state or federal laws and regulations and in accordance with the legal duty of the LOCAL AGENCY to use due care in its dealings with others. The LOCAL AGENCY shall be solely responsible for gathering all information necessary to meet these obligations.
- D. The LOCAL AGENCY shall keep and preserve all records relating to the DEACTIVATED FACILITIES, including, but not limited to, records of the location, nature of, and steps taken to safely secure the DEACTIVATED FACILITIES and shall promptly respond to information requests from the AUTHORITY concerning the DEACTIVATED FACILITIES or other STAKEHOLDERS using or seeking use of the right of way.
- E. The LOCAL AGENCY shall remove the DEACTIVATED FACILITIES within thirty (30) days' of a written request from the AUTHORITY in the event that the AUTHORITY determines removal necessary for any of the following reasons: the AUTHORITY needs the use of the right of way, the right of way is needed for other active FACILITIES that cannot be otherwise accommodated, or where the DEACTIVATED FACILITY adversely affects safety and operation of the PROJECT(s). In the event that the DEACTIVATED FACILITIES would not have qualified for reimbursement under this Agreement, removal shall be at the sole cost and expense of the LOCAL AGENCY and without any right of the LOCAL AGENCY to object or make any claim of any nature whatsoever with regard thereto. In the event that the DEACTIVATED FACILITIES would have qualified for reimbursement, removal of the DEACTIVATED FACILITIES shall be reimbursed by the AUTHORITY as though the DEACTIVATED FACILITIES had not been DEACTIVATED. In the event that the LOCAL AGENCY fails to perform the

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removal properly within the specified time, AUTHORITY may proceed to perform the removal at the LOCAL AGENCY's sole expense.

- F. Except as otherwise provided, the LOCAL AGENCY agrees that the DEACTIVATED FACILITIES shall forever remain the legal and financial responsibility of the LOCAL AGENCY. The LOCAL AGENCY shall reimburse the AUTHORITY for any and all costs of any nature whatsoever resulting from the presence of the DEACTIVATED FACILITIES within the right of way. Said costs shall include, but shall not be limited to, charges or expenses which may result from the future need to remove the DEACTIVATED FACILITIES or from the presence of any hazardous substance or material in the DEACTIVATED FACILITIES or the discharge of HAZARDOUS MATERIALS from the DEACTIVATED FACILITIES.

DEFAULT

In the event that the LOCAL AGENCY breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement or by applicable 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 subcontractors and seek repayment from the LOCAL AGENCY for the cost thereof.

Without limiting the generality of the foregoing, the LOCAL AGENCY'S failure to review, inspect and/or provide comments within the applicable time period required in this Agreement shall be considered an event of default. The AUTHORITY will treat the LOCAL AGENCY'S failure to provide comments as approval and proceed with the FACILITY WORK accordingly.

In the event that the AUTHORITY 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 LOCAL AGENCY 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 between the PARTIES, nor from any statutory obligations that either PARTY may have with regard to the subject matter hereof.

AUTHORITY may unilaterally cancel this Agreement for refusal by the LOCAL AGENCY to allow access to all public documents, papers, letters, or other material that is made or received by the LOCAL AGENCY in conjunction with this Agreement.

If AUTHORITY's PROJECT(s) which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by the LOCAL AGENCY, the AUTHORITY will notify LOCAL AGENCY in writing, and the AUTHORITY reserves the right to terminate this Agreement by such written notice.

Notwithstanding any dispute, the PARTIES agree that they will continue their respective

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performances required hereunder unless and until termination of this Agreement has occurred, 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 PROJECT. Consequently, the AUTHORITY shall be entitled to specific performance in the event of any breach of this Agreement that imminently threatens to delay PROJECT(s) construction.

INDEMNIFICATION

Each PARTY shall defend, hold harmless, and indemnify the other PARTY and its respective governing Boards, officers, directors, employees, authorized agents, engineers, contractors or subcontractors from and against any and all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' and expert witness fees and costs) that arise out of or as a result of any negligent act or omission or willful misconduct of the other PARTY or its officers, agents, employees, engineers, contractors or subcontractors in carrying out either PARTY's obligations under this Agreement or under any TASK ORDER executed pursuant hereto, except to the extent that such expense, liability or claim is proximately caused by the negligence or willful misconduct of the PARTIES indemnified or their respective agents, servants, or independent contractors who are directly responsible to such indemnified PARTY.

When the AUTHORITY receives a notice of claim for damages that may have been caused by the LOCAL AGENCY in the performance of services required under this Agreement, AUTHORITY will immediately forward the claim to the LOCAL AGENCY. The LOCAL AGENCY and the AUTHORITY will evaluate the claim and report their findings to each other within fourteen (14) days and will jointly discuss options in defending the claim. After reviewing the claim, the AUTHORITY will determine whether to require the participation of the LOCAL AGENCY in the defense of the claim or to require the LOCAL AGENCY to defend the AUTHORITY in such claim as described in this section. The AUTHORITY's failure to notify the LOCAL AGENCY of a claim shall not release the LOCAL AGENCY from any of the requirements of this section.

The LOCAL AGENCY's obligation to defend and indemnify shall not be excused because of the LOCAL AGENCY's inability to evaluate liability or because the LOCAL AGENCY evaluates liability and determines the LOCAL AGENCY is not liable or determines the AUTHORITY is solely negligent or has engaged in willful misconduct. Only a final adjudication or judgment finding that the AUTHORITY has been solely negligent or has acted with willful misconduct shall excuse performance of this provision by the LOCAL AGENCY. The LOCAL AGENCY shall pay all costs and fees related to this obligation and its enforcement by the AUTHORITY. The AUTHORITY's delay in notifying the LOCAL AGENCY of a claim shall not release the LOCAL AGENCY of the above duty to defend.

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FORCE MAJEURE

Neither the LOCAL AGENCY 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 an act of God, act of civil or military authority, riot, fire, earthquake, strike, flood, power blackout, natural catastrophe, or any other event beyond the reasonable control of the non-performing Party and which could not have been avoided or overcome by the exercise of due diligence; provided that 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 practicable.

If any such event of Force Majeure occurs, the LOCAL AGENCY agrees, if requested by the AUTHORITY, to accelerate its efforts if reasonably feasible to regain lost time, so long as the AUTHORITY agrees to reimburse the LOCAL AGENCY for the reasonable and actual costs of such acceleration.

LOCAL AGENCY'S FACILITY AND RIGHT OF WAY

The LOCAL AGENCY's FACILITIES shall at all times remain the property of and be properly protected and maintained by the LOCAL AGENCY.

Whenever the LOCAL AGENCY's affected FACILITIES will remain within the AUTHORITY's right of way, the AUTHORITY and the LOCAL AGENCY shall jointly execute an agreement for common use of the subject area, such agreement shall be in accordance with the Authority's policies and procedures for joint or common use of the Authority's right of way

Whenever the LOCAL AGENCY's affected FACILITIES are to be relocated from the existing right of way of the LOCAL AGENCY to a new location that falls outside such existing right of way of the LOCAL AGENCY, 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 LOCAL AGENCY. For such RELOCATED FACILITIES, the AUTHORITY shall issue, or cause to be issued, to the LOCAL AGENCY, without charge to the LOCAL AGENCY or credit to the AUTHORITY, appropriate replacement rights in the new location mutually acceptable to both the AUTHORITY and the LOCAL AGENCY for those rights previously held by the LOCAL AGENCY in its existing right of way. In discharge of the AUTHORITY's obligations under this Paragraph, in the event that the new location falls within the right of way under the jurisdiction of the AUTHORITY, the AUTHORITY and the LOCAL AGENCY shall jointly execute an agreement for common use as stated in the above paragraph. In consideration for these replacement rights being issued by the AUTHORITY, the LOCAL AGENCY shall subsequently vacate and convey to the AUTHORITY, or its nominee, within the AUTHORITY's right of way, all of its corresponding right, title and interest within the LOCAL AGENCY's existing right of

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way so vacated.

If the existing RIGHT OF WAY OF THE LOCAL AGENCY includes fee title, the AUTHORITY shall acquire from the LOCAL AGENCY, for just compensation under State law, those property rights required by the AUTHORITY for its FACILITIES by separate transaction, leaving to the LOCAL AGENCY those remaining property rights appropriate for the placement and operation of the LOCAL AGENCY's FACILITIES in the RIGHT OF WAY OF THE LOCAL AGENCY.

Upon completion of the FACILITIES WORK by the AUTHORITY, the new FACILITIES shall become the property of the LOCAL AGENCY, and the LOCAL AGENCY shall have the same rights in the new location that it had in the old location.

INTEGRATION

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 has written policies and procedures which shall be applicable as written at the time of AGREEMENT execution. Copies of the AUTHORITY policies and procedures will be provided to the LOCAL AGENCY upon request, as they become available. The allocation of costs for any additional activities that may be required on the part of the LOCAL AGENCY as provided by the AUTHORITY policies and procedures will be detailed through a TASK ORDER specific to that WORK. This Agreement cannot be modified except by an instrument, in writing, signed by each of the PARTIES.

SEVERABILITY

Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof. The stricken provisions shall be construed as nearly as possible to the intent of the PARTIES.

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.

NOTICES

All required notices may be sent by first class United States Mail, facsimile transmission, hand delivery, or receipted courier 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. The PARTIES shall have a continuing obligation to notify the 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 LOCAL AGENCY:

LOCAL AGENCY Name: THE COUNTY OF MADERA

Person in Charge: Douglas Nelson or Douglas Papagni, County Counsel

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Address: 200 W Fourth St
Madera, CA 93637

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

WASTED WORK

The AUTHORITY will pay, in its entirety, that portion of the cost of the 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.

HAZARDOUS MATERIAL

Upon discovery of HAZARDOUS MATERIAL in connection with the FACILITIES WORK, both the LOCAL AGENCY and the AUTHORITY shall immediately confer to explore all reasonable alternatives and agree on a course of action, and the LOCAL AGENCY shall immediately reschedule the work in accordance with the AUTHORITY's 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 FACILITIES WORK, unless such conditions are attributable to the LOCAL AGENCY'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 5 of the Master Agreement, "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.

SUCCESSORS AND ASSIGNS

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

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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 unless assigned. This Agreement is not intended to affect the legal liability of PARTIES by imposing any standard of care for completing WORK different from the standards imposed by law.

The PARTIES agree that Authority shall have the right, in its sole discretion, without additional compensation to the LOCAL AGENCY, to assign this MASTER AGREEMENT and any or all associated TASK ORDERS to the AUTHORITY'S CONTRACTOR.

STATE FUNDS

No state funds or resources are allocated or encumbered as against this Agreement and 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.

AMERICAN RECOVERY AND REINVESTMENT ACT AND AUTHORITY

The provisions included in Appendix D, "ARRA AND AUTHORITY PROVISIONS," are hereby incorporated in and are integral to this Agreement, and the LOCAL AGENCY shall ensure full compliance with these provisions to the extent they apply to the MASTER AGREEMENT and subsequent TASK ORDERS.

California High Speed Rail Authority

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APPENDIX B – TASK ORDER FORM

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APPENDIX C – DESIGN BUILD PROCEDURES

INITIAL COORDINATION

- A. The LOCAL AGENCY shall advise the AUTHORITY in writing of the place and the name and telephone number of a contact person for the LOCAL AGENCY who has charge over the FACILITIES WORK and will serve as the primary contact for the LOCAL AGENCY on all related issues.
- B. The AUTHORITY will compile information from the LOCAL AGENCY that will illustrate the nature and locations of the LOCAL AGENCY's existing FACILITIES. The AUTHORITY will present this information on a series of preliminary drawings and tables that will be used to determine conflicts with PROJECT FACILITIES.
- C. The LOCAL AGENCY will furnish markups to the AUTHORITY of their existing and proposed FACILITIES on the preliminary submittals within 25 working days.
- D. The AUTHORITY will prepare Proposed Preliminary Design plans that indicate which utilities are to be relocated and conceptual arrangements of the relocated utilities.
- E. The LOCAL AGENCY will verify, to the best of their ability, the correctness and completeness of the plans prepared by the AUTHORITY.
- F. These plans will form the basis of subsequent design to be performed by the LOCAL AGENCY, the AUTHORITY or the AUTHORITY's CONTRACTOR, as such; the LOCAL AGENCY shall take sole and full responsibility for the accuracy of their depicted FACILITIES.

PERFORMANCE OF THE FACILITIES WORK

The method of performance to be utilized in the design and construction of the FACILITIES WORK, as described below, will be specified in the executed TASK ORDER for the particular FACILITIES WORK contemplated.

The LOCAL AGENCY agrees to (a) the AUTHORITY'S delegation to the AUTHORITY'S CONTRACTOR, the responsibility to reimburse the LOCAL AGENCY, and (b) the AUTHORITY'S CONTRACTOR's collection of reimbursement directly from the LOCAL AGENCY having cost responsibility for the RELOCATIONS and/or for BETTERMENTS.

Performance of the FACILITIES WORK will be in accord with the following method:

The AUTHORITY's CONTRACTOR performs all design and construction services for the FACILITIES WORK.

- A. At such time as the AUTHORITY'S CONTRACTOR has plans prepared to a level where the impact on the LOCAL AGENCY'S FACILITIES and the nature and extent of the FACILITIES WORK can be determined, hereinafter referred to as FACILITIES PLANS,

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the AUTHORITY's CONTRACTOR will provide a copy of the FACILITIES PLANS to the LOCAL AGENCY. The FACILITIES PLANS shall include a preliminary FACILITIES WORK design concept which was created by the AUTHORITY's CONTRACTOR. FACILITIES PLAN submittals will be packaged separately according to the AUTHORITY's CONTRACTOR's approved schedule and may include the following categories: substructure, superstructure, and traffic plan with submittal stages at intermediate, Released for Construction (RFC) and As-Built stages.

- B. The LOCAL AGENCY shall have 25 working days from receipt of the FACILITIES PLANS intermediate submittal to review them, and provide comments to the AUTHORITY'S CONTRACTOR. The LOCAL AGENCY shall also provide any applicable technical provisions and standard drawings along with their comments.
- C. At such time as the AUTHORITY's CONTRACTOR has prepared RFC FACILITIES PLANS, including the FACILITIES WORK, the AUTHORITY'S CONTRACTOR will provide a copy thereof to LOCAL AGENCY. The RFC FACILITIES PLANS shall incorporate the comments of the LOCAL AGENCY provided that the comments are reasonable and do not impair or create inconsistencies with the AUTHORITY'S CONTRACTOR'S Agreement with the AUTHORITY.
- D. The LOCAL AGENCY shall have 25 working days from receipt of the RFC FACILITIES PLANS to review them and provide final comments to the AUTHORITY'S CONTRACTOR.
- E. The AUTHORITY'S CONTRACTOR shall make final corrections to the FACILITIES PLANS and provide a copy to the LOCAL AGENCY.
- F. The AUTHORITY'S CONTRACTOR shall perform the construction services for the FACILITIES WORK in accordance with the RFC FACILITIES PLANS as corrected by the LOCAL AGENCY.
- G. Deviations from the corrected RFC FACILITIES PLANS initiated by the AUTHORITY, the AUTHORITY'S CONTRACTOR or the LOCAL AGENCY, must be agreed upon by all PARTIES and memorialized in an Amendment to the TASK ORDER for the original FACILITIES WORK. No deviation from the original FACILITIES WORK shall commence without a fully executed Amendment.
- H. The LOCAL AGENCY shall be entitled to have a reasonable number of representatives on the site of PROJECT to verify that the FACILITIES WORK is being properly performed by the AUTHORITY'S CONTRACTOR. Where the number of representatives poses an interference or hindrance to the progress of the PROJECT, it shall be deemed unreasonable. The LOCAL AGENCY'S representatives shall at all times comply with all of the AUTHORITY'S CONTRACTOR'S work rules and regulations while on the Project Site. If any representative fails to comply with said work rules and regulations, the AUTHORITY'S CONTRACTOR shall have the exclusive right to prohibit the representative from access to the Project Site thereafter.
- I. Upon completion of the FACILITIES WORK, the LOCAL AGENCY agrees to accept ownership and maintenance of the constructed FACILITIES.

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- J. The process established above shall apply separately to each phase or segment of PROJECT, as established in accordance with the agreement between the AUTHORITY's CONTRACTOR and the AUTHORITY.

- K. The AUTHORITY shall provide the LOCAL AGENCY with as-built drawings of the FACILITIES WORK outside the AUTHORITY's right of way. The as built drawings shall be in the format provided for in the TASK ORDER for that particular FACILITIES WORK.

California High Speed Rail Authority

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APPENDIX D – ARRA AND AUTHORITY PROVISIONS

ARRA T&C

MASTER AGREEMENT

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS

1. **ARRA FUNDED PROJECT:** Funding for this contract has been provided through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.
2. **ENFORCEABILITY:** Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.
3. **PROHIBITION ON USE OF ARRA FUNDS:** Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.
4. **REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS:** Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor nor its subcontractors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.
5. **WAGE RATE REQUIREMENTS:** In accordance with ARRA, Section 1606, the Contractor assures that it and its subrecipients shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.
6. **INSPECTION OF RECORDS:** In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA. Contractor shall include this provision in all of the contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA funded work.
7. **WHISTLEBLOWER PROTECTION:** Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds. Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.
8. **FALSE CLAIMS ACT:** Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
9. **REPORTING REQUIREMENTS:** Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a monthly (quarterly) basis:
 - a. The total amount of ARRA funds received by Contractor during the Reporting Period;
 - b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
 - c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including:

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**SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS**

- (i.) The name of the project or activity;
 - (ii.) A description of the project or activity;
 - (iii.) An evaluation of the completion status of the project or activity; and
 - (iv.) An estimate of the number of jobs created and /or retained by the project or activity;
- d. For any contracts equal to or greater than \$25,000:
- (i.) The name of the entity receiving the contract;
 - (ii.) The amount of the contract;
 - (iii.) The transaction type;
 - (iv.) The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
 - (v.) The Program source;
 - (vi.) An award title descriptive of the purpose of each funding action;
 - (vii.) The location of the entity receiving the contract;
 - (viii.) The primary location of the contract, including the city, state, congressional district and country;
 - (ix.) The DUNS number, or name and zip code for the entity headquarters;
 - (x.) A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 - (xi.) The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; 2) \$25M or more in annual gross revenue from Federal awards and; 3) if the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986.;
- e. For any contracts of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

Any other information reasonably requested by the State of California or required by state or federal law or regulation.

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1612 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalReporting.gov. The additional requirements will be added to this contract(s).

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CCC 307 – CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed) <i>County of Madera</i>		Federal ID Number <i>94-6000518</i>
By (Authorized Signature) <i>Johannes J. Hoeveritz</i>		
Printed Name and Title of Person Signing <i>Johannes J. Hoeveritz Road Commissioner</i>		
Date Executed <i>7-24-12</i>	Executed in the County of <i>Madera</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)
4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:** Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

(Continued on next page)

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CCC 307 – CERTIFICATION

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with State of California.

6. **SWEATFREE CODE OF CONDUCT:**
 - a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

 - b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph a.

7. **DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

NOTE: This form represents only the certification portion of the Contractor Certification Clauses (CCC). Additional information about contracting with the State appears in the full text of the applicable CCC. Visit this web site to view the entire document:
<http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

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FORM GTC 610

DEPARTMENT OF GENERAL SERVICES TERMS AND CONDITIONS

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. LOCAL AGENCY may not commence performance until such approval has been obtained.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT:** This Agreement is not assignable by the LOCAL AGENCY, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT:** LOCAL AGENCY agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. LOCAL AGENCY agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. LOCAL AGENCY agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, LOCAL AGENCY agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION:** LOCAL AGENCY agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the LOCAL AGENCY in the performance of this Agreement.
6. **DISPUTES:** LOCAL AGENCY shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the LOCAL AGENCY fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the LOCAL AGENCY under this Agreement and the balance, if any, shall be paid to the LOCAL AGENCY upon demand.
8. **INDEPENDENT CONTRACTOR:** LOCAL AGENCY, and the agents and employees of LOCAL AGENCY, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The LOCAL AGENCY shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, LOCAL AGENCY and its contractors and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial

MASTER AGREEMENT

of family care leave. LOCAL AGENCY, its contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. LOCAL AGENCY, its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. LOCAL AGENCY, its contractors and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

LOCAL AGENCY shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid LOCAL AGENCY, as provided herein, shall be in compensation for all of LOCAL AGENCY'S expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The LOCAL AGENCY by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the LOCAL AGENCY shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the LOCAL AGENCY acknowledges in accordance with Public Contract Code 7110, that:

MASTER AGREEMENT

a. The LOCAL AGENCY recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The LOCAL AGENCY, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the LOCAL AGENCY shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then LOCAL AGENCY must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract LOCAL AGENCY made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

MASTER AGREEMENT

APPENDIX E – STAKEHOLDER COLLABORATION

In order to accomplish PROJECT(s) through the most effective means available, a collaboration will be formed as agreed to by PARTIES in Section 4.5 “STAKEHOLDER COLLABORATION.” As part of this collaboration, a cooperative 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. Collaboration and cooperation is strongly encouraged in preference to formal dispute resolution and adjudication mechanisms. Collaboration in this context is intended to be mandatory, but non-binding. The identified procedures will be available for use by the STAKEHOLDERS to resolve issues that may arise during the performance of FACILITIES WORK.

INITIAL KICK-OFF WORKSHOP

In order to achieve effective and efficient completion of the PROJECT(s), 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 partnering relationship and aid in identifying and resolving issues as they may arise throughout the PROJECT:

- A. “*Issues Resolution Ladder*” (*IRS*) – a hierarchy of those individuals within the PROJECT including the STAKEHOLDERS and Dispute Resolution Board 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 collaborative 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 FACILITIES 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 partnering vision, goals and relationship. The charter will be signed by all STAKEHOLDERS

STAKEHOLDER MEETINGS

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

California High-Speed Train Project



Draft Task Order

Date: December 6, 2012
Local Agency: County of Madera
Agreement No: _____
Task Order No: 1
Project Title: California High-Speed Rail Project
Description: CHSRP Interaction Removal or Relocation Plan

DRAFT

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Task Order No. 1

GENERAL

This Task Order supplements and amends the Construction Contract and Master Agreement. The purpose of this Task Order is to authorize Facility Work for the Local Agency. Each Facility that requires relocation will be handled under a separate subtask of this Task Order.

WORK TO BE DONE

1 Master Agreement

This Task Order is issued in order to authorize Facility Work described herein. This Task Order does not express all of the terms and conditions relevant to Facility Work; accordingly, the Master Agreement and all of the provisions thereof are incorporated into this Task Order by this reference. Capitalized terms used but not identified in this Task Order shall have the definitions set forth in the Master Agreement. All attachments referenced in this Task Order are incorporated herein by such reference. All Facility Work shall be performed in accordance with the requirements of the Master Agreement and, in the event of any inconsistency between the provisions of this Task Order and the Master Agreement, the provisions of the Master Agreement shall prevail.

2 Scope of Work

Facility Work as defined in the definitions section of the Master Agreement is incorporated by reference. Each separate Facility that requires Relocation will be treated as a subtask to this Task Order.

2.1 Location and General Description of the Work Covered by this Task Order (Including Disposition of Existing Facilities):

The Authority's Contractor will furnish all labor, material, equipment and supervision required to complete the relocation of Facilities and appurtenances. All work shall be performed substantially in accordance with "Request for Proposal for Design Build Services-RFP No. 11-16 consisting of Hybrid Alternative, Contract Package 1A, Contract Package 1B and Contract Package 1C, a copy of which is on file in the Authority's office at 770 L St, Suite 800, Sacramento, CA 95814.

2.2 Facility Work to be Performed by Parties Pursuant to this Task Order:

The Authority's Contractor performs all design and construction services for Facility Work. The Local Agency will review and approve Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify that Facility Work is being properly performed by the Authority's Contractor and approve that Facility Work.



2.2.1 Subtask 1.01

Scope: Design, secure permits, traffic control and construct an elevated structure and retaining walls to allow HST to go over Raymond Rd, Fresno River, SR 145 and Main Canal within Madera County and roadway modifications. Roadway modifications includes the closure of Watson St and Ave 15 $\frac{3}{4}$. FACILITY WORK is shown on Drawing SV2000, SV2001, SV2002, SV2003, SV2004, SV2005, T1115-A and T1116-A.

Estimated Period of Performance: 30 Months

Estimated value of this Facility Work: \$45,547,454

2.2.2 Subtask 1.02

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 15 $\frac{1}{2}$ in Madera County. FACILITY WORK is shown on Drawing ST1007 and T1116-A.

Estimated Period of Performance: 12 Months

Estimated value of this Facility Work: \$5,110,206

2.2.3 Subtask 1.03

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 15 in Madera County. FACILITY WORK is shown on Drawing ST1006 and T1117-A.

Estimated Period of Performance: 12 Months

Estimated value of this Facility Work: \$4,487,226

2.2.4 Subtask 1.04

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 13 in Madera County. FACILITY WORK is shown on Drawing ST1005, ST1005A and T1119-A.

Estimated Period of Performance: 13 Months

Estimated value of this Facility Work: \$5,647,686

2.2.5 Subtask 1.05

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 12 in Madera County. FACILITY WORK is shown on Drawing ST1004 and T1120-A.

Estimated Period of Performance: 16 Months

Estimated value of this Facility Work: \$6,016,866



2.2.6 Subtask 1.06

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 11 in Madera County. FACILITY WORK is shown on Drawing ST1003 and T1121-A.

Estimated Period of Performance: 12 Months

Estimated value of this Facility Work: \$5,352,846

2.2.7 Subtask 1.07

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 10 in Madera County. FACILITY WORK is shown on Drawing ST1002 and T1122-A.

Estimated Period of Performance: 16 Months

Estimated value of this Facility Work: \$6,755,226

2.2.8 Subtask 1.08

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 9 in Madera County. Roadway Modifications include the closure of Road 32 adjacent to Ave 9. FACILITY WORK is shown on Drawing ST1001 and T1123-A.

Estimated Period of Performance: 14 Months

Estimated value of this Facility Work: \$5,890,866

2.2.9 Subtask 1.09

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 8 in Madera County. FACILITY WORK is shown on Drawing ST1000 and T1124-A.

Estimated Period of Performance: 12 Months

Estimated value of this Facility Work: \$5,359,146

2.2.10 Subtask 1.10

Scope: Design, secure permits, traffic control, and construct a grade separation and roadway modifications at Ave 7 in Madera County. Roadway modifications include the reconfiguration of Road 33 adjacent to Ave 7. FACILITY WORK is shown on Drawing ST1070 and T1125-A.

Estimated Period of Performance: 16 Months

Estimated value of this Facility Work: \$6,949,266



2.2.11 Subtask 1.11

Scope: AUTHORITY'S CONTRACTOR shall reimburse the LOCAL AGENCY for all costs resulting from plan check review, permits, inspection and testing (inspection & testing in an oversight Quality Assurance capacity only). AUTHORITY'S CONTRACTOR is still responsible to provide Quality Assurance and Quality Control for design and construction through project completion and closeout. The estimated value does not include plan review and inspection costs for false work since LOCAL AGENCY will require AUTHORITY'S CONTRACTOR to review and certify.

Estimated Period of Performance: Duration of Project

Estimated value of this Facility Work: \$517,000

3 Project Schedule

Deadlines for the completion of Facility Work are provided for in the contract between the Authority and the Authority's Contractor.

3.1 Schedule for Facility Work (This Task Order Only)

The Authority's Contractor shall complete the design work in accordance with the schedule specified in this Task Order. The Authority's Contractor shall commence construction work only after acceptance of the final design for such work in accordance with Appendix C – Design Build Procedures of the Master Agreement. The Authority's Contractor must comply with or receive a written variance for applicable city and county laws, regulations, and ordinances including permitting, inspection processes, work hours regulations, traffic management plan, dust control and noise regulations.

Design:		Construction:	
Start Date:	June 2013	Start Date:	December 2013
Completion Date:	December 2013	Completion Date:	February 2017

4 Performance of Work

4.1 Design

The design furnished by the Authority's Contractor pursuant to this Task Order shall be substantially in accordance with the Proposed Preliminary Design (see Appendix C – Design Build Procedures of the Master Agreement) and shall be consistent with 30% design submittal of the HST Project plans. All plans for Facility Work are subject to review by the Authority, the Local Agency, and the Authority's Contractor, in accordance with the time frames and procedures set forth in Appendix C – Design Build Procedures of the Master Agreement.

By Local Agency: The Local Agency will review Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify Facility Work is being properly performed by the Authority's Contractor.



By Authority's Contractor: The Authority's Contractor performs all design and construction services for Facility Work.

4.2 Construction

The Authority's Contractor will perform all the construction services for the Facility Work. The construction of Facility Work shall be performed substantially in accordance with the final Facility plans. Deviations from the final Facility plans may occur only in conformity with the Master Agreement.

5 Liability For Work

In accordance with section 3, "Liability for Work," of the Master Agreement, the Local Agency and the Authority shall each be responsible for the cost of Facility Work as specified herein.

The total estimated cost for Facility

Work is: \$97,633,788

5.1 Cost Allocation

To be determined by Prior Rights.

6 Cost Estimate

The amounts stated herein are estimates of the costs associated with Facility Work. Authorized expenditures and reimbursements will be based on the terms of the Master Agreement.

6.1 For Work by Local Agency

The Local Agency's costs for Facility Work shall be developed pursuant to section 5, "Payment of Work," of the Master Agreement, and shall be performed in accordance with the procedures set forth in section 4, "Performance of Work" and Appendix C – Design Build Procedures of this Master Agreement.

6.2 For Work by Authority's Contractor

The Authority has prepared an initial cost estimate in the amount of \$97,633,788 for Facility Work included in this Task Order.

The Authority's Contractor shall prepare an independent cost estimate for Facility Work which shall be submitted for the Authority's approval. Such estimate will reflect appropriate estimated charges for Betterment and salvage value, if any. Upon approval, the parties shall revise this Task Order to incorporate the approved estimate.

7 Betterment, Accrued Depreciation, Salvage

The Local Agency shall credit the Authority for the actual cost of any Betterment, salvage value, and accrued depreciation on the Facilities as required pursuant to the Master Agreement, and pay the the Authority's Contractor for the actual cost of any Betterment constructed by the Authority's Contractor.



Facility Work in this Task Order does not include any Betterment.

8 Billing and Payment

Billing and payment shall be in accordance with section 5, "Payment for Work," of the Master Agreement.

9 Contacts

The contacts for this Task Order will be as follows:

Local Agency: _____

Authority: _____

Authority's Contractor: _____



12 Madera Irrigation District

- Master Agreement
- Task Order No. 1
- Task Order Drawings

ADDENDUM 7



MASTER AGREEMENT

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California High Speed Rail Authority

Master Agreement

Madera Irrigation District

**AGREEMENT REGARDING HIGH-SPEED RAIL CROSSING OF
MADERA IRRIGATION DISTRICT FACILITIES**

THIS AGREEMENT is made effective as of _____, 2012 by and between (i) the California High Speed Rail Authority, an agency of the State of California ("AUTHORITY") and (ii) the Madera Irrigation District, a California irrigation district ("MID"). AUTHORITY and MID are sometimes referred to below individually as "Party" and together as the "Parties."

RECITALS

A. MID owns, operates, and maintains certain facilities for the delivery of agricultural irrigation water and groundwater recharge ("MID Facilities") under its authority as an irrigation district pursuant to Section 20500 et seq. of the California Water Code. MID's service area includes portions of the AUTHORITY'S high-speed rail corridor.

B. The AUTHORITY desires to install, maintain, repair and replace certain high-speed rail related facilities ("Rail Facilities") in and over real property in which MID has rights of way or owns in fee for MID Facilities. In many instances, the construction and operation of the Rail Facilities will require modification, protection, relocation or replacement of MID Facilities.

C. The Parties desire to provide terms for the modification or replacement of various MID Facilities in connection with construction of Rail Facilities ("Projects"). The parties further desire to provide for the common use of their respective rights-of-way where such areas overlap.

D. The AUTHORITY is obligated to reimburse MID for all costs and expenses incurred by MID in accordance with this Agreement.

NOW THEREFORE, in consideration of the mutual terms and conditions contained herein, the Parties agree as follows:

**Article I
DEFINITIONS**

The following terms shall have the following meanings as used in this Agreement:

"AUTHORITY" is defined in the Preamble.

"AUTHORITY Project" means a segment of the Rail Facilities (as determined by the AUTHORITY) and the work undertaken or contracted for by the AUTHORITY to construct, improve, maintain and/or operate such segment (including new construction as well as reconstruction of, or other modification of existing Rail Facilities). All references herein to the "AUTHORITY Project" refer to the AUTHORITY Project that impacts the MID Facilities, and when used in reference to a particular MID Facility, refer to the AUTHORITY Project that impacts the referenced MID Facility.

“Betterment” means the cost of any upgrades to the MID Facilities not attributable to the AUTHORITY Project and made solely for the benefit, and at the election of MID. As employed herein, for the sake of clarification Betterment does not include: (i) those differences in cost caused by changes in manufacturing standards, availability of materials, regulatory requirements or any upgrades required by MID’s customary practices, drawings and specifications, (ii) standards of practice and construction methods applied to comparable MID Facilities constructed by or for MID at its own expense, that are in effect as of the date of execution of the specific Task Order for that MID Facilities Work or (iii) facility improvements required due to safety concerns.

“Authority’s Contractor” is defined in Section 3.2.

“Claims” is defined in Section 4.1.

“Common Use Area” is defined in Section 5.1.

“Common Use Agreement” is defined in Section 5.1.

“Construction Contract” means the contract between the AUTHORITY and the Authority’s Contractor for construction (with or without design) of the Project work that is impacting MID. All references herein to “the Construction Contract” refer to the Construction Contract(s) for the Project(s) that impact MID Facilities, and when used in reference to a particular MID Facility, refer to the Construction Contract that impacts the referenced MID Facility.

“Engineer” is defined in Section 2.1.

“Hazardous Material(s)” means any hazardous substance, hazardous material, or hazardous waste as defined under state or federal law.

“MID” is defined in the Preamble. For any provision of this Agreement where MID is to be indemnified, “MID” shall also include MID’s directors, officers, employees, agents and volunteers.

“MID Facilities” is defined in Recital A.

“MID Facility Work” is, in general, the modification, protection or Relocation of existing MID Facilities, or the construction of new MID Facilities (or any combination thereof) that will be or remain the property of MID.

“MID Right-of-Way” shall mean any real property rights held by MID for the location and operation of MID Facilities, including, but not limited to, fee title and easement rights.

“Plans and Specifications” is defined in Section 2.1.

“Prior Rights” is defined in Section 3.11.

“Projects” is defined in Recital C.

“Rail Facilities” is defined in Recital B.

“Relocation” means removal, protection or any other rearrangement or modification of an MID Facility as ordered and approved by the AUTHORITY to accommodate any of the AUTHORITY’S Projects that may impact MID Facilities. Relocation shall include, but not be limited to, the preparation and submission by Authority’s Contractor of Relocation plans or drawings sufficiently engineered to allow for the construction of the ordered Relocation, and a detailed estimate by MID of the actual and necessary cost of the ordered Relocation including review and inspection for approval by the Authority and/or MID.

“Stakeholders” shall mean the AUTHORITY, the Authority’s Contractor, and all parties with property or facilities affected by a Project.

“State” shall mean the State of California.

“Task Order” is defined in Section 3.3.

“Unforeseen Work” means any new and/or extra work found essential to the satisfactory completion of the Projects and not covered by any of the various Task Orders.

“Wasted Work” means design, design review, construction work or inspection performed by MID upon written direction from the AUTHORITY, for a Relocation rendered useless or unnecessary as a result of AUTHORITY’S cancellation and/or changes in the scope of work as agreed to by the Parties. This term includes any other design or construction work that is needed to accommodate the AUTHORITY Project and is subsequently rendered unnecessary.

Article II DESIGN AND ENGINEERING

2.1 Design/Build. AUTHORITY shall cause the Authority’s Contractor to prepare drawings, plans and specifications as necessary to set forth in detail the requirements for the MID Facility Work to be performed under this Agreement (the “Plans and Specifications”), as otherwise provided in Exhibit A hereto. The AUTHORITY shall cause Authority’s Contractor to select either Provost & Pritchard Engineering Group, Inc. or Blair, Church & Flynn, to design the Plans and Specifications (the “Engineer”).

Article III WORK TO BE DONE

3.1 MID Facility Work. The AUTHORITY or the Authority’s Contractor shall perform the MID Facility Work in accordance with the Plans and Specifications applicable to each Project. MID Facility Work includes the permitting related to the Relocation, modification or protection as well as any necessary certification or coordination with regulatory agencies and any other miscellaneous work related to the Relocation, modification or protection of an existing or construction of a new (or any combination thereof) MID Facility. MID Facility Work specific

to a particular MID Facility's Relocation, modification, protection or replacement shall be detailed in a subsequently executed Task Order.

3.2 Authority's Contractor. The MID Facility Work shall be performed by licensed, qualified contractors to be hired by the AUTHORITY (each an "Authority's Contractor"). MID shall have no responsibility to pay for any Facility Work, except as MID may otherwise agree in writing. The Authority's Contractor, subcontractors or other individuals directly or indirectly hired or employed by the AUTHORITY shall have the skills and experience required to perform the MID Facility Work assigned to them.

3.3 Task Orders. Work specific to particular MID Facilities Relocation, protection, modification or replacement (i.e., a Project) shall be detailed in a subsequently executed Task Order Agreement to be executed by the AUTHORITY, the Authority's Contractor and MID ("Task Order"). Any deviation from the Plans and Specifications for a Task Order must be agreed upon by the Parties and memorialized in an amendment to the relevant Task Order, and no such deviation from the original Task Order shall commence without a fully executed amendment. The Task Order will set forth the arrangements between the Parties regarding scope of work, schedule, cost, cost apportionment, billing, payment, documentation, document retention, accounting and coordination as it relates to the MID Facilities Work for a specific MID Facilities. Format of the Task Order and its content shall be mutually agreed upon by the AUTHORITY, the Authority's Contractor, and MID, subject to the compliance of the requirements of this agreement. Task Orders may cover relocation of a single MID Facility, or a group of MID Facilities.

3.4 General AUTHORITY Responsibility. In performing the MID Facility Work, the AUTHORITY (either directly or through its Contactor) shall be solely responsible for:

- (a) Ensuring that all construction means, methods, techniques, sequences and procedures, and construction quality conform to the Plans and Specifications, as modified by agreement of the Parties and Authority's Contractor.
- (b) Project site safety, including implementing, maintaining and supervising a Project safety plan;
- (c) Coordinating all portions of the Project;
- (d) Implementation of all reasonable measures and precautions to prevent damage, injury or loss to: (i) all persons who are on the Project site or who could foreseeably be affected by construction of the Project; (ii) the Project and materials and equipment to be incorporated therein; and (iii) other property at or adjacent to the Project site;
- (e) Provision of appropriate security for the Project site;
- (f) Reasonable clean-up of the Project site at the end of each day during which work on the Project site is performed;
- (g) Risk of loss for damage to or loss to the MID Facility Work or of any property at the Project site occurring prior to final acceptance by MID;

(h) Securing, at its expense, any permits and governmental approvals necessary for the proper execution and completion of the Project;

(i) Giving any notices required by laws, ordinances, rules, regulations and lawful orders of public authorities;

(j) Ensuring that all Projects remain free and clear of any and all claims for labor, materials, and design services;

(h) Perform the MID Facility Work using best professional skill and judgment, acting with due care and in accordance with professional standards of care and construction practices generally accepted as standards of the industry in the State of California; and

(i) Complete the MID Facility Work on a timely basis, with due consideration given to MID's irrigation schedules.

When all or portions of the MID Facility Work are performed by the Authority's Contractor, MID shall have access to all phases of the MID Facility Work for the purpose of inspection to ensure that the relevant MID Facility Work is completed in accordance with the Task Order pertaining to that work; however, all questions regarding the work being performed will be directed to the AUTHORITY or its authorized agent for evaluation and final disposition. Notwithstanding the foregoing, MID shall not disrupt or interfere with the MID Facility Work or the AUTHORITY Project.

3.5 General Project Construction Requirements. General construction requirements for MID Facility Work are set forth in Exhibit B hereto. Exceptions from such requirements may be made for specific Projects by notice from the AUTHORITY to MID.

3.6 MID Representatives. MID shall be entitled to have a reasonable number of representatives, including the Engineer, on the site of each Project to verify that the work is being properly performed by the Authority's Contractor. The presence of such representative, however, is solely for MID's benefit, and shall not relieve the AUTHORITY of its obligation to supervise and perform the MID Facility Work in accordance with the Plans and Specifications and otherwise in accordance with this Agreement and the applicable Task Order. Notwithstanding the foregoing, MID representatives, including the Engineer, shall not disrupt or interfere with the MID Facility Work or the AUTHORITY Project.

3.7 Acceptance. Upon completion of a Project in accordance with the Plans and Specifications, as provided in writing by AUTHORITY or Authority's Contractor to MID, and after the expiration of the enforcement period for any stop notices filed in connection with the Project, MID shall accept ownership and maintenance of the constructed MID Facilities. MID shall not be required to accept ownership of any Project which is the subject of filed and ongoing litigation.

3.8 Unforeseen Work. If Unforeseen Work arises during the performance of the MID Facility Work, it shall be performed under the Task Order that is applicable to the MID Facility

Work it arose in connection with. The AUTHORITY shall be responsible for the cost of any Unforeseen Work.

3.9 Hazardous Material. Upon discovery of Hazardous Material in connection with the MID Facility Work, both MID and the AUTHORITY shall immediately confer to explore all reasonable alternatives and agree on a course of action in compliance with existing statutes or regulations concerning the disposition of Hazardous Material. The AUTHORITY will pay, in its entirety, all costs necessary to comply with existing statutes or regulations concerning the disposition of Hazardous Material within the AUTHORITY's right-of-way found as a consequence of that MID Facility Work, unless the Hazardous Materials are attributable to or were exacerbated by the MID Facilities or MID's operations. Those costs for efforts undertaken within the area of the replacement property right located outside the AUTHORITY'S right of way which are 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 this Article III. 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.

3.10 Betterment Work at MID's Request. Any work considered a Betterment, as defined herein 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 to MID.

3.11 Liability for Work. Liability for the cost of MID Facility Work shall be determined by statute, superior rights, prescriptive rights (under court order), contractual rights, permit, or common law, as applicable, collectively referred to as Prior Rights. MID is responsible to prepare, document, and submit a claim, at the AUTHORITY'S sole expense, for its declared right of occupancy for each MID Facility for which it claims Prior Rights, which claim shall be subject to the AUTHORITY'S approval. For each MID Facility, the allocation of liability determined to this Section 3 shall be stated in the relevant Task Order.

3.12 Authority's Expense.

(a) Unless MID agrees otherwise in writing, MID Facility Work will be performed at the AUTHORITY'S expense. MID shall have no responsibility to pay for any Facility Work, except as provided in Section 3.13 below. The AUTHORITY shall defend, indemnify, and hold MID harmless from any claims for design, labor, materials or similar items in connection with any MID Facility Work, except as provided in Section 3.13 below.

(b) The burden of establishing Prior Rights rests with MID at AUTHORITY'S expense. Prior Rights may be established by (i) recorded documents, plat maps, or other county records, (ii) originals or copies of documents granting an interest in the real property in question to MID, executed by the grantor, (iii) a written statement, executed by an officer of MID, indicating that according to MID's written records, MID has maintained a given facility in its current location for the period of time necessary to establish Prior Rights, or (iv) any other historic document evidencing that an irrigation facilities (public or private) has been located in a given location for the period of time necessary to establish Prior Rights, provided, however, that in the absence of such documentation, the existence of a FACILITY

owned and maintained by MID shall be considered satisfactory evidence of MID'S prescriptive rights regarding such facility, even if no instrument, recorded or otherwise, exists formalizing MID'S right of occupancy.

3.13 MID's Expense. MID Facility Work will be performed at MID's expense where: (a) work is determined in writing to be a Betterment; (b) MID is unable to produce adequate documentation of its Prior Rights pursuant to Section 3.12(b) above; (c) it is determined by Prior Rights that the cost for such work shall be borne by MID; and (d) MID agrees in writing.

3.14 Shared Expense. MID Facility Work will be performed at the shared expense of AUTHORITY and MID in circumstances where the Parties agree in writing to do so. The proportion of MID Facility Work expense to be borne by each Party shall be clearly identified in the Task Order for that MID Facility Work.

3.15 Liability in Dispute. In signing this Agreement, neither the AUTHORITY nor MID shall diminish their respective positions nor waive any of their respective rights nor does either Party accept liability for any disputed work. The AUTHORITY and MID reserve the right to have disputes regarding liability resolved by future negotiations or as otherwise provided in this Agreement.

3.16 Claims by Authority's Contractor. In the event the Authority's Contractor makes any claim against the AUTHORITY relating to the MID Facility Work, the AUTHORITY will notify MID of the claim, and MID will cooperate with AUTHORITY in assessing and resolving the claim within the required time by the Construction Contract.

3.17 Stakeholder Collaboration. In signing this Agreement, MID agrees to collaborate with the AUTHORITY, the Authority's Contractor, and any other third-party entities affected by the Project(s), including regulatory agencies, local agencies, and public and private utility owners, hereinafter referred to as Stakeholders, to identify collaborative methods for resolving issues that may arise as part of the Project and/or MID Facility Work in an effort to achieve a quality AUTHORITY Project that meets the AUTHORITY 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 Project. During the initial workshop, Stakeholders will develop procedures and agreements (including Task Orders) as specified in Exhibit C, "Stakeholder Collaboration," included herein, to facilitate the Stakeholder relationship and aid in identifying and resolving issues as they arise throughout the Project(s).

Reimbursement to MID for the cost of participation in the initial workshop and subsequent stakeholder meetings shall be made by either the AUTHORITY or the Authority's Contractor.

Subject to the requirements of the California Public Records Act, relevant judicial reference statutes and the California Evidence Code, neither the language of this Stakeholder clause, including the language in Exhibit C, nor any 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.

3.18 Cost of MID Facility Work. Cost of MID Facility Work includes the actual, allowable, allocable and reasonable cost of all necessary engineering, labor and transportation, and all necessary materials exclusive of any dismantled MID Facilities used in any Relocation, together with reasonable and usual indirect and overhead charges attributable to such MID Facility Work, and any necessary new MID Right-of-Way involved in the MID Facility Work, except that, the AUTHORITY shall be entitled to credit for the cost of any Betterment to the MID Facility included as part of the Project. A credit allowance for age shall not be applied to existing MID Facilities. Except as otherwise provided in this Agreement, eligible MID costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A.

In any case in which the AUTHORITY is required under the provisions of this Agreement to pay its share of the cost of relocation of any MID Facility, AUTHORITY shall be entitled to credits as follows:

- (1) The amount of any Betterment to the MID Facilities resulting from such Relocation; and
- (2) The salvage value of any materials or parts salvaged or retained by MID.

A credit shall not be allowed against any portion of the cost that is otherwise chargeable to MID.

A credit allowance for age shall not be applied to publicly owned sewers.

Eligible MID costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A. MID agrees that costs referenced in Title 23 C.F.R. Part 645 Section 117(d)(2) are not eligible for reimbursement. These regulations can be found at:

<http://www.access.gpo.gov/nara/cfr/waisidx/cfr-table-search.html>

3.19 Payment for the Cost of MID Facility Work.

(a) If the MID Facility Work is at the AUTHORITY's expense, then the AUTHORITY shall pay the Authority's Contractor directly, less the credits determined. MID shall be responsible to pay the Authority's Contractor for the amount of any credits given to the AUTHORITY as described in subsection (b) below.

(b) If MID Facility Work is at MID's expense and is performed by the Authority's Contractor, MID shall pay or cause payment to be made to the Authority's Contractor (as designated by the AUTHORITY in written notice to MID) in the amounts established pursuant to this Agreement for the cost of MID Facility Work, plus the amount of any credits as determined in Section 3.17.

3.20 Invoicing Procedures. MID will invoice the Authority's Contractor in accordance with the invoicing procedures of the Authority's Contractor, which shall provide for payment to MID not later than 45 days after submission of invoice.

Article IV INDEMNITY AND INSURANCE

4.1 Indemnity by AUTHORITY.

(a) To the fullest extent permitted by law, the AUTHORITY shall defend, indemnify, and hold MID harmless from and against any claims, liabilities, damages, losses and expenses, of any nature whatsoever, arising out of or resulting from the performance of the MID Facilities Work ("Claims"), excepting only such Claims as may be proximately caused by the sole or exclusive negligence of, or by the willful misconduct of MID or its employees, directors, agents, servants, or independent contractors who are directly responsible to MID. Such indemnity shall extend to Claims occurring after completion of the Project in question, as well as during the construction of such Project.

(b) The AUTHORITY's obligation to defend and indemnify shall not be excused because of the AUTHORITY's inability to evaluate liability or because the AUTHORITY evaluates liability and determines the AUTHORITY is not liable or determines that MID is solely negligent or has acted with willful misconduct. Only a final adjudication or judgment finding that MID is solely negligent or has acted with willful misconduct shall excuse performance of this provision by the AUTHORITY. The AUTHORITY shall pay all costs and fees related to this obligation and its enforcement by MID. MID's delay in notifying the AUTHORITY of a claim shall not release the AUTHORITY of the above duty to defend.

(c) When the AUTHORITY receives notice of a Claim that may have been caused by MID in the performance of services required under this Agreement, the AUTHORITY will immediately forward the Claim to MID. The AUTHORITY and MID will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the Claim. After reviewing the Claim, the AUTHORITY will determine whether to require the participation of MID in the defense of the Claim or to require MID to defend the AUTHORITY in such Claim. The AUTHORITY's failure to notify MID of a claim shall not release MID from any of the requirements of this section or Section 4.2.

4.2 Indemnity by MID. To the fullest extent permitted by law, MID shall defend, indemnify and hold the AUTHORITY harmless from and against any Claims arising out of or resulting from the sole or exclusive negligence or willful misconduct of MID or its employees, directors, agents, servants or independent contractors who are directly responsible to MID. MID's obligation to defend and indemnify shall not be excused because of MID's inability to evaluate liability or because MID evaluates liability and determines MID is not liable or determines the AUTHORITY is solely negligent or has acted with willful misconduct. Only a final adjudication or judgment finding that the AUTHORITY is solely negligent or has acted with willful misconduct shall excuse performance of this provision by MID. MID shall pay all costs and fees related to this obligation and its enforcement by the AUTHORITY. The AUTHORITY's delay in notifying MID of a Claim shall not release MID of the above duty to defend.

4.3 Insurance. Any contract entered into by the AUTHORITY in connection with the MID Facility Work shall contain a provision which requires the Authority's Contractor, as part of the liability insurance requirements, to provide an endorsement (in form acceptable to both Parties) to each policy of general or automobile liability insurance that names as additional insured's to such policy (not subject to any premiums or assessments) MID and the

AUTHORITY and their respective officers and employees, as well as such other additional insured's as either Party shall reasonably require (provided that the risk and cost assumed by either Party under this Agreement does not increase as a result of naming such other additional insured's). The parties referred to in the previous sentence are collectively referred to herein as the "Additional Insured Group." Unless otherwise mutually agreed by the Parties, the Authority's Contractor shall provide evidence of at least Commercial General Liability Limits of \$2,000,000, Aggregate; Per Occurrence of \$1,000,000; Auto Liability of \$1,000,000; Workers Compensation and Liability of \$1,000,000; with excess/umbrella liability insurance in addition. Prior to commencement of any MID Facility Work, an insurance certificate evidencing the required coverage shall be provided directly by the insurer to MID and the AUTHORITY, providing that said coverage shall not be reduced in scope or cancelled without thirty (30) days prior written notice to MID and the AUTHORITY. MID recognizes and agrees that all or part of such insurance can be provided by the AUTHORITY through an owner-controller insurance program.

Article V
AREAS OF COMMON USE; RELOCATED MID FACILITIES

5.1 Common Use Areas. MID Facilities shall at all times remain the property of and be properly protected and maintained by MID; subject, however, to the following. Whenever affected MID Facilities will remain within the AUTHORITY's right-of-way (a "Common Use Area"), the AUTHORITY and MID shall jointly execute an agreement for common use of the subject area, such agreement shall be in accordance with the AUTHORITY'S policies and procedures for joint or common use of the AUTHORITY'S right of way.

5.2 Relocation of MID Rights-of-Way. Whenever affected MID Facilities are to be Relocated from the existing MID Right-of-Way to a new location, the AUTHORITY shall convey or cause to be conveyed a new right-of-way for such relocated Facilities on terms and conditions that are substantially similar to the existing MID Right-of-Way. For such Relocations, the AUTHORITY shall issue, or cause to be issued, to MID, without charge to MID, appropriate replacement rights in the new location mutually acceptable to both the AUTHORITY and MID for those rights previously associated with the existing MID Right-of-Way. Without limiting the foregoing, if MID has exclusive rights to the existing MID Right-of-Way, any replacement right-of-way shall provide MID with similar exclusive rights, except to the extent that the new location falls within the right-of-way under the jurisdiction of the AUTHORITY. In that event, the AUTHORITY and MID shall jointly execute a Common Use Agreement. In consideration for these replacement rights being issued by the AUTHORITY, MID shall subsequently quitclaim to the AUTHORITY, or its nominee, within the AUTHORITY's Right-of-Way, all of its corresponding right, title and interest in and to the MID Right-of-Way so vacated. Upon completion of the MID Facility Work by the AUTHORITY, the new MID Facilities shall become the property of MID, and MID shall have the same rights in the new location that it had in the old location as modified by agreements in writing between the AUTHORITY and MID.

5.3 Compensation for MID Fee Title. If the existing MID Right-of-Way includes fee title, the AUTHORITY shall acquire from MID, for just compensation under California law,

those property rights required by the AUTHORITY for the Rail Facilities by separate transaction, leaving to MID those remaining property rights appropriate for the placement and operation of the MID Facilities in the MID Right-of-Way, as reasonably determined by MID. Upon completion of MID Facility Work by the AUTHORITY or the Authority's Contractor, the new MID Facilities shall become property of MID, and MID shall have the same rights in the new location that it had in the old location as modified by agreements in writing between the AUTHORITY and MID.

Article VI MISCELLANEOUS

6.1 Compliance with Public Works Laws. The AUTHORITY shall be responsible to comply with or ensure compliance by the Authority's Contractor with all applicable California and federal laws relating to the construction of public works projects, including, but not limited to, applicable provisions of the California Public Contract Code, the California Labor Code, and any laws or regulatory requirements associated with the use of federal funds ("Public Works Laws"). The AUTHORITY acknowledges that MID does not have extensive experience with public works projects that involve state and federal funds, and that MID has elected to have the AUTHORITY perform the MID Facilities Work for, among other reasons, the purpose of utilizing the AUTHORITY's resources in complying with Public Works Laws. The AUTHORITY shall defend, indemnify and hold MID harmless from and against any Claims arising from failure to comply with Public Works Laws, except where the responsibility for compliance with such laws cannot legally be shifted from MID.

6.2 Compliance with CEQA. The AUTHORITY shall be solely responsible for all environmental review and other actions required under the California Environmental Quality Act and any other state or federal environmental review laws applicable to any Project ("Environmental Review Laws"), except for those actions which by law cannot be delegated to another agency and must be taken by MID. To the maximum extent permitted by law, the AUTHORITY shall defend, indemnify and hold MID harmless from and against any Claims arising from any failure to comply with Environmental Review Laws as described in this Section 6.2.

6.3 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.

6.4 American Recovery and Reinvestment Act and Authority. To the extent applicable, the provisions included in Exhibit D, "ARRA AND AUTHORITY PROVISIONS," are hereby incorporated in this Agreement.

6.5 Force Majeure. Neither MID 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 an

act of God, act of civil or military authority, riot, fire, earthquake, strike, flood, power blackout, natural catastrophe, or any other event beyond the reasonable control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that 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 practicable.

6.6 Time. Time is of the essence of this Agreement and each and all of its provisions.

6.7 Effect of Headings. The subject headings of the paragraphs and subparagraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

6.8 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all of the Parties hereto.

6.9 Waiver. Waiver of any breach of this Agreement by any party hereto shall not constitute a continuing waiver or a waiver of any breach of the same or another provision of this Agreement.

6.10 Counterparts; Fax and Email Signatures. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument. Facsimile and electronic mail signature pages shall constitute originals, however, without affecting the enforceability of such signatures as originals, each party shall provide original signature pages to the other parties within five (5) business days of the execution of this Agreement.

6.11 Assignment; Binding Effect. Neither party shall assign any interest in this Agreement without the express written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, the AUTHORITY shall be permitted to assign this agreement to the Authority's Contractors without the Consent of MID. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of the parties hereto.

6.12 Interpretation. It is agreed and acknowledged by the parties that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

6.13 Disputes. The AUTHORITY and MID agree that, as a general principle, the Parties shall attempt to resolve any and all disputes arising under this Agreement through a collaborative partnering process, which shall attempt to identify and resolve potential disputes without resort to formal legal process. In the event MID disagrees with a determination or

matter made by the AUTHORITY, MID shall provide prompt written notice of its objection and the reasons for such objection. Thereafter, the Parties shall attempt to resolve such dispute through the partnering process, which may include escalation within the AUTHORITY at the AUTHORITY's discretion. If, within 14 days after conclusion of such partnering, the dispute persists, then MID shall request a written statement of the AUTHORITY concerning its decision. The AUTHORITY shall reduce its decision to writing and mail or otherwise furnish a copy thereof to MID. The decision of the AUTHORITY shall be final and conclusive unless, on or before the 28th day from the date of receipt of such copy, MID mails or otherwise furnishes a written appeal addressed to the AUTHORITY. The AUTHORITY shall then, within two weeks thereafter, either issue a modified decision, or such prior decision shall stand. If the dispute still remains after such decision, then either Party may, within 42 days after such decision is issued or deemed affirmed, refer the dispute to binding arbitration.

In connection with any appeal of the AUTHORITY'S decision, MID shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. At all times during the course of the dispute resolution process, MID shall continue with or permit the continuance of the Work as directed, in a diligent manner, and without delay; shall conform to any of the AUTHORITY'S responses, decisions, or orders; and shall be governed by all applicable provisions of the Agreement. Records of the Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in this Agreement irrespective of the ultimate outcome of any dispute.

In the event either Party, within the timeframe specified above, elects to refer a dispute to binding arbitration, then within 30 days after such request, the Parties will seek to appoint a panel of three arbitrators with not less than 10 years' experience each in complex construction disputes involving public works transportation projects. If the Parties cannot agree on a panel of three arbitrators, 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 Madera County.

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

6.14 Professionals' Fees. Should any action or proceeding be commenced between the Parties hereto concerning this Agreement, or the rights and duties of any Party in relation thereto, the Party prevailing in such action or proceeding shall be entitled, in addition to such other relief as may be granted, to recover from the losing Party a reasonable sum for its attorneys', paralegals', accountants', and other professional fees and costs incurred in connection with such action or proceeding.

6.15 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue for any action or proceeding shall lie in the County of Madera, California.

6.16 Construction. All words used in this Agreement shall be construed to include the plural as well as the singular number and vice versa. Words used herein in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter genders.

6.17 Survival. Each of the terms, provisions, representations, warranties, and covenants of the Parties shall be continuous and shall survive the completion of any MID Facilities Work contemplated in this Agreement.

6.18 Notices. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by telecopier, provided the original is concurrently sent by first class mail, and provided that notices received by telecopier after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized overnight delivery service, or (iv) or on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To AUTHORITY: California High Speed Rail Authority
Thomas Fellenz, Chief Counsel
770 L Street, Suite 800
Sacramento, CA 95814
Fax: (916) 322-0827

To MID: Madera Irrigation District
12152 Road 28 1/4
Madera, CA 93637
Attn: General Manager
Fax: (559) 673-3514

A Party may change its address for notices by providing notice to the other parties as provided above.

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

6.20 Default. In the event that either Party breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement or by law, the other Party may (a) pursue a claim for damages suffered, or (b) perform any work with its own forces or through subcontractors and seek repayment for the cost thereof. Termination of this Agreement shall not relieve either Party from any obligations it has pursuant to other agreements or Task Orders between the Parties, nor from any statutory obligations that either Party may have with regard to the subject matter hereof. 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 AUTHORITY Project. Consequently, the Parties shall be entitled to specific performance in the event of any breach of this Agreement that imminently threatens to delay the AUTHORITY Project or Project construction.

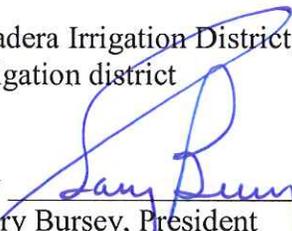
6.21 Project Cancellation. If any portion of the AUTHORITY Project is canceled or modified so as to eliminate the necessity of the MID Facilities Work, the AUTHORITY will notify MID in writing, and the AUTHORITY reserves the right to terminate this Agreement as to such Project by amendment. The amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first above written.

California High Speed Rail Authority, an agency of the State of California

Madera Irrigation District, a California irrigation district

By _____

By  _____
Gary Bursey, President

Its _____

By  _____
Cynthia Rascoe, Secretary

AUTHORITY Legal Review

By _____
AUTHORITY Legal Counsel

California High-Speed Train Project



Draft Task Order

Date: December 6, 2012

Local Agency: Madera Irrigation District

Agreement No: _____

Task Order No: 1

Project Title: California High-Speed Rail Project

Description: CHSRP Interaction Removal or Relocation Plan

DRAFT

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Task Order No. 1

GENERAL

This Task Order supplements and amends the Construction Contract and Agreement. The purpose of this Task Order is to authorize MID Facility Work for the MID. Each Facility that requires relocation will be handled under a separate subtask of this Task Order.

WORK TO BE DONE

1 Agreement

This Task Order is issued in order to authorize MID Facility Work described herein. This Task Order does not express all of the terms and conditions relevant to MID Facility Work; accordingly, the Agreement and all of the provisions thereof are incorporated into this Task Order by this reference. Capitalized terms used but not identified in this Task Order shall have the definitions set forth in the Agreement. All attachments referenced in this Task Order are incorporated herein by such reference. All MID Facility Work shall be performed in accordance with the requirements of the Agreement and, in the event of any inconsistency between the provisions of this Task Order and the Agreement, the provisions of the Agreement shall prevail.

2 Scope of Work

MID Facility Work as defined in the definitions section of the Agreement is incorporated by reference. Each separate Facility that requires Relocation will be treated as a subtask to this Task Order.

2.1 Location and General Description of the Work Covered by this Task Order (Including Disposition of Existing Facilities):

The Authority's Contractor will furnish all labor, material, equipment and supervision required to complete the relocation of Facilities and appurtenances. All work shall be performed substantially in accordance with "Request for Proposal for Design Build Services-RFP No. 11-16 consisting of Hybrid Alternative, Contract Package 1A, Contract Package 1B and Contract Package 1C, a copy of which is on file in the Authority's office at 770 L St, Suite 800, Sacramento, CA 95814.

2.2 MID Facility Work to be Performed by Parties Pursuant to this Task Order:

The Authority's Contractor performs all design and construction services for MID Facility Work. The MID will review and approve Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify that MID Facility Work is being properly performed by the Authority's Contractor and approve that MID Facility Work.



2.2.1 Subtask 1.01

Scope: Design, proper permits, construct bypass facilities, traffic control, dewatering and protect in place “Main Canal” located adjacent to SR 145 and the BNSF rail road track in Madera County. Caltrans vertical clearance requirements for MID maintenance roads on either side of canal are to be met.

Estimated Period of Performance:	<u>Duration of Project</u>
Estimated value of this MID Facility Work:	<u>\$240,000</u>

2.2.2 Subtask 1.02

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and protect in place “Fresno River” in Madera County. New facilities are to be built to ensure that existing maintenance roads meet Caltrans vertical clearance requirements on either side of Fresno River.

Estimated Period of Performance:	<u>Duration of Project</u>
Estimated value of this MID Facility Work:	<u>\$240,000</u>

2.2.3 Subtask 1.03

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and construct a bridge structure to allow HST to go over “Cottonwood Creek” in Madera County.

Estimated Period of Performance:	<u>12 Months</u>
Estimated value of this MID Facility Work:	<u>\$6,124,040</u>

2.2.4 Subtask 1.04

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and relocate “Lateral 6.2-14.0” located between Ave 11 and Ave 10 in Madera County. Relocation includes backfilling existing canal, reconstructing turnouts (irrigation services), access roads and reconnecting turnouts to existing facilities. MID Facility Work is shown on Drawing “Task 1/Subtask 4&5, Lateral 6.2 – 14.0 at Ave 10”.

Estimated Period of Performance:	<u>12 Months</u>
Estimated value of this MID Facility Work:	<u>\$2,032,500</u>

2.2.5 Subtask 1.05

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and relocate “Lateral 6.2 – 14.0” at Ave 10 proposed grade separation embankment. Automated



facilities may be required to counter access restrictions. MID Facility Work is shown on Drawing "Task 1/Subtask 4&5, Lateral 6.2 – 14.0 at Ave 10".

Estimated Period of Performance: 12 Months

Estimated value of this MID Facility Work: \$240,000

2.2.6 Subtask 1.06

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and construct a box culvert to allow HST to go over "Lateral 6.2" between Ave 10 and Ave 9 in Madera County. MID Facility Work includes trash racks, automatic gate at head of lateral 6.2-14.0 located approximated 1,500 feet west of HST crossing and within lateral 6.2 just west of the lateral 6.2-14.0 head and check structure at SR99 entrance structure to counter access restrictions. MID Facility Work is shown on Drawing "Task 1/Subtask 6 – 6.2 at Ave 9 ½ - Option 1".

Estimated Period of Performance: 6 Months

Estimated value of this MID Facility Work: \$400,000

2.2.7 Subtask 1.07

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and realign meter boxes at "Lateral 6.2-13.4" and turnouts at the Ave 9 and Road 32 intersection. Reconstruct check structure north of roadway right of way in kind, provide access roadway between right of way and check structure and reconstruct existing turnouts in kind (south of Ave 10 and east of HST, and south of Ave 10 and west of HST to wet well. MID Facility Work is shown on Drawing "Task 1/Subtask 7 – Lat 6.2 – 13.4 at Ave 9".

Estimated Period of Performance: 6 Months

Estimated value of this MID Facility Work: \$240,000

2.2.8 Subtask 1.08

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and construct a box culvert to allow HST to go over "Lateral 6.2-9.2" near Ave 8 in Madera County. MID Facility Work includes trash racks and automatic gates to counter access restrictions. MID Facility Work is shown on Drawing "Task 1/Subtask 8 – Lat 6.2 - 9.2 at Ave 8".

Estimated Period of Performance: 6 Months

Estimated value of this MID Facility Work: \$400,000

2.2.9 Subtask 1.09

Scope: Design, secure permits, construct bypass facilities, traffic control, dewatering and relocate and replace irrigation FACILITIES to allow HST to go over "Lateral 6.2-9.2-5.0" near



Ave 7 in Madera County. MID Facility Work is shown on Drawing "Task 1/Subtask 9 – Lat 6.2 – 9.2 – 5.0 at Ave 7".

Estimated Period of Performance: 6 Months

Estimated value of this MID Facility Work: \$240,000

2.2.10 Subtask 1.10

Scope: AUTHORITY’S CONTRACTOR shall reimburse MID for all costs resulting from plan check review, permits, inspection and testing (inspection & testing in an oversight Quality Assurance capacity only). AUTHORITY’S CONTRACTOR is still responsible to provide Quality Assurance and Quality Control for design and construction through project completion and closeout.

Estimated Period of Performance: Duration of Project

Estimated value of this MID Facility Work: \$150,000

3 Project Schedule

Deadlines for the completion of MID Facility Work are provided for in the contract between the Authority and the Authority’s Contractor.

3.1 Schedule for MID Facility Work (This Task Order Only)

The Authority’s Contractor shall complete the design work in accordance with the schedule specified in this Task Order. The Authority’s Contractor shall commence construction work only after acceptance of the final design for such work in accordance with Appendix A – Design Build Procedures of the Agreement. The Authority’s Contractor must comply with or receive a written variance for applicable city and county laws, regulations, and ordinances including permitting, inspection processes, work hours regulations, traffic management plan, dust control and noise regulations.

Design:		Construction:	
Start Date:	June 2013	Start Date:	The permitted construction window is typically October 1 through February 22, however it is determined each year by the MID based on hydrologic conditions. An exception to the above construction window requirement



			can only occur by mutual agreement between Authority's Contractor and MID.
Completion Date:	December 2013	Completion Date:	February 2017

4 Performance of Work

4.1 Design

The design furnished by the Authority's Contractor pursuant to this Task Order shall be substantially in accordance with the Proposed Preliminary Design (see Appendix A – Design Build Procedures of the Agreement) and shall be consistent with 30% design submittal of the HST Project plans. All plans for MID Facility Work are subject to review by the Authority, the MID, and the Authority's Contractor, in accordance with the time frames and procedures set forth in Appendix A – Design Build Procedures of the Agreement.

By MID: The MID will review Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify MID Facility Work is being properly performed by the Authority's Contractor.

By Authority's Contractor: The Authority's Contractor performs all design and construction services for MID Facility Work.

4.2 Construction

The Authority's Contractor will perform all the construction services for the MID Facility Work. The construction of MID Facility Work shall be performed substantially in accordance with the final Facility plans. Deviations from the final Facility plans may occur only in conformity with the Agreement.

5 Liability For Work

In accordance with section 3.11, "Liability for Work," of the Agreement, the MID and the Authority shall each be responsible for the cost of MID Facility Work as specified herein.

The total estimated cost for MID Facility

Work is: \$10,306,540

5.1 Cost Allocation

To be determined by Prior Rights.

6 Cost Estimate

The amounts stated herein are estimates of the costs associated with MID Facility Work. Authorized expenditures and reimbursements will be based on the terms of the Agreement.



6.1 For Work by MID

The MID’s costs for MID Facility Work shall be developed pursuant to section 3.19, “Payment of Work,” of the Agreement, and shall be performed in accordance with the procedures set forth in section 3, “Work to be Done” and Appendix A – Design Build Procedures of this Agreement.

6.2 For Work by Authority’s Contractor

The Authority has prepared an initial cost estimate in the amount of \$10,306,540 for MID Facility Work included in this Task Order.

The Authority’s Contractor shall prepare an independent cost estimate for MID Facility Work which shall be submitted for the Authority’s approval. Such estimate will reflect appropriate estimated charges for Betterment and salvage value, if any. Upon approval, the parties shall revise this Task Order to incorporate the approved estimate.

7 Betterment, Accrued Depreciation, Salvage

The MID shall credit the Authority for the actual cost of any Betterment, salvage value, and accrued depreciation on the Facilities as required pursuant to the Agreement, and pay the the Authority’s Contractor for the actual cost of any Betterment constructed by the Authority’s Contractor.

MID Facility Work in this Task Order does not include any Betterment.

8 Billing and Payment

Billing and payment shall be in accordance with section 3.20, “Invoicing Procedures,” of the Agreement.

9 Contacts

The contacts for this Task Order will be as follows:

MID: _____

Authority: _____

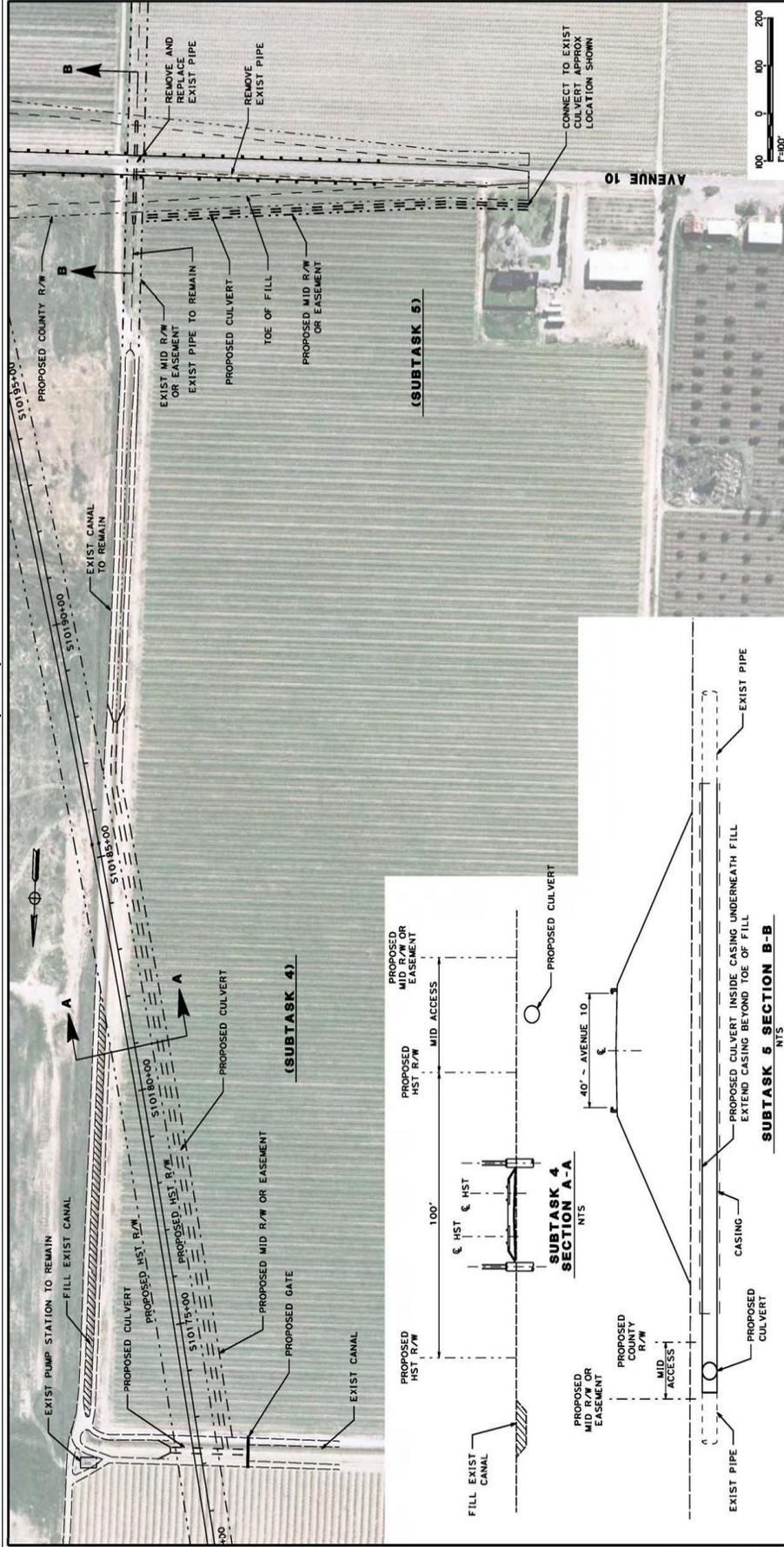
Authority’s Contractor: _____

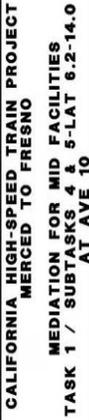


California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID:	1-Subtask 4, 5 / Canal & Pipe
Date:	9-19-12
3 rd Party Agency:	MID
Revision:	1

Exhibit 3 - Preliminary Concept

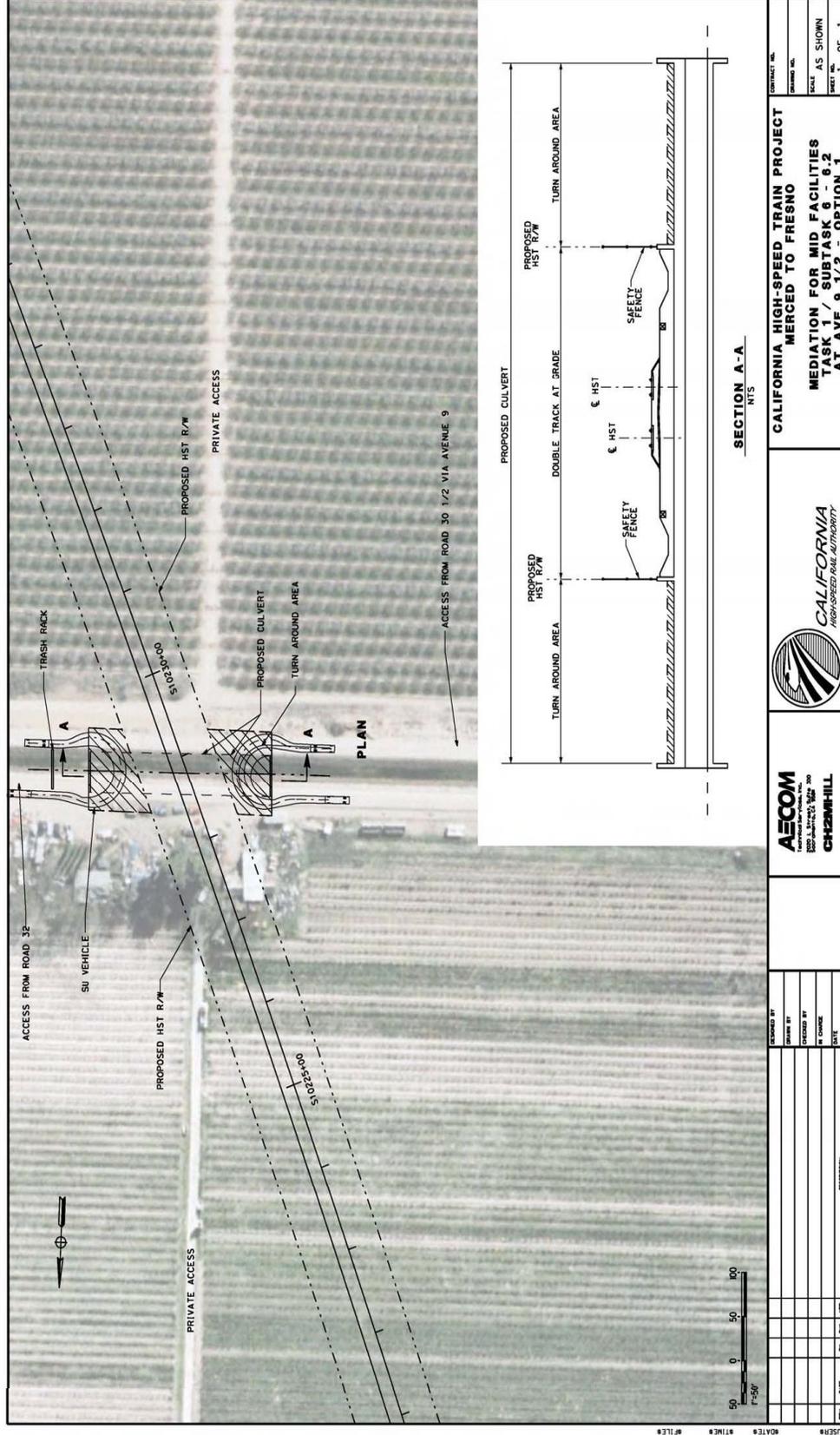


					
DESIGNED BY: _____ DRAWN BY: _____ CHECKED BY: _____ IN CHARGE: _____ DATE: _____		CONTRACT NO.: _____ DRAWING NO.: _____ SCALE: AS SHOWN SHEET NO. 1 OF 1		CALIFORNIA HIGH-SPEED RAIL AUTHORITY CALIFORNIA HIGH-SPEED TRAIN PROJECT MERCED TO FRESNO MEDIATION FOR MID FACILITIES TASK 1 / SUBTASKS 4 & 5-LAT 6.2-14.0 AT AVE 10	

California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 6 / Facility Canal
 Date: 9-19-12
 3rd Party Agency: MID Revision: 1

Exhibit A-1 - Preliminary Concept Option 1



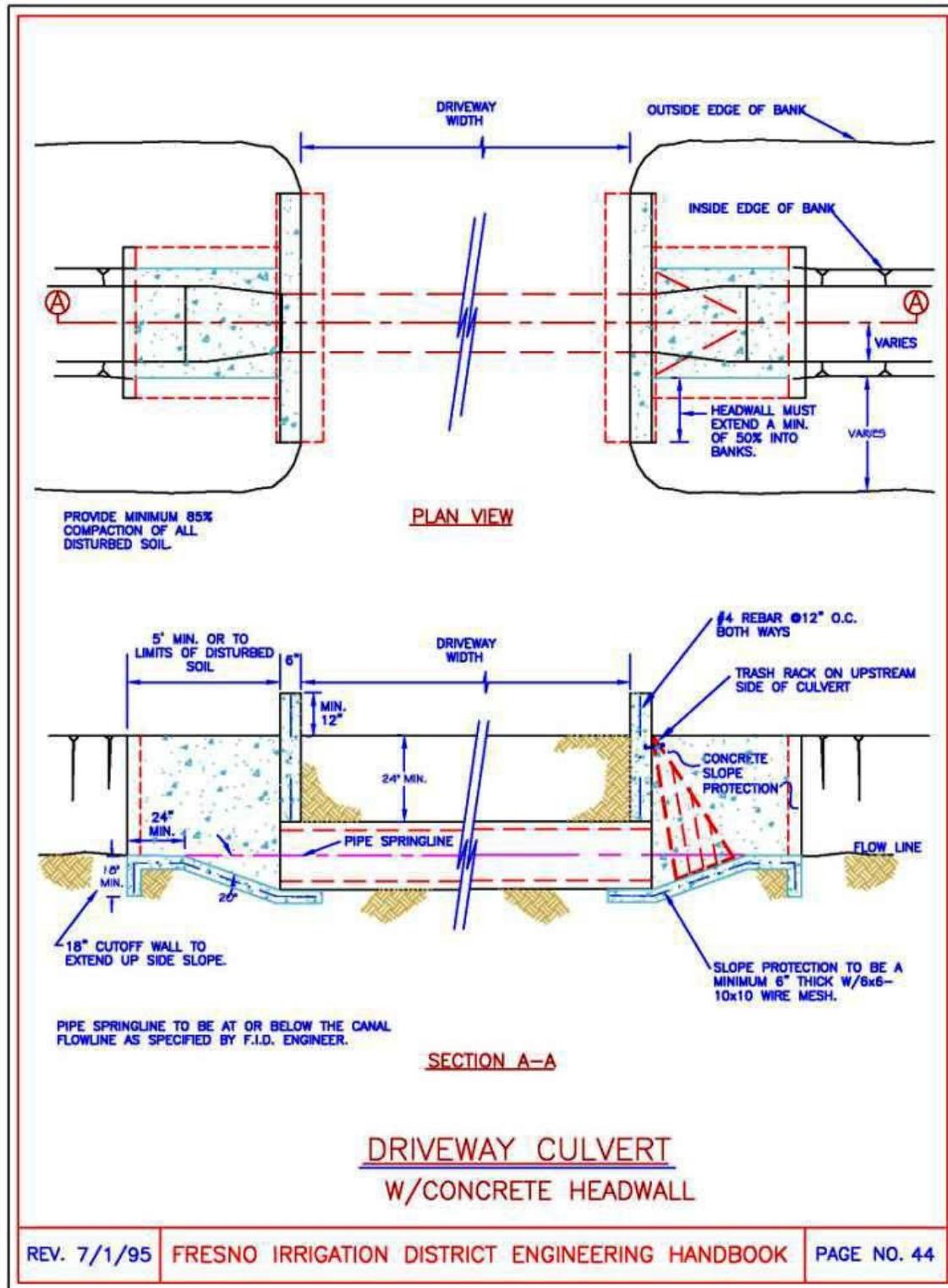
 AECOM 1000 BAYVIEW BLVD, SUITE 200 CHICAGO, IL 60611 CH2M-HILL	 CALIFORNIA HIGH-SPEED RAIL AUTHORITY	CONTRACT NO. DRAWING NO.
		SCALE AS SHOWN SHEET NO. 1 OF 1
CALIFORNIA HIGH-SPEED TRAIN PROJECT MERCED TO FRESNO MEDIATION FOR MID FACILITIES TASK 1 / SUBTASK 6 - 6.2 AT AVE 9 1/2 - OPTION 1		
DESIGNED BY CHECKED BY IN CHARGE DATE	DATE DATE DATE	SECTION A-A NTS

California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 6 / Facility Canal
 3rd Part Agency: MID

Date: 9-19-12
 Revision: 1

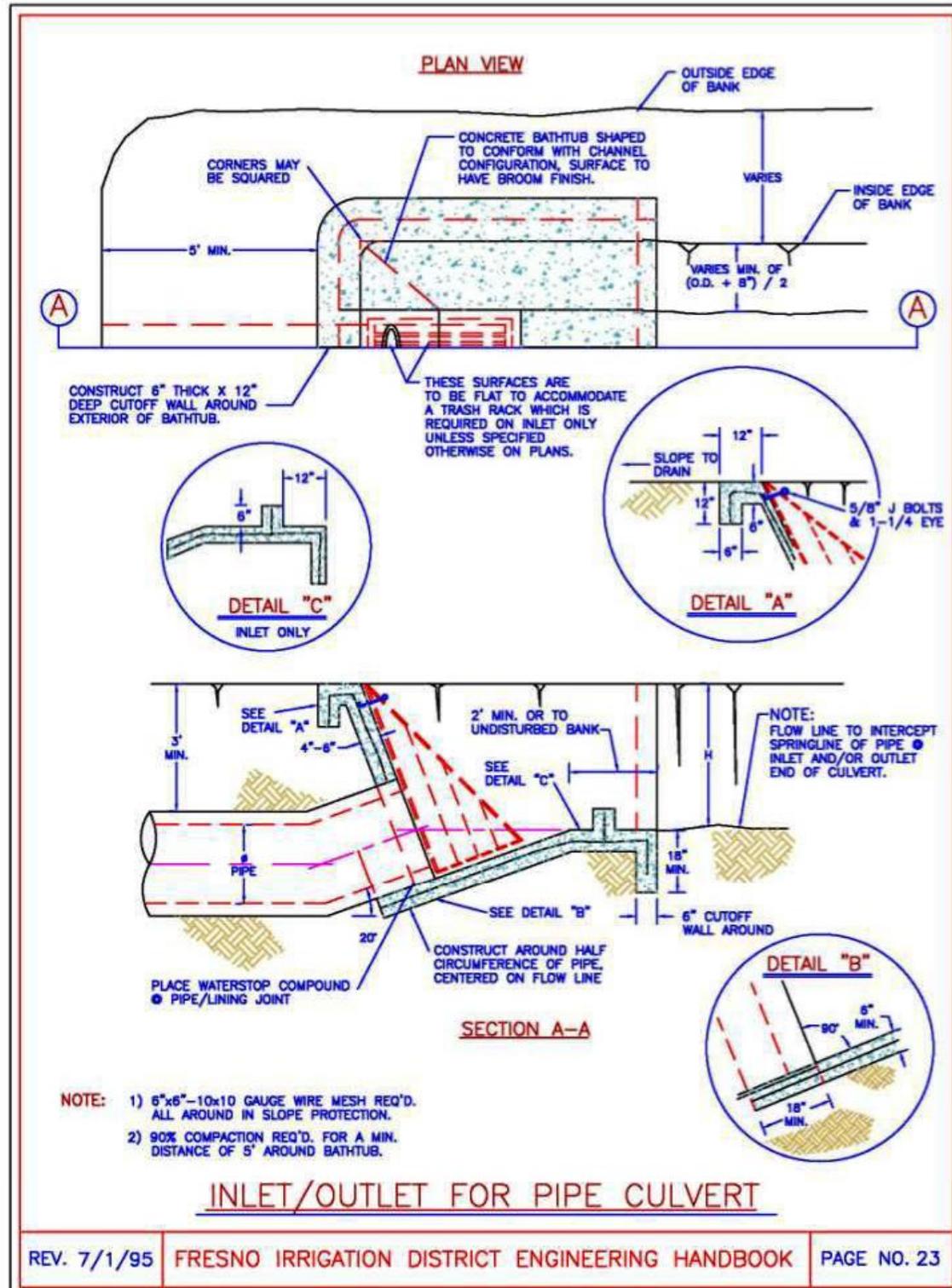
Exhibit A-2 – Sample Standard Plan for Driveway Culvert



Task Order ID: 1-Subtask 6 / Facility Canal
 3rd Part Agency: MID

Date: 9-19-12
 Revision: 1

Exhibit A-3 – Sample Standard Plan for Pipe Culvert Crossing



REV. 7/1/95

FRESNO IRRIGATION DISTRICT ENGINEERING HANDBOOK

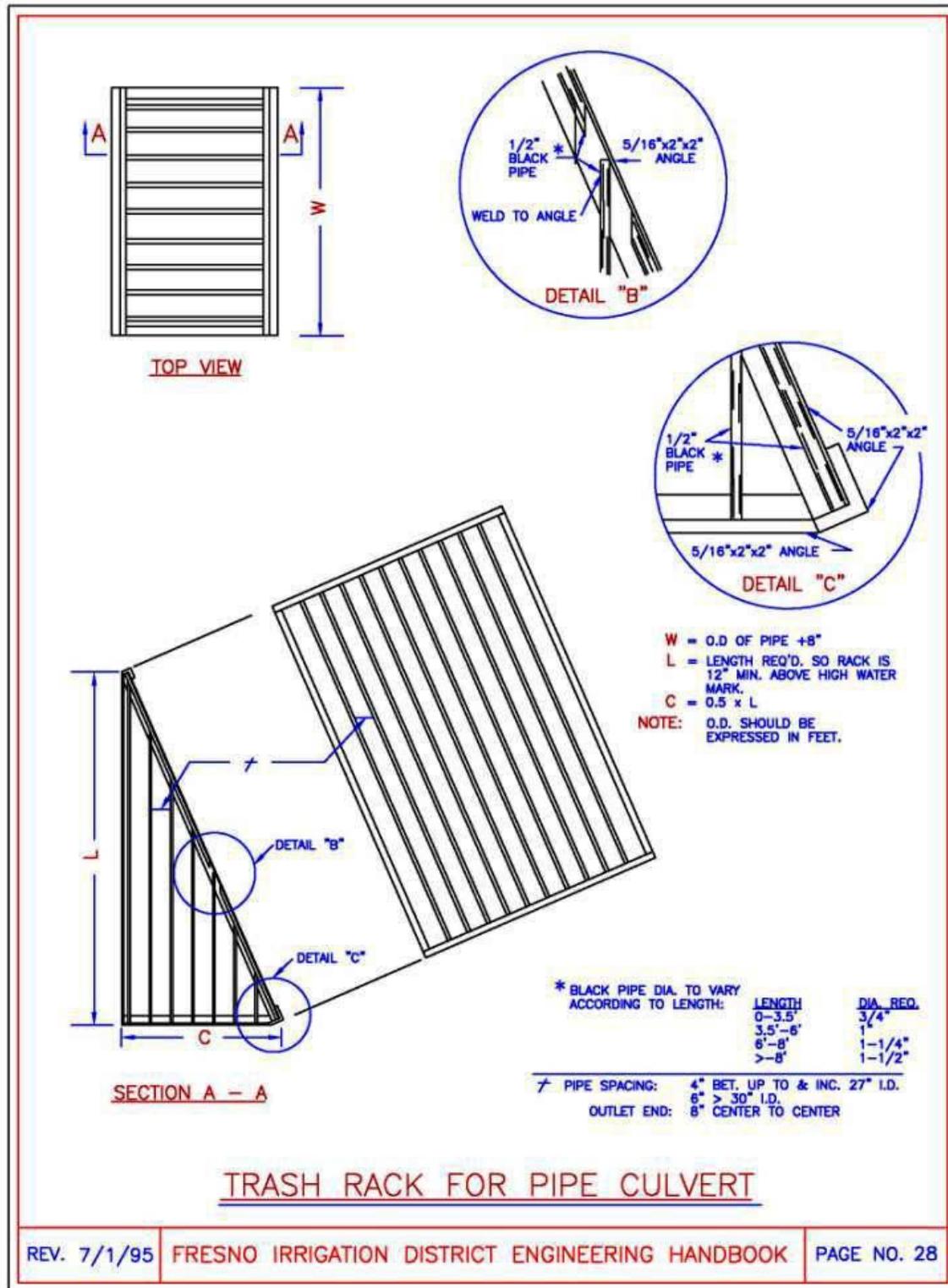
PAGE NO. 23

California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 6 / Facility Canal
 3rd Part Agency: MID

Date: 9-19-12
 Revision: 1

Exhibit A-4 – Sample Standard Plan for Trash Rack for Pipe Culvert



REV. 7/1/95

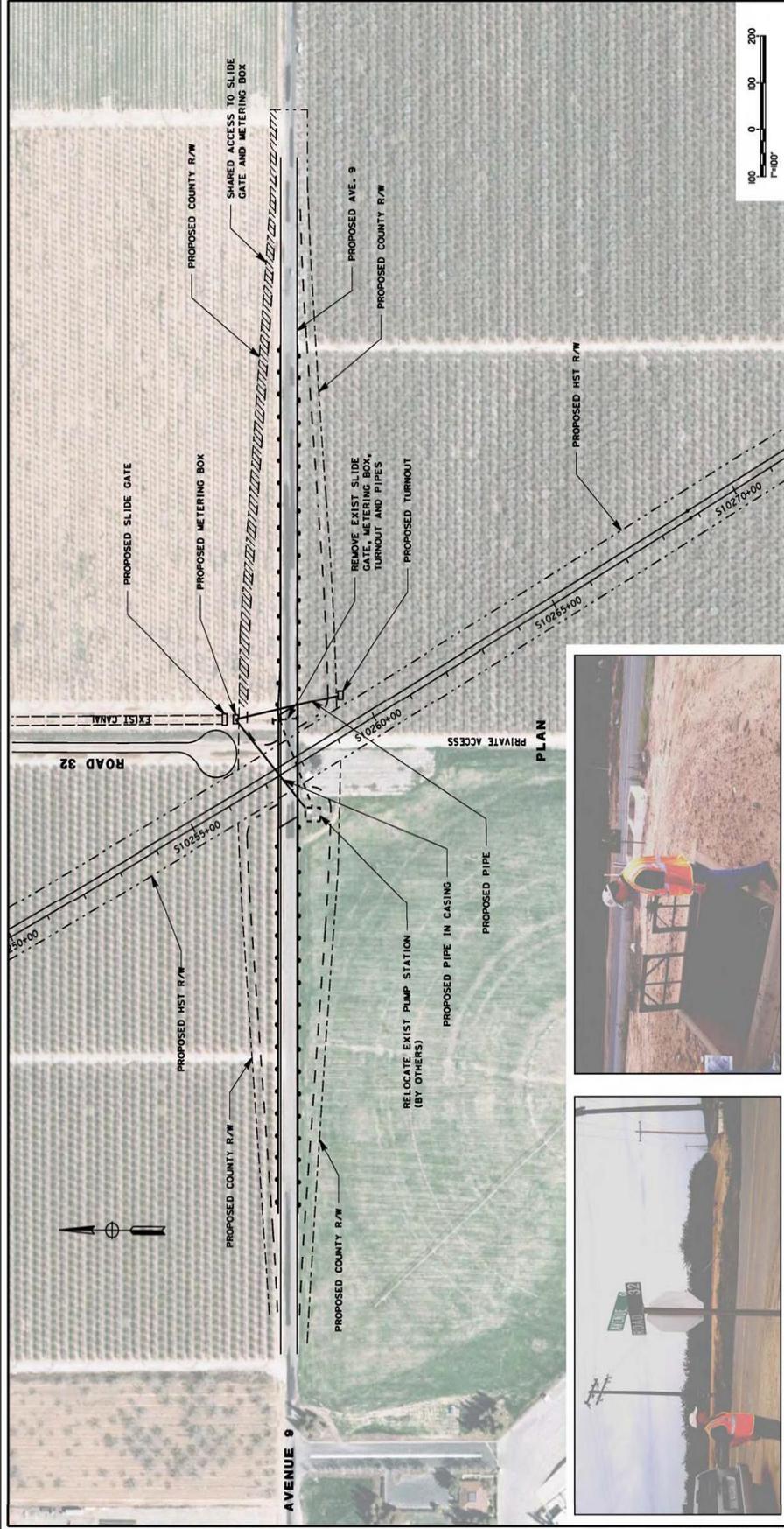
FRESNO IRRIGATION DISTRICT ENGINEERING HANDBOOK

PAGE NO. 28

California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 7 / Meter Boxes
 Date: 9-19-12
 3rd Part Agency: MID Revision: 1

Exhibit B - Preliminary Concept

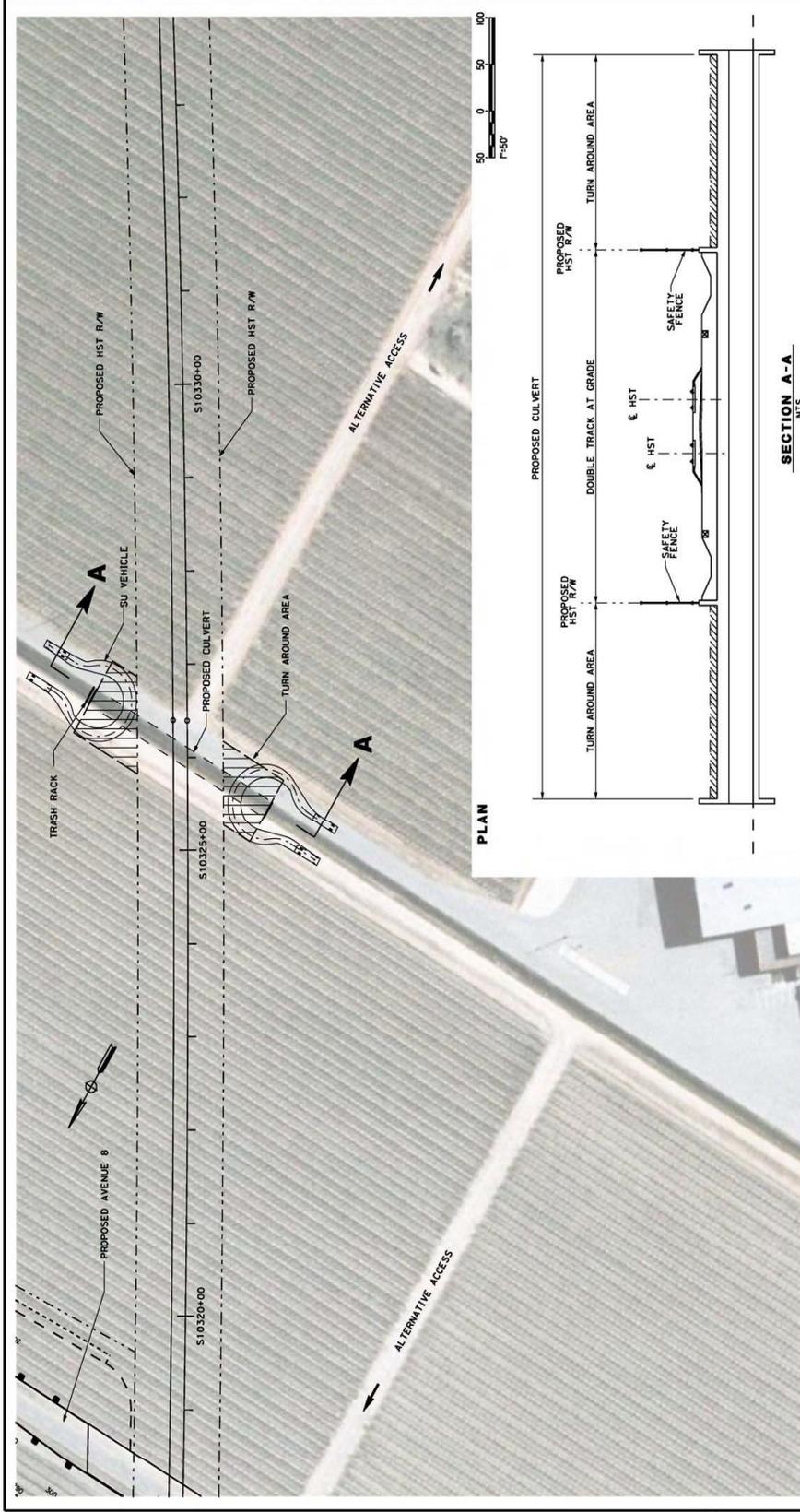


		CALIFORNIA HIGH-SPEED RAIL AUTHORITY	
		AECOM 200 L STREET, SUITE 200 CHENNIHILL	
DESIGNED BY DRAWN BY CHECKED BY IN CHARGE DATE		CONTRACT NO. DRAWING NO. SCALE AS SHOWN SHEET NO. 1 OF 1	
CALIFORNIA HIGH-SPEED TRAIN PROJECT MERCED TO FRESNO MEDIATION FOR MID FACILITIES TASK 1 / SUBTASK 7 - LAT. 6:2-13.4 AT AVE 9			

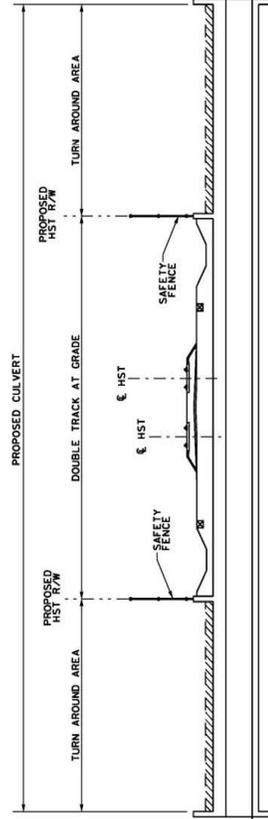
California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 8 / Facility Canal
 Date: 9-19-12
 3rd Part Agency: MID Revision: 1

Exhibit A-1 - Preliminary Concept Option A



PLAN



SECTION A-A
 NTS

NO.	DATE	BY	CHKD	APP	DESCRIPTION

AECOM
 FORT BELLEVILLE, ILL. 62209
 618.336.7000
CH2M-HILL



CALIFORNIA HIGH-SPEED TRAIN PROJECT
MERCED TO FRESNO
MEDIATION FOR MID FACILITIES
TASK 1 / SUBTASK 8 - LAT. 6.2-9.2
AT AVE 8 - OPTION 1

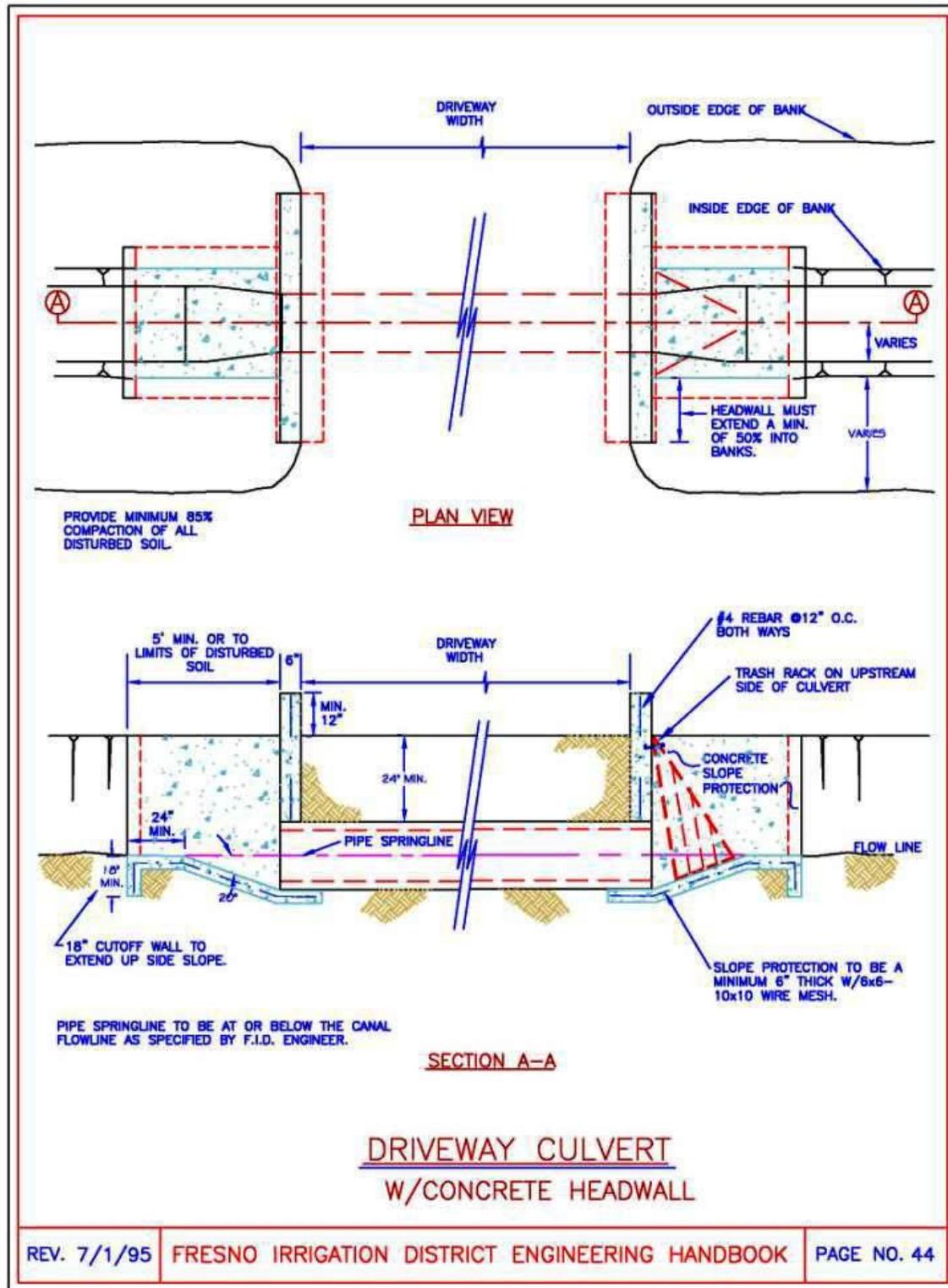
CONTRACT NO.
 DRAWING NO.
 SCALE AS SHOWN
 SHEET NO. 1 OF 1

California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 8 / Facility Canal
 3rd Part Agency: MID

Date: 9-19-12
 Revision: 1

Exhibit A-2 – Sample Standard Plan for Driveway Culvert

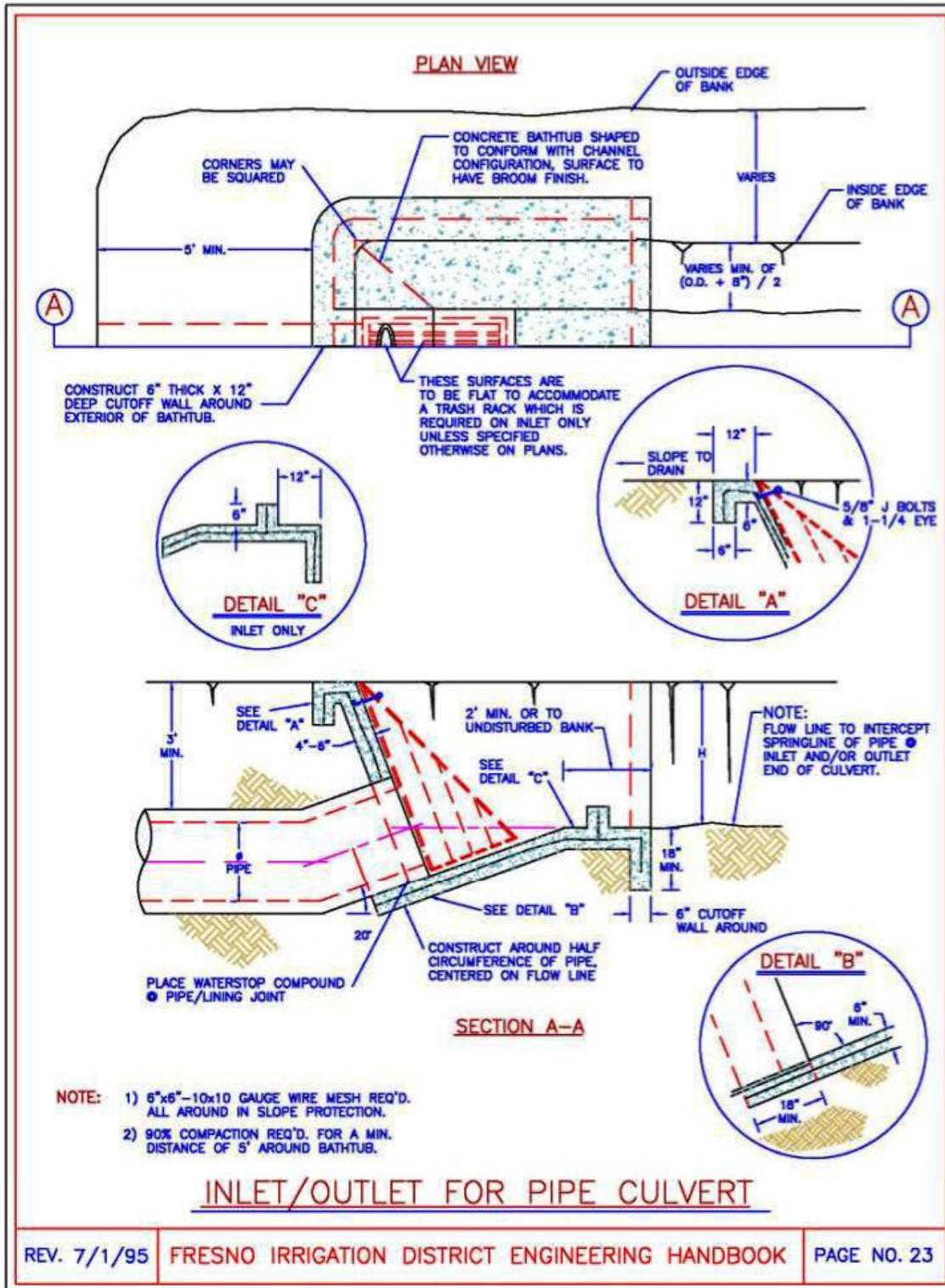


California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 8 / Facility Canal
 3rd Part Agency: MID

Date: 9-19-12
 Revision: 1

Exhibit A-3 – Sample Standard Plan for Pipe Culvert Crossing

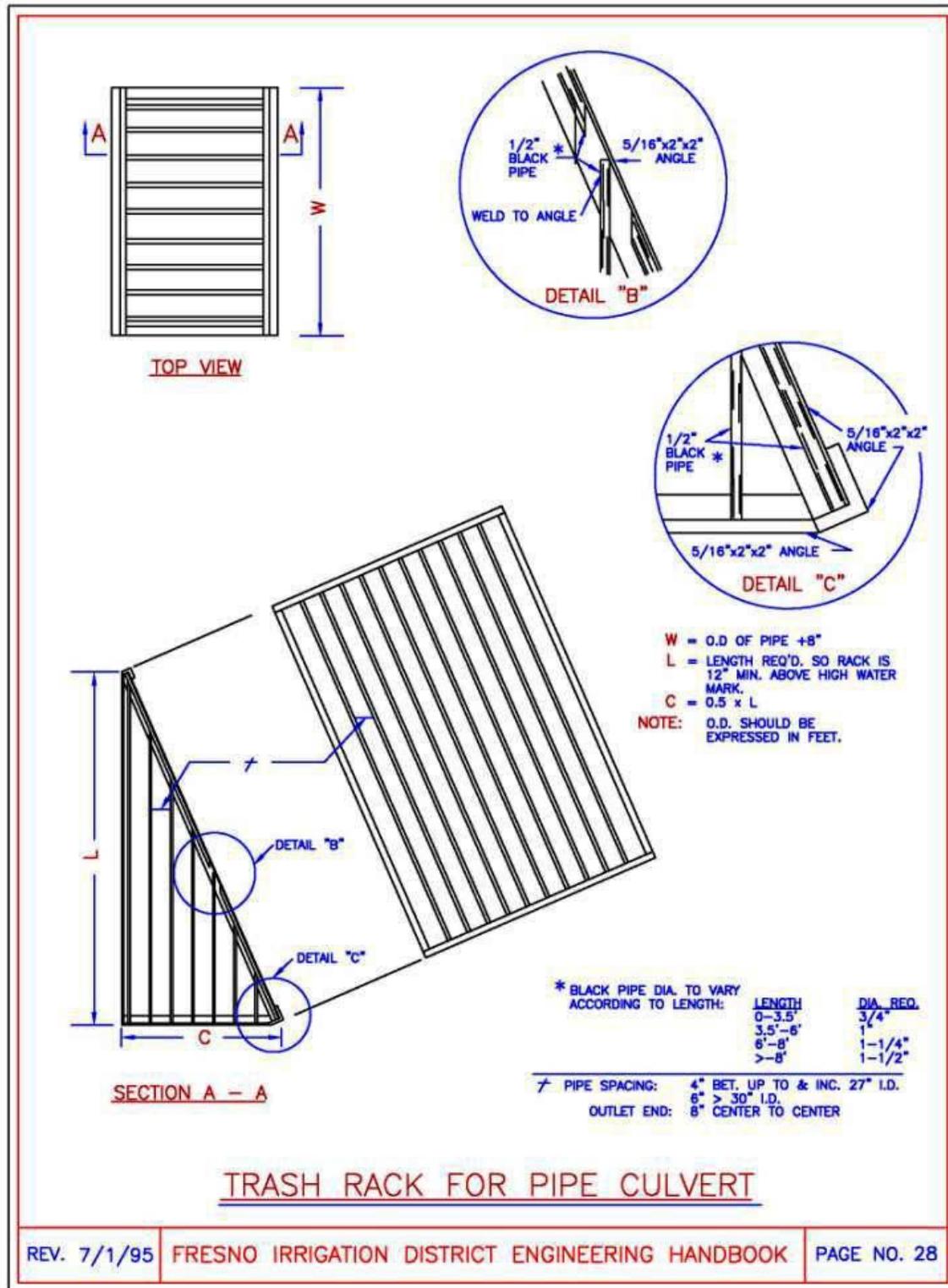


California High Speed Rail Project / Merced-Fresno Section
 Draft/Conceptual 3rd Party Design Refinements & Agreements

Task Order ID: 1-Subtask 8 / Facility Canal
 3rd Part Agency: MID

Date: 9-19-12
 Revision: 1

Exhibit A-4 – Sample Standard Plan for Trash Rack for Pipe Culvert



13 TW Telecom of California L. P.

- Cooperative Agreement
- Task Order No. 1
- As-Built Madera Regen to Fresno Hub Drawing

ADDENDUM 7



California High-Speed Train Project



Cooperative Agreement

TW Telecom of California L. P.



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Financial Project ID:		Federal Project ID:	
County:		AUTHORITY Document No:	

PARTIES

THIS AGREEMENT, entered into this _____ day of _____, _____ (the "Cooperative 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

TW Telecom of California L. P.

a Delaware Limited Partnership whose principal mailing address is 10475 Park Meadow Drive, Littleton, CO 80124, and with a local mailing address of 1340 Treat Boulevard, Walnut Creek, CA 94597, hereinafter referred to as the "Utility Owner".

RECITALS

WHEREAS, the Utility 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 are located on a public road or publicly owned rail corridor; and

WHEREAS, the Authority is responsible for the High Speed Train Project (the "HST Project"), as defined herein, and from time to time the HST Project involves Relocation, as defined herein, of the Utility Owner's Facilities; and

WHEREAS, the Authority and the Utility Owner desire to enter into an agreement which establishes the contractual terms and conditions applicable to the Relocation of the Utility 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 Utility 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 the California Department of Transportation, an agency of the State of California, hereinafter referred to as "Caltrans", and Fresno, a city in Fresno County,



California, hereinafter referred to as “City of Fresno”, that enters into a contract with the Authority for the performance of Facility Work, as defined herein.

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 any improvement to the Utility Owner’s Facilities that is requested by Utility Owner and is required to be provided by the Authority pursuant to any fully executed Task Order, as defined herein, that identifies such improvements as Betterment.

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 Utility Owner at its own expense, which are in effect as of the date of execution of the Cooperative Agreement.

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 HST Project associated with Relocation of Utilities.



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 HST Project

HST 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 HST Project for which design or construction work, including Facility Work, is performed, managed, contracted, or directed (by a Notice to Owner or otherwise) by Caltrans and/or City of Fresno, directly or indirectly, is specifically excluded from the definition of HST Project.

1.9 Notice to Proceed

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

1.10 Party

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

1.11 Relocation

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

1.12 Right-of-way of Utility Owner

"Right-of-way of Utility Owner" means a property right held by the Utility 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 Utility Owner for the Facility to be located in a defined area of real property, or a defined area within the HST Project right-of-way that is subject to a recorded Joint Use Agreement or Consent to Common Use Agreement.

1.13 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 Utility 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.

1.14 Task Order

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

1.15 Unforeseen Work

"Unforeseen Work" means any new and extra work found essential to the satisfactory completion of the Relocation and not covered by any of the various Task Orders or by combination of such Task Orders.

1.16 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 HST Project, the term "Utility" or "utility" specifically excludes (a) storm water facilities that provide drainage solely for the HST 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.

1.17 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.

1.18 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 Utility 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 Utility Owner’s Request

Any work considered Betterment made at the Utility 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 HST Project under this Agreement. The Authority reserves the right to make the final determination as to whether any Unforeseen Work must be performed and the Utility Owner shall be obligated to comply with the Authority’s determination.

3 LIABILITY FOR WORK

3.1 Prior Rights

Liability for the cost of Facility Work shall be determined by statute, superior rights, prescriptive rights or by permit, collectively referred to as (“Prior Rights”). The burden of establishing Prior Rights rests with the Utility Owner, including the responsibility to prepare,



document and submit a claim for its declared right of occupancy in the defined property area where the Utility Owner's Facility is located.

3.2 Authority's Expense

Unless the Utility Owner agrees otherwise herein, the Facility Work will be performed at the Authority's expense in circumstances where by Prior Rights that the costs for such work shall be borne by the Authority.

3.3 Utility Owner's Expense

Facility Work will be performed at the Utility Owner's expense where:

- A. Facility Work is mutually determined herein to be a Betterment as defined in Section 1.3;
- B. The Utility Owner is unable to produce adequate documentation of its Prior Rights to the property area where its Facility is located;
- C. It is determined by Prior Rights that the cost for such work shall be borne by the Utility Owner; or
- D. The Utility Owner agrees hereto.

3.4 Shared Expense

Facility Work will be performed at the shared expense of the Authority and the Utility Owner in circumstances where the Parties agree in advance to do so. The proportion of Facility Work expense to be borne by each Party shall be detailed in the Task Order for that Facility Work.

3.5 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 Utility Owner of the claim and the Utility Owner will cooperate with the Authority in assessing and resolving the claim within a reasonable time. Any resolution of any portion of the claim directly between the Utility 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 Utility Owner under this Agreement, the Authority may withhold reimbursement to the Utility Owner until final resolution (including any actual payment required) of all claims relating to Facility Work. The right to withhold shall be limited to actual claim payments made by the Authority to the Authority's Contractor.

3.6 Disputes

The Authority and the Utility Owner agree that, as a general principle, the Parties shall attempt to resolve any and all disputes arising under this Agreement through a collaborative partnering



process, which shall attempt to identify and resolve potential disputes without resort to formal legal process. In the event the Utility Owner disagrees with a determination or matter made by the Authority, the Utility Owner shall provide prompt written notice of its objection and the reasons for such objection. Thereafter, the Parties shall attempt to resolve such dispute through the partnering process, which may include escalation with the Authority at the Authority's discretion. If, within 14 days after conclusion of such partnering, the dispute persists, then the Utility Owner shall request a written statement of the Authority concerning its decision. The Authority shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the Utility Owner. The decision of the Authority shall be final and conclusive unless, on or before the 28th day from the date of receipt of such copy, the Utility Owner mails or otherwise furnishes a written appeal addressed to the Authority. The Authority shall then, within two weeks thereafter, either issue a modified decision, or such prior decision shall stand. If the dispute still remains after such decision, then either Party may, within 42 days after such decision is issued or deemed affirmed, refer the dispute to binding arbitration.

In connection with any appeal of the Authority's decision, the Utility Owner shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. At all times during the course of the dispute resolution process, the Utility Owner shall continue with or permit the continuance of the Work as directed, in a diligent manner, and without delay; shall conform to any of the Authority's responses, decisions, or orders; and shall be governed by all applicable provisions of the Agreement. Records of the Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in this Agreement irrespective of the ultimate outcome of any dispute.

In the event either Party, within the timeframe specified above, elects to refer a dispute to binding arbitration, then within 30 days after such request, the Parties will seek to appoint a panel of three arbitrators with not less than 10 years of experience each in complex construction disputes involving public works transportation projects. If the Parties cannot agree on a panel of three arbitrators, 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 Utility 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 Utility



Owner's claim and any award by resolver of the dispute shall be limited to the incremental costs incurred by the Utility Owner with respect to the disputed matter (crediting the Authority for any corresponding reduction in the Utility Owner's other costs) and shall in no event exceed the amounts allowed hereunder with respect thereto.

4 PERFORMANCE OF WORK

4.1 General

All Facility Work (design and construction phases) or portion thereof may be performed by the Utility Owner, the Authority or the Authority's Contractor. 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 Utility Owner Performs Facility Work

When all or a portion of the utility work is to be performed by the Utility Owner, the Utility 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, employed by Utility owner on a continuing basis pursuant to a written contract, or
- C. Cause the work to be performed through a contract with the lowest qualified bidder, selected pursuant to a valid competitive bidding procedure to perform work of this type.

Upon the issuance of a Notice to Proceed, Utility Owner shall diligently undertake, or cause to be undertaken, the Facility Work in accordance with the Authority's or the Authority's Contractor's schedule and/or timeline as specified in the Task Orders. The Utility Owner agrees to be solely responsible for all costs to the Authority and/or the Authority's Contractor associated with any delay on the part of the Utility Owner in completing Facility Work in accordance with the schedule and/or timeline specified in the Task Order for that specific Facility Work.

The Utility 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 Utility Owner is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. Additionally, the Utility Owner shall fully comply with the



provisions of Title VI of the Civil Rights Act of 1964 and any subsequent revisions thereto. The Utility 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 Utility 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.

In addition, the Authority shall cause the Authority's Contractor to select

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to perform all design services for the Facility Work. The Authority shall cause the Authority's Contractor to select

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to perform all construction services for the Facility Work.

Upon the Authority's written Notice to Proceed, the Utility Owner shall consider the Authority's Contractor as acting on behalf of the Authority on all matters pertaining to the HST 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.

4.4 Insurance

The Utility Owner and the Authority and their respective officers and employees, as well as such other additional insureds as either the Authority or the Utility Owner shall reasonably require are collectively referred to herein as the "Additional Insured Group".

Any Design Contract, Construction Contract or Design/Build Contract entered into by the Authority or the Utility Owner in connection with Facility Work shall contain a provision which



requires the contractor, as part of the liability insurance requirements, to provide an endorsement to each policy of general or automobile liability insurance that names as additional insureds to such policy the Additional Insured Group.

Unless otherwise mutually agreed upon by the Parties, construction contractor, design contractors and design/build contractors shall provide evidence of at least:

- A. Commercial General Liability coverage, including coverage for bodily injury, property damage, personal injury and advertising injury liability written on an occurrence form that shall be no less comprehensive and more restrictive than the coverage provided by Insurance Services Office Form CG 00 01. There shall be no exclusion for fire legal liability (not less than the replacement value of the portion of the premises occupied), blanket contractual, independent contractors, premises operations, and work within 50 feet of a railroad. The coverage shall have an annual minimum limit of \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
- B. Automobile Liability, coverage including owned, hired and non-owned automobile liability with a combined single limit of \$2,000,000 per accident.
- C. Statutory Workers' Compensation including Employer's Liability insurance complying with the applicable Workers' Compensation laws, with a limit of \$1,000,000 per accident.
- D. If applicable, Railroad Protective Liability as required by any applicable railroad agreements.
- E. Insurance policies required to be provided by contractor hereunder shall contain or be endorsed to contain the following provisions:
 1. Additional Insured Group, its members, directors, officers, employees and agents and such other parties as may be designated in writing shall, to the extent of Contractor's indemnity obligations contained in the General Provisions, be covered as additional insureds under Contractor's and subcontractor's commercial general and automobile liability policies.
 2. Each policy (including the Workers' Compensation and Employer's Liability policies) shall include a waiver of any right of subrogation against Additional Insured Group (and its members, directors, officers, employees and agents).

Prior to commencement of work, a Certificate evidencing the required coverage and providing that said coverage shall not be reduced in scope or cancelled without thirty (30) days prior written notice to the Utility Owner and the Authority shall be transmitted directly by the insurer to the Utility Owner and the Authority. The Utility Owner recognizes and agrees that all or part of such insurance can be provided by the Authority through an owner-controller insurance program.



4.5 Stakeholder Collaboration

In signing this Agreement, the Utility Owner agrees to collaborate with the Authority, the Authority's Contractor, and any other third-party entities affected by the HST Project, including regulatory agencies, local agencies, and public and private utility owners, hereinafter referred to as stakeholders, to identify collaborative methods for resolving issues that may arise as part of the HST Project and/or Facility Work in an effort to achieve a quality HST that meets the HST 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 HST Project. During the initial workshop, stakeholders will develop procedures and agreements (including Task Orders) as specified in Appendix C, "STAKEHOLDER COLLABORATION," included herein, facilitating the collaborative relationship and aid in identifying and resolving issues as they arise throughout the HST Project.

Reimbursement to the Utility 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, neither the language of this clause, including the language in Appendix C, nor any 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.

5 PAYMENT FOR WORK

5.1 Cost of Facility Work

Cost of Facility Work 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 to that work, and any necessary new private Facility right-of-way involved in Facility Work, except as follows:

- A. In any case in which the Authority is required under the provisions of this Agreement to pay its share of the cost of Relocation of any Facility, the Authority shall be entitled to credits as follows:
 1. The amount of any betterment to the utility Facility resulting from such relocation.



2. The salvage value of any materials or parts salvaged and retained by Utility Owner.
3. If a new utility 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.

$$\textit{Credit} = \frac{\textit{Age of FACILITY}}{\textit{Normal expected Life}} \times \textit{Original Cost}$$

- B. A credit shall not be allowed against any portion of the cost that is otherwise chargeable to the Utility Owner.
- C. A credit allowance for age shall not be applied to publicly owned sewers.
- D. Eligible Utility Owner costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A. Utility Owner agrees that costs referenced in Title 23 C.F.R. Part 645 Section 117(d)(2) are not eligible for reimbursement. These regulations can be found at:

<http://www.access.gpo.gov/nara/cfr/waisidx/cfr-table-search.html>

5.2 Payment for the Cost of Facility Work

If Facility Work is at the Authority's expense, then the Authority shall pay or cause payment to be made to the Utility Owner in the amounts as established for Facility Work performed by the Utility Owner, less the credits as determined. At the Authority's discretion, the responsibility for making such payments to the Utility Owner may be delegated to the Authority's Contractor; in such circumstances, the Utility Owner agrees to the Authority's delegation of responsibility to the Authority's Contractor the responsibility to make reimbursement payments to the Utility Owner; provided, however, that if the Authority's Contractor fails to timely make any required payments, responsibility for such payments will be remanded to the Authority.

If Facility Work is at the Utility Owner's expense and is performed by the Authority or the Authority's Contractor, the Utility Owner shall pay or cause payment to be made to the Authority or the Authority's Contractor in the amounts established pursuant to this Agreement for Facility Work less the credits as determined. At the Authority's discretion, the Authority's Contractor is authorized to accept such payment from the Utility Owner; in such circumstances, the Utility Owner agrees to the Authority's Contractor collection of reimbursement directly from the Utility Owner; provided, however, that if the Utility Owner fails to timely make any required payments, responsibility for such collection will be remanded to the Authority.



5.3 Invoicing Procedures

The Utility Owner will invoice the Authority's Contractor in accordance with the invoicing procedures of the Authority's Contractor.

6 GENERAL CONDITIONS

6.1 Deactivated Facilities

The Utility Owner's Facilities shall not remain in the Authority's right-of-way after Facilities are no longer active ("Deactivated"), unless specifically allowed for by the Authority in advance, and in writing. The following terms and conditions shall apply to Deactivated Facilities allowed to remain within the Authority's right-of-way:

- A. The Utility Owner acknowledges its present and continuing ownership of and responsibility for the Deactivated Facilities.
- B. If the Authority subsequently agrees to allow the Utility Owner to leave the Deactivated Facilities located within the right-of-way, it shall be subject to the continuing satisfactory performance of the conditions of this Agreement by the Utility Owner. In the event of a breach of this Agreement by the Utility Owner, the Deactivated Facilities shall be removed upon demand from the Authority.
- C. The Utility Owner shall take such steps to secure the Deactivated Facilities and otherwise make such Deactivated Facilities safe in accordance with any and all applicable local, state or federal laws and regulations and in accordance with the legal duty of the Utility Owner to use due care in its dealings with others. The Utility Owner shall be solely responsible for gathering all information necessary to meet these obligations.
- D. The Utility Owner shall keep and preserve all records relating to the Deactivated Facilities, including, but not limited to, records of the location, nature of, and steps taken to safely secure the Deactivated Facilities and shall promptly respond to information requests from the Authority concerning the Deactivated Facilities or other permittees using or seeking use of the right-of-way.
- E. The Utility Owner shall remove the Deactivated Facilities upon thirty (30) days prior written request of the Authority in the event that the Authority determines removal necessary for any of the following reasons: the Authority needs the use of the right-of-way, right-of-way is needed for other active Facilities that cannot be otherwise accommodated, or where the Deactivated Facility adversely affects safety and operation of the HST Project. In the event that the Deactivated Facilities would not have qualified for reimbursement under this Agreement, removal shall be at the sole cost and expense of the Utility Owner and without any right of the Utility Owner to object or make any



claim of any nature whatsoever with regard thereto. In the event that the Deactivated Facilities would have qualified for reimbursement, removal of the Deactivated Facilities shall be reimbursed by the Authority as though the Deactivated Facilities had not been Deactivated. In the event that the Utility Owner fails to perform the removal properly within the specified time, the Authority may proceed to perform the removal at the Utility Owner's sole expense.

- F. Except as otherwise provided, the Utility Owner agrees that the Deactivated Facilities shall forever remain the legal and financial responsibility of the Utility Owner. The Utility Owner shall reimburse the Authority for any and all costs of any nature whatsoever resulting from the presence of the Deactivated Facilities within the right-of-way. Said costs shall include, but shall not be limited to, charges or expenses which may result from the future need to remove the Deactivated Facilities or from the presence of any hazardous substance or material in the Deactivated Facilities or the discharge of hazardous substances or materials from the Deactivated Facilities.

6.2 Default

In the event that the Utility Owner breaches any provision of this Agreement, 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 cost thereof.

In the event that the Authority 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 Utility 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 between the Parties, nor from any statutory obligations that either Party may have with regard to the subject matter hereof.

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

If the HST Project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by the Utility Owner, the Authority will notify the Utility Owner in writing, and the Authority reserves the right to terminate this Agreement by Amendment. The



Amendment shall provide 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 HST 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.

6.3 Indemnification

Each Party shall hold harmless, and indemnify the other Party and its respective governing Boards, officers, directors, employees, authorized agents, engineers, contractors or subcontractors from and against any and all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' and expert witness fees and costs) that arise out of or as a result of any negligent act or omission or willful misconduct of either Party or its officers, agents, employees, engineers, contractors or subcontractors in carrying out either Party's obligations under this Agreement or under any Task Order executed pursuant hereto, except to the extent that such expense, liability or claim is proximately caused by the negligence or willful misconduct of the Parties indemnified or their respective agents, servants, or independent contractors who are directly responsible to such indemnified Party.

When the Authority receives a notice of claim for damages that may have been caused by the Utility Owner in the performance of services required under this Agreement, the Authority will immediately forward the claim to the Utility Owner. The Utility Owner and the Authority will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Authority will determine whether to require the participation of the Utility Owner in the defense of the claim or to require the Utility Owner to defend the Authority in such claim as described in this section. The Authority's failure to notify the Utility Owner of a claim shall not release the Utility Owner from any of the requirements of this section.

The Utility Owner's obligation to defend and indemnify shall not be excused because of the Utility Owner's inability to evaluate liability or because the Utility Owner evaluates liability and determines the Utility Owner is not liable or determines the Authority is solely negligent. Only



a final adjudication or judgment finding the Authority solely negligent shall excuse performance of this provision by the Utility Owner. The Utility Owner shall pay all costs and fees related to this obligation and its enforcement by the Authority. The Authority's delay in notifying the Utility Owner of a claim shall not release the Utility Owner of the above duty to defend.

6.4 Force Majeure

Neither the Utility 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 Utility Owner related entity.

Provided that it is beyond its control and not due to an act or omission of the Utility 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 Utility owner agrees, if requested by the Authority, to accelerate its efforts if reasonably feasible in order to regain lost time, so long as the Authority agrees to reimburse the Utility Owner for the reasonable and actual costs of such efforts.

Force Majeure excludes:

- 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 Utility Owner related entity); and
- D. All other matters not caused by or beyond the control of the Authority or a Utility Owner related entity and not listed in the definition of Force Majeure above.

6.5 Utility Owner's Facility and Right-of-way

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

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

The agreement for common use of the subject area will contain a provision for accommodation, location and method of installation, adjustments, removal, relocation and maintenance of Utility Owner's Facilities within the Authority's right-of-way. Prior to execution of an agreement for common use of the subject area or for Utility Owner's Facilities currently in the Authority's right-of-way, the Utility Owner shall apply for and obtain an encroachment permit.

Whenever the Utility Owner's affected Facilities are to be relocated from the existing right-of-way of the Utility Owner to a new location that falls outside such existing right-of-way of the Utility 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 Utility Owner. For such Relocated Facilities, the Authority shall issue, or cause to be issued, to the Utility Owner, without charge to the Utility Owner or credit to the Authority, appropriate replacement rights in the new location mutually acceptable to both the Authority and the Utility Owner for those rights previously held by the Utility Owner in its existing right-of-way. In discharge of the Authority's obligations under this Paragraph, in the event that the new location falls within the right-of-way under the jurisdiction of the Authority, the Authority and the Utility Owner shall jointly execute an agreement for joint use. In consideration for these replacement rights being issued by the Authority, the Utility 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 Utility Owner's existing right-of-way so vacated.

If the existing Right-of-way of Utility Owner includes fee title, the Authority shall acquire from the Utility Owner, for just compensation under State law, those property rights required by the



Authority for its Facilities by separate transaction, leaving to the Utility Owner those remaining property rights appropriate for the placement and operation of the Utility Owner's Facilities in the Right-of-way of Utility Owner.

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

6.6 Applicability

This agreement applies to the Relocation of Utility Owner's Facilities to accommodate or permit construction of the HST Project. Caltrans may perform construction activities for roadway improvements adjacent to the HST Project. Any Facility Work related to Caltrans construction activities is specifically excluded from the terms and conditions of this Cooperative Agreement.

6.7 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 the contract award. Copies of the Authority policies and procedures will be provided to the Utility Owner as soon as practicable after they become available. The Authority shall pay for any damages suffered by or costs incurred by the Utility 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.

6.8 Severability

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

6.9 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.

6.10 Notices

All required notices may be sent by first class United States Mail, facsimile transmission, 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. The Utility Owner shall have a continuing obligation to notify the Authority 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 UTILITY OWNER:

Utility Owner Name: tw telecom of california l.p.

Person in Charge: Kevin O'Connor

Address:

with copy to:

Utility Owner Name: tw telecom of california l.p.

Person in Charge: Attn: Sr. VP & Deputy General Counsel

Address: 10475 Park Meadows Drive

Littleton, CO 80124

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

6.11 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.

6.12 Hazardous Material

Upon discovery of Hazardous Material in connection with Facility Work, both the Utility Owner and the Authority's Contractor shall immediately confer to explore all reasonable alternatives and agree on a course of action, and the Utility 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 attributable to the Utility 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 5, "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.

6.13 Successors and Assigns

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

6.14 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. 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.

6.15 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.

6.16 American Recovery and Reinvestment Act and the Authority

The provisions included in Appendix B, "ARRA AND AUTHORITY PROVISIONS," are hereby incorporated in and are integral to this Agreement, and the Utility Owner shall ensure full compliance with these provisions to the extent they apply to this Agreement and subsequent Task Orders. Nothing in this agreement shall prevent the assignment of ARRA compliance tasks to the Authority's Contractor for the benefit of the Utility Owner.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement effective the day



and year first written.

UTILITY OWNER: tw telecom of california l.p.
By: tw telecom holdings inc., its general partner

Signature

Date

Typed Name

Typed Title

Approval by the California High Speed Rail Authority

Signature

Date:

Typed Name

Typed Title

AUTHORITY Legal Review

Signature

Date:

Typed Name

AUTHORITY Legal Counsel

Typed Title



Appendix A: Design-Build Procedures

1. INITIAL COORDINATION

- A. The Utility Owner shall advise the Authority in writing of the place and the name and telephone number of a contact person for the Utility Owner who has charge over the Facility Work and will serve as the primary contact for the Utility Owner on all related issues.
- B. The Authority will compile information from the Utility Owner that will illustrate the nature and locations of the Utility Owner's existing Facilities. The Authority will present this information on a series of drawings and tables that will be used to determine conflicts with the HST Project.
- C. The Utility Owner will furnish markups to the Authority of their existing and proposed Facilities within 20 working days.
- D. The Authority will prepare preliminary design plans that indicate which utilities are to be relocated and conceptual arrangements of the relocated utilities.
- E. The Utility Owner will verify, to the best of their ability, the correctness and completeness of the plans prepared by the Authority.
- F. These plans will form the basis of subsequent design to be performed by the Utility Owner, the Authority or the Authority's Contractor, as such; the Utility Owner shall take sole and full responsibility for the accuracy of their depicted Facilities.

2. PERFORMANCE OF THE FACILITY WORK

The Method of performance to be utilized in the design and construction of the Facility Work, as described below, will be specified in the executed Task Order for the particular Facility Work contemplated.

The Utility Owner agrees to (a) the Authority's delegation to the Authority's Contractor, the responsibility to reimburse the Utility Owner, and (b) the Authority's Contractor's collection of reimbursement directly from the Utility Owner having cost responsibility for Facility Relocations and/or for Betterments.

Performance of the Facility Work will be in accord with the following Method:



The Authority's Contractor performs all design and construction services for the Facility Work.

The Authority's Contractor through

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performs all design services. The Authority's Contractor through

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performs all construction services for the Facility Work.

- A. At such time as the Authority's Contractor has plans prepared to a level where the impact on the Utility Owner's Facilities and the nature and extent of the Facility Work can be determined, hereinafter referred to as "Facility Plans", the Authority's Contractor will provide a copy of the Facility Plans to the Utility Owner in AUTOCAD and PDF format. The Facility Plans shall include a preliminary Facility Work design concept which was created by the Authority's Contractor and in accordance with the Utility Owner's standards.
- B. The Utility Owner shall have twenty (20) working days from receipt of the Facility Plans to review them and provide comments to the Authority's Contractor and the Authority.
- C. The Authority's Contractor shall provide plans and specifications at the 30%, 60% and 90% development phase and/or any other agreed upon development milestones by the Authority, the Authority's Contractor, and the Utility Owner for review and comments. Time for review shall not commence until said milestones have been accepted by the Utility Owner.
- D. At such time as the Authority's Contractor has prepared final Facility Plans, including the Facility Work, the Authority's Contractor will provide a copy thereof to the Utility Owner. The final Facility Plans shall incorporate the comments of the Utility Owner. Detailed list of final method of inclusion of the Utility Owner's comments shall be provided to the Utility Owner by the Authority's Contractor.



- E. The Utility Owner shall have twenty (20) work days from receipt of the final Facility Plans to review them and provide final comments to the Authority's Contractor. If the Utility Owner's comments are not fully addressed or incorporated, the Utility Owner shall return final Facility Plans for corrections and shall not be considered as final Facility plans by the Authority's Contractor. Failure to provide comments within the time period allowed shall be deemed as an approval.
- F. The Authority's Contractor shall make final corrections to the Facility Plans and provide a copy to the Utility Owner. This section shall not apply until paragraph 2.E of Appendix A is satisfied.
- G. The Authority's Contractor shall perform the construction services for the Facility Work in accordance with the Facility Plans.
- H. Deviations from the Authority's Contractor's Facility Plan initiated by the Authority, the Authority's Contractor or the Utility Owner, must be agreed upon by all parties and memorialized in an Amendment to the Task Order for the original Facility Work. No deviation from the original Facility Work shall commence without a fully executed Amendment.
- I. The Utility Owner shall be entitled to have representatives on the site of the HST Project to verify that the Facility Work is being properly performed by the Authority's Contractor. The Utility Owner's representatives shall at all times comply with all of the Authority's Contractor's work rules and regulations while on the HST Project Site. If after reasonable notice, any representative fails to comply with said work rules and regulations, the Authority's Contractor shall have the exclusive right to prohibit the representative from access to the HST Project Site thereafter.
- J. Upon completion of the Facility Work, the Utility Owner agrees to accept ownership and maintenance of the constructed Facilities.
- K. The process established above shall apply separately to each phase or segment of the HST Project, as established in accordance with the agreement between the Authority's Contractor and the Authority.
- L. The Authority's Contractor shall provide the Utility Owner with as-built drawings of Facility Work outside the Authority's right-of-way. The as-built drawings shall be in AUTOCAD and PDF format for that particular Facility Work.



Appendix B: ARRA and Authority Provisions

- SUPPLEMENTAL TERMS AND CONDITION FOR CONTRACTS USING ARRA FUNDS
- CCC 307 – CERTIFICATION
- GTC 610

DEFINITIONS

As used in this Appendix B, the following term has the following meaning:

“Contractor” means Utility Owner.



SUPPLEMENTAL TERMS AND CONDITION FOR CONTRACTS USING ARRA FUNDS**1. ARRA FUNDED PROJECT:**

Funding for this contract has been provided through the America Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

2. ENFORCEABILITY:

Contractor agrees that if the Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds allowing an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

3. PROHIBITION ON USE OF ARRA FUNDS:

Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.

4. REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS:

Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor nor its subcontractors will use ARRA funds for a project for construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with the United States obligations under international agreements. The contractor understands that these requirements may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

5. WAGE RATE REQUIREMENTS:

In accordance with ARRA, Section 1605, the Contractor assures that it and its sub-recipients shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subconsultants on project funded directly by or assisted in whole or in part by and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the



United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganized Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.

6. INSPECTION OF RECORDS:

In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:

- 1) Examine any records that directly pertain to, and involve transactions relating to, this contract; and
- 2) Interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

Contractor shall include this provision in all of the Contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA funded work.

7. WHISTLEBLOWER PROTECTION:

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- 1) Gross mismanagement of a contract relating to ARRA funds;
- 2) A gross waste of ARRA funds;
- 3) A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- 4) An abuse of authority related to implementation or use of ARRA funds; or
- 5) A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.



Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

8. FALSE CLAIMS ACT:

Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

9. REPORTING REQUIREMENTS:

Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a monthly (quarterly) basis:

- a. The total amount of ARRA funds received by Contractor during the Reporting Period;
- b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
- c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including
 - i. The name of the project or activity;
 - ii. A Description of the project activity;
 - iii. An evaluation of the completion status of the project or activity; and
 - iv. An estimate of the number of jobs created and/or retained by the project or activity;
- d. For any contracts equal to or greater than \$25,000:
 - i. The name of the entity receiving the contract;
 - ii. The amount of the contract;
 - iii. The transaction type;
 - iv. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;



- v. The Program source
 - vi. An award title descriptive of the purpose of each funding action;
 - vii. The location of the entity receiving the contract;
 - viii. The primary location of the contract, including the city, state, congressional district and county;
 - ix. The DUNS number, or name and zip code for the entity headquarters;
 - x. A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 - xi. The names and total compensation of the five most highly compensated officers of the company if received:
 - 1) 80% or more of its annual gross revenues in Federal awards;
 - 2) \$25M or more in annual gross revenue from Federal awards and;
 - 3) If the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986.;
- e. For any contract of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

Any other information reasonably requested by the State of California or required by state or federal law or regulation

Standard data elements and federal instruction for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalRegister.gov. The additional requirements will be added to this contract(s).



CCC 307 – CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Executed in the County of	

CONTRACTOR CERTIFICATION CLAUSES**1. STATEMENT OF COMPLIANCE:**

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS:

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:



- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS:

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with State of California.



6. SWEATFREE CODE OF CONDUCT:

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph a.

7. DOMESTIC PARTNERS:

For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

NOTE: This form represents only the certification portion of the Contractor Certification Clauses (CCC). Additional information about contracting with the State appears in the full text of the applicable CCC. Visit this web site to view the entire document: <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.



GTC 610**GENERAL TERMS AND CONDITIONS****1. APPROVAL:**

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT:

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT:

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT:

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION:

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.



6. DISPUTES:

Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE:

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR:

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION:

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and



made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES:

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS:

Time is of the essence in this Agreement.

13. COMPENSATION:

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW:

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS:

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.



- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT:

For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.



17. UNENFORCEABLE PROVISION:

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS:

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)



Appendix C: Stakeholder Collaboration

In order to accomplish the HST Project through the most effective means available, a collaborative relationship will be formed as agreed to by Parties in Section 4.5 "STAKEHOLDER COLLABORATION." As part of this collaborative relationship, a cooperative 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. Collaboration is strongly encouraged in preference to formal dispute resolution and adjudication mechanisms. Collaboration in this context is intended to be mandatory, but non-binding. 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 HST 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 collaborative relationship and aid in identifying and resolving issues as they may arise throughout the HST Project:

- A. **"Issues Resolution Ladder" (IRL)** – a hierarchy of those individuals within the HST Project including the Stakeholders and Dispute Resolution Board 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 collaborative 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. The charter will be signed by all Stakeholders.

STAKEHOLDER MEETINGS



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

DRAFT



California High-Speed Train Project



Draft Task Order

Date: 11/1/2012
Local Agency: Time Warner
Agreement No:
Task Order No: 1
Project Title: California High-Speed Rail Project
Description: CHSRP Interaction Removal or Relocation Plan

DRAFT

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Task Order No. 1

GENERAL

This Task Order supplements and amends the Construction Contract and Cooperative Agreement. The purpose of this Task Order is to authorize Facility Work for the Utility Owner. Each Facility that requires relocation will be handled under a separate subtask of this Task Order.

WORK TO BE DONE

1 Cooperative Agreement

This Task Order is issued in order to authorize Facility Work described herein. This Task Order does not express all of the terms and conditions relevant to Facility Work; accordingly, the Cooperative Agreement and all of the provisions thereof are incorporated into this Task Order by this reference. Capitalized terms used but not identified in this Task Order shall have the definitions set forth in the Cooperative Agreement. All attachments referenced in this Task Order are incorporated herein by such reference. All Facility Work shall be performed in accordance with the requirements of the Cooperative Agreement and, in the event of any inconsistency between the provisions of this Task Order and the Cooperative Agreement, the provisions of the Cooperative Agreement shall prevail.

2 Scope of Work

Facility Work as defined in the definitions section of the Cooperative Agreement is incorporated by reference. Each separate Facility that requires Relocation will be treated as a subtask to this Task Order.

2.1 Location and General Description of the Work Covered by this Task Order (Including Disposition of Existing Facilities):

The Authority's Contractor will furnish all labor, material, equipment and supervision required to complete the relocation of Facilities and appurtenances. All work shall be performed substantially in accordance with "Request for Proposal for Design Build Services-RFP No. 11-16 consisting of Hybrid Alternative, Contract Package 1A, Contract Package 1B and Contract Package 1C, a copy of which is on file in the Authority's office at 770 L St, Suite 800, Sacramento, CA 95814.

2.2 Facility Work to be Performed by Parties Pursuant to this Task Order:

The Authority's Contractor performs all design and construction services for Facility Work, The Utility Owner will review and approve Facility plans and be entitled to have reasonable



number of representatives on site of HST Project to verify that Facility Work is being properly performed by the Authority's Contractor and approve that Facility Work.

2.2.1 Subtask 1.01

Scope: AUTHORITY'S CONTRACTOR is to design, secure permits, traffic control, coordinate, remove and relocate fiber optic facilities located at Avenue 15 ½ and Road 29 in accordance with UTILITY OWNER'S standards. UTILITY OWNER will disconnect, pull and terminate new cable only.

Facility is shown on TW Telecom As Built Drawing Madera Regen to Fresno Hub.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$55,732

2.2.2 Subtask 1.02

Scope: AUTHORITY'S CONTRACTOR is to design, secure permits, traffic control, coordinate, remove and relocate fiber optic facilities located at Avenue 12 in accordance with UTILITY OWNER'S standards. UTILITY OWNER will disconnect, pull and terminate new cable only.

Facility is shown on TW Telecom As Built Drawings Madera Regen to Fresno Hub.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$186,072

2.2.3 Subtask 1.03

Scope: AUTHORITY'S CONTRACTOR shall reimburse UTILITY OWNER for all costs resulting from plan check review, permits, inspection and testing (inspection & testing in an oversight Quality Assurance capacity only). AUTHORITY'S CONTRACTOR is still responsible to provide Quality Assurance and Quality Control for design and construction through project completion and closeout.

Estimated Period of Performance: Duration of Project

Estimated value of this Facility Work: \$50,000

3 Project Schedule

Deadlines for the completion of Facility Work are provided for in the contract between the Authority and the Authority's Contractor.

3.1 Schedule for Facility Work (This Task Order Only)

The Authority's Contractor shall complete the design work in accordance with the schedule specified in this Task Order. The Authority's Contractor shall commence construction work only after acceptance of the final design for such work in accordance with Appendix A – Design Build Procedures of the Cooperative Agreement. The Authority's Contractor must comply with



or receive a written variance for applicable city and county laws, regulations, and ordinances including permitting, inspection processes, work hours regulations, traffic management plan, dust control and noise regulations.

Design:		Construction:	
Start Date:	June 2013	Start Date:	December 2013
Completion Date:	December 2013	Completion Date:	February 2017

4 Performance of Work

4.1 Design

The design furnished by the Authority's Contractor pursuant to this Task Order shall be substantially in accordance with the Proposed Preliminary Design (see Appendix A – Design Build Procedures of the Cooperative Agreement) attached to this Task Order, and shall be consistent with 30% design submittal of the HST Project plans. All plans for Facility Work are subject to review by the Authority, the Utility Owner, and the Authority's Contractor, in accordance with the time frames and procedures set forth in Appendix A – Design Build Procedures of the Cooperative Agreement.

By Utility Owner: The Utility Owner will review Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify Facility Work is being properly performed by the Authority's Contractor.

BY Authority's Contractor: The Authority's Contractor performs all design and construction services for Facility Work.

4.2 Construction

The Authority's Contractor will perform all the construction services for the Facility Work. The construction of Facility Work shall be performed substantially in accordance with the final Facility plans. Deviations from the final Facility plans may occur only in conformity with the Cooperative Agreement.

5 Liability For Work

In accordance with section 3, "Liability for Work," of the Cooperative Agreement, the Utility Owner and the Authority shall each be responsible for the cost of Facility Work as specified herein.

The total estimated cost for Facility Work is:

\$291,804

5.1 Cost Allocation

To be determined by Prior Rights.



6 Cost Estimate

The amounts stated herein are estimates of the costs associated with Facility Work. Authorized expenditures and reimbursements will be based on the terms of the Cooperative Agreement.

6.1 For Work by Utility Owner

The Utility Owner's costs for Facility Work shall be developed pursuant to section 5, "Payment of Work," of the Cooperative Agreement, and shall be performed in accordance with the procedures set forth in section 4, "Performance of Work" and Appendix A – Design Build Procedures of this Cooperative Agreement.

6.2 For Work by Authority's Contractor

The Authority has prepared an initial cost estimate in the amount of \$291,804 for Facility Work included in this Task Order.

The Authority's Contractor shall prepare an independent cost estimate for Facility Work which shall be submitted for the Authority's approval. Such estimate will reflect appropriate estimated charges for Betterment and salvage value, if any. Upon approval, the parties shall revise this Task Order to incorporate the approved estimate.

7 Betterment, Accrued Depreciation, Salvage

The Utility Owner shall credit the Authority for the actual cost of any Betterment, salvage value, and accrued depreciation on the Facilities as required pursuant to the Cooperative Agreement, and pay the Authority's Contractor for the actual cost of any Betterment constructed by Authority's Contractor.

Facility Work in this Task Order does not include any Betterment.

8 Billing and Payment

Billing and payment shall be in accordance with section 5, "Payment for Work," of the Cooperative Agreement.

9 Contacts

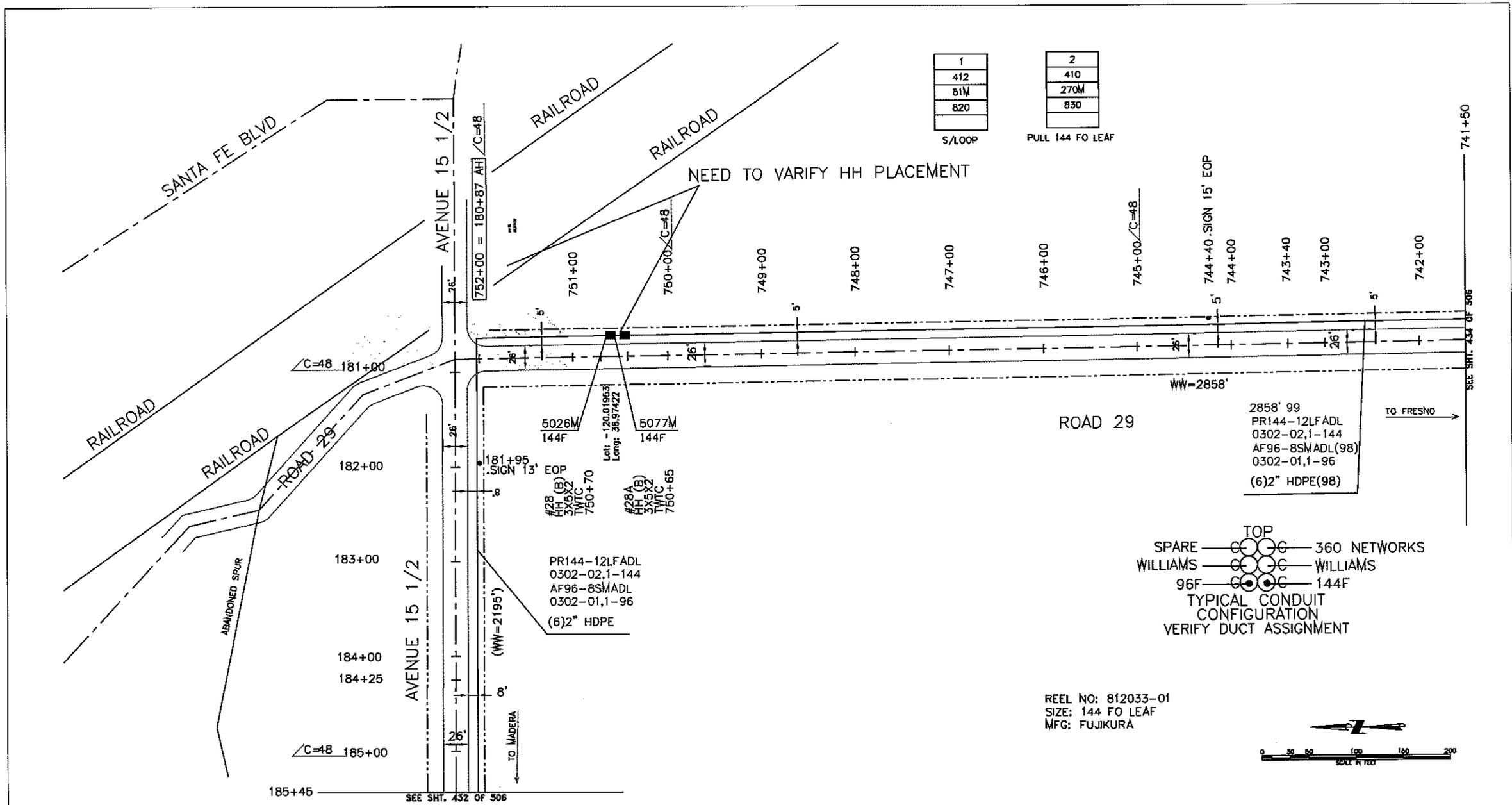
The contacts for this Task Order will be as follows:

Local Agency: _____

Authority: _____

Authority's Contractor: _____





ASSEMBLY UNITS				ASSEMBLY UNITS				ASSEMBLY UNITS				REVISION			
UNIT	QUANTITY	ACCT. CODE	DESCRIPTION	UNIT	QUANTITY	ACCT. CODE	DESCRIPTION	UNIT	QUANTITY	ACCT. CODE	DESCRIPTION	REV	DESCRIPTION	DATE	BY
412	167'	820	S/LOOP 144 FO												
410	886'	820	PULL 144 FO LEAF												
250	2	826	HH												

TIME WARNER TELECOM

**AS-BUILT
MADERA REGEN
TO FRESNO HUB**

DRAWING NUMBER: **042R433A**

DWG. OF: **433** OF **506**

DATE: _____
 APPROVED BY: _____
 DATE: _____
 DRAWN BY: _____
 DATE: _____

SCALE: 1" = 100'

14 Unknown Entity

- Cooperative Agreement
- Task Order No. 1
- Task Order No. 2
- Utility Drawings

ADDENDUM 7



California High-Speed Train Project



Cooperative Agreement

Unknown Entity

DRAFT

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Appendix 1: Design-Build Procedures
Appendix 2: ARRA and Authority Provisions
Special Terms and Conditions

1. AMENDMENT (CHANGE IN TERMS)

- a. The Contractor shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided in writing by the Authority's Contract Manager.
- b. There shall be no change in the Contractor's Project Manager or members of the project team, as listed in the cost proposal, which is a part of this Agreement, without prior written approval by the Authority's Contract Manager. If the Contractor obtains approval from the Authority's Contract Manager to add or substitute personnel, the Contractor must provide the Personnel Request Form, a copy of the SF330 or resume for the additional or substituted personnel, along with a copy of the certified payroll for that person.

1. TERMINATION

This section regarding termination is in addition to GTC 610.

- a. The Authority reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the Contractor, or upon thirty (30) calendar days written notice to the Contractor if terminated for the convenience of the Authority.
- b. The Authority may terminate this Agreement and be relieved of any payments except as provided for under early termination should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the Authority may proceed with the work in any manner deemed proper by the Authority. All costs to the Authority shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

2. EARLY TERMINATION OF THIS AGREEMENT OR SUSPENSION OF THIS AGREEMENT

General Conditions



- a. In the event this Agreement is terminated, suspended, or a Work Plan is terminated for the convenience of the Authority, the Contractor shall be paid for the percentage of the work completed, relative to the total work effort called for under this Agreement, and for termination costs. No billable costs will be considered payable under the Agreement during suspension.
- b. Within 30 days of the date the Contractor is notified of the early termination of Work Plan(s) issued against this Agreement for the convenience of the Authority, the Contractor shall prepare and submit to the Authority's Contract Manager, for approval, two (2) separate supplemental cost proposals:
 - i. A final revised cost proposal for all project-related costs for the revised termination date.
 - ii. A cost proposal specifically addressing the termination settlement costs only.

3. CONTRACTOR'S DELIVERABLES UNDER EARLY TERMINATION

The Contractor shall provide all project-related documents and correspondence required as part of the Scope of Work/Deliverables. Project-related documents shall be described, listed, and identified as part of the final revised cost proposal. Project-related documents shall include all documents that are in complete and final form and which have been accepted as complete by the Authority, or documents in draft and/or incomplete form for those deliverables, which are in progress by the Contractor and have not been accepted as complete. All documents must be received and accepted before the settlement cost invoice is paid.

4. INVOICE SUBMITTAL UNDER EARLY TERMINATION

Separate final invoices for project-related costs and termination settlement costs shall be submitted no later than thirty (30) calendar days after the date the Contractor is notified of acceptance of the final cost proposals by the Authority's Contract Manager. Invoices shall be submitted in accordance with EXHIBIT B. The invoice for termination settlement costs shall include the following, to the extent they are applicable: lease termination costs for equipment and facilities approved under the terms of this Agreement; equipment salvage costs for equipment valued over \$500.00; rental costs for unexpired leases, less the residual value of the lease; cost of alterations and reasonable restorations required by the lease; settlement expenses, e.g., accounting, legal, clerical, storage, transportation, protection and disposition of property acquired or produced under this Agreement, indirect costs, such as payroll taxes, fringe benefits, occupancy costs, and immediate supervision costs related to wages and salaries, incurred as settlement costs.



5. TERMINATION ISSUES FOR SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS

The Contractor shall notify any Subcontractor and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any Subcontractor and service or supply vendor shall result in the Contractor being liable for the termination costs incurred by any Subcontractor and service or supply vendor for work performed under this Agreement, except those specifically agreed to in the termination notice to the Contractor.

6. AUDIT REVIEW PROCEDURES UNDER EARLY TERMINATION

Audit review procedures shall be in accordance with Appendix D, Audit Review Procedures, section 10 below.

7. CONTRACTOR CLAIMS AGAINST THIS AGREEMENT UNDER EARLY TERMINATION

The Contractor agrees to release the Authority from any and all further claims for services performed arising out of this Agreement or its early termination, upon acceptance by the Contractor of payment in the total amount agreed upon as full and final payment of its costs from performance and early termination of this Agreement.

8. RETENTION OF RECORD/AUDITS

- a. For the purpose of determining compliance with Public Contract Code Section 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, Subcontractors, and the Authority shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of expenditure under this Agreement. The Authority, the State Auditor, or any duly authorized representative having jurisdiction under any laws or regulations shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- b. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all the provisions of this clause.



9. AUDIT REVIEW PROCEDURES

- a. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement shall be reviewed by the Project Manager.
- b. Not later than 30 days after issuance of an interim or final audit report, the Contractor may request a review by the Project Manager of unresolved audit issues. The request for review will be submitted in writing to the Chief Executive Officer. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the Chief Executive Officer will be scheduled if the Project Manager concurs that further review is warranted. After the meeting, the Project Manager will make recommendations to the Chief Executive Officer will make the final decision for the Authority. The final decision will be made within three (3) months of receipt of the notification of dispute.
- c. Neither the pendency of a dispute nor its consideration by Authority will excuse the Contractor from full and timely performance, in accordance with the terms of this clause.

10. PURCHASE OF EQUIPMENT

No equipment identified in this Agreement is approved for purchase.

11. INSPECTION OF WORK

The Contractor shall permit the Authority to review and inspect the project activities at all reasonable times during the performance period of this Agreement including review and inspection on a daily basis.

12. OWNERSHIP OF DATA

- a. Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this Agreement will automatically be vested in the Authority and no further agreement will be necessary to transfer ownership to the Authority. The Contractor shall furnish the Authority all necessary copies of data needed to complete the review and approval process.
- b. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine readable form, are intended for one-time use in the construction of the project for which this Agreement has been entered into.



- c. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by the Authority of the machine readable information and data provided by the Contractor under this agreement; further, the Contractor is not liable for claims, liabilities or losses arising out of, or connected with, any use by the Authority of the project documentation on other projects, for additions to this project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by the Contractor.
- d. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

13. CONFIDENTIALITY OF DATA

- a. All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.
- b. Permission to disclose information on one occasion or public hearing held by the Authority relating to this Agreement shall not authorize the Contractor to further disclose such information or disseminate the same on any other occasion.
- c. The Contractor shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, Contractor's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative committee.
- d. The Contractor shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.
- e. All information related to the construction estimate is confidential and shall not be disclosed by the Contractor to any entity, other than the Authority.

14. STATEMENT OF COMPLIANCE

The Contractor's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor has, unless exempt, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.



15. DEBARMENT AND SUSPENSION CERTIFICATION

- a. The Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - iii. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - iv. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - v. Does not have a proposed debarment pending; and
 - vi. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Any exceptions to this certification must be disclosed to the Authority. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining bidder responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

16. CONFLICT OF INTEREST

- a. During the term of this Agreement, the Contractor shall disclose any financial, business, or other relationship with Authority that may have an impact upon the outcome of this Agreement or any ensuing Authority construction project. The Contractor shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing Authority construction project which will follow.
- b. The Contractor hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.
- c. The Contractor and its employees, and all its subcontractors and employees, shall comply with the Authority's Conflict of Interest Code.
- d. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this clause.



Appendix 3: Stakeholder Collaboration



Financial Project ID:		Federal Project ID:	
County:		AUTHORITY Document No:	

PARTIES

THIS AGREEMENT, entered into this _____ day of _____, _____ (the "Agreement" or "Cooperative 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 Unknown Entity, a conglomeration of yet undetermined utility owners whose principal mailing address is not known, 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 Train Project (the "HST Project"), as defined herein, and from time to time the HST Project involves Relocation, as defined herein, of the Facility Owner's Facilities; and

WHEREAS, the HST Project will be built in multiple phases; 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 throughout the various phases of the HST Project.

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 that enters into a contract with the Authority for the performance of Facility Work, as defined herein, other than any Excluded Entity.



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” shall mean any upgrading of a replacement Facility that is not attributable to the construction of the HST Project and is made solely for the benefit of and at the election of the Facility Owner, including an increase in the capacity, capability, level of service, efficiency, duration or function of the replacement Facility over that which was provided by the existing Facility; provided, however, that the following are not considered Betterments in such cases:

- A. Any upgrading necessary for safe and effective construction of the HST Project;
- B. Replacement devices or materials that meet equivalent standards although they are not identical;
- C. Replacement of devices or materials no longer regularly manufactured with the next highest grade or size;
- D. Any upgrading required by applicable laws;
- E. Replacement devices or materials which are used for reasons of economy (e.g. non-stocked items may be uneconomical to purchase); or
- F. Any upgrading required by the applicable standard specifications, standards of practice and construction methods applied to comparable facilities constructed by or for the Facility Owner at its own expenses, which are in effect as of the date of execution of the applicable Task Order.

1.4 Days

“Days” means calendar days, unless otherwise stated.

1.5 Excluded Entity

“Excluded Entity” means any public or private entity that enters into a contract with Authority to coordinate and/or perform work on its own facilities with work on the HST Project.



1.6 Facility

“Facility” or “Facilities” means any Utility, as defined herein, and/or or any publicly owned and operated road, street, bridge, or grade separation. The term “Facility” or “Facilities” includes traffic signals, street lights, and crossing equipment associated with roads, streets, bridges and/or grade separations, 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.

1.7 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 required for Relocation of Facilities or construction of new Facilities in conjunction with the HST Project.

1.8 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.

1.9 HST Project

HST 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 HST Project for which design or construction work, including Facility Work, is performed, managed, contracted, or directed (by notice to owner or otherwise) by an Excluded Entity, directly or indirectly, is specifically excluded from the definition of HST 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, 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 HST 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, including but not limited to a defined area within the HST Project right-of-way that is subject to a recorded Joint Use Agreement or Consent to Common Use Agreement. Right-of-way of Facility Owner does not include a franchise or license.

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 found essential to the satisfactory completion of the Relocation and 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 and drainage basins for storm 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 HST Project, the term “Utility” or “utility” specifically excludes (a) traffic signals, street lights, and crossing equipment, as well as any electrical conduits and feeds providing service to such facilities, and (b) cellular telecommunications towers and related 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.

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. The Task Order will set forth among other things, the arrangements between the parties regarding scope of work, schedule, cost, cost apportionment, billing, payment, documentation, document retention, accounting and coordination as it relates to the Facility Work. Format of the Task Order and its content shall be mutually agreed upon by the Authority, the Authority's Contractor, and the Facility Owner.

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 to the Facility Owner.

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. If Unforeseen Work does not arise in connection with any Facility Work, it shall be treated as a separate phase or segment of the HST Project under this Agreement. The Authority reserves the right to make the final determination as to whether any Unforeseen Work must be performed and the Facility Owner shall be obligated to comply with the Authority's determination.

3 LIABILITY FOR WORK

3.1 Prior Rights

Liability for the cost of Facility Work shall be determined by applicable law, including, without limitation, statute, superior rights, or prescriptive rights, collectively referred to as ("Prior Rights"). The burden of establishing Prior Rights rests with the Facility Owner, including the responsibility to prepare, document and submit a claim for its declared right of occupancy in the defined property area where the Facility Owner's Facility is located.

The Authority may enforce any obligation of the Facility Owner's franchise or encroachment permit grantees on any Authority property and right of way including requiring any person who has placed and maintained any pole, pole line, pipe, pipeline, conduit, street railroad tracks, or other structures or facilities whether under that or any franchise or permit to move it at his or her own cost and expense to such different location in the Facility Owner's jurisdiction as specified in a written demand by the Authority. The Authority shall provide a reasonable time within which the Facility Work shall commence. Upon written request of Authority, Facility Owner shall assist Authority in enforcing such rights by issuing to the relevant grantee any written Relocation notice required under the franchise or encroachment permit.



3.2 Authority's Expense

Unless the Facility Owner agrees otherwise herein, the Facility Work will be performed at the Authority's expense in circumstances where by Prior Rights the costs for such work shall be borne by the Authority.

3.3 Facility Owner's Expense

Facility Work will be performed at the Facility Owner's expense where:

- A. Facility Work is a Betterment as defined in Section 1.3;
- B. The Facility Owner is unable to produce adequate documentation of its Prior Rights to the property area where its Facility is located;
- C. It is determined by Prior Rights that the cost for such work shall be borne by the Facility Owner; or
- D. The Facility Owner agrees to perform the work at its own expense.

3.4 Shared Expense

Facility Work will be performed at the shared expense of the Authority and the Facility Owner in circumstances where the Parties agree in advance to do so. The proportion of Facility Work expense to be borne by each Party shall be detailed in the Task Order for that Facility Work.

3.5 Disputed Cost Liability

In circumstances where a dispute exists between the Parties as to whether the Facility Owner has a Prior Right to maintain and operate its facilities in their present location and which Party must bear the expense of Facility Work required for a Relocation pursuant to a Task Order, the Parties agree to proceed with the Facility Work required by the Task Order and to reserve the issue of liability for the cost of the Facility Work detailed in the Task Order as hereinafter provided. In such case, the Authority, either directly or through Authority's Contractor, shall advance funds for the cost of the Facility Work as if such costs were Authority's expense as provided in Section 3.2, of this Cooperative Agreement,

Authority and Facility Owner agree that after execution of the Task Order for Facility Work where cost liability is disputed, they shall negotiate in good faith with the goal of reaching an agreement as to the allocation of costs for the Facility Work. If Facility Owner fails to negotiate in good faith, or if no agreement is executed and delivered on or before ten (10) days after the date of completion of the Facility Work, then notwithstanding the disputes resolution process set forth in Section 3.7 of this Cooperative Agreement, Authority shall have the immediate right to pursue a determination of the cost responsibility through either mandatory binding arbitration (pursuant to the arbitration process set forth in Section 3.7) or through litigation in a



court of competent jurisdiction, in Authority's sole discretion. It is further agreed by Facility Owner and Authority that in case of disputed liability, (a) neither the advance or return of funds pursuant to this Cooperative Agreement nor the performance by Facility Owner of the Facility Work shall be deemed a waiver, compromise or admission of liability, (b) the fact that such advance and/or return of funds and performance of Facility Work occur shall not be pertinent to and shall not be considered or offered as evidence regarding the issue of liability, (c) the issue of liability shall be reserved for resolution by subsequent agreement, arbitration or litigation, and (d) the time for commencing an action for the recovery of any funds advanced by Authority for the cost of the Facility Work shall begin to run as of the tenth day after completion of the Facility Work, and Facility Owner waives any applicable statute of limitation to the contrary to the extent permitted by law.

In the event that Facility Owner ultimately is determined to be responsible for the Relocation costs, then Facility Owner shall within 45 days from the date of such determination reimburse the Authority or the Authority's Contractor as directed by the Authority the full amount of all sums advanced that were determined to be the Facility Owner's cost responsibility, plus interest from the date advanced or disbursed by Authority and computed in accordance with Section 1268.350 of the Code of Civil Procedure.

3.6 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 cooperate with the Authority in assessing and resolving the claim within a reasonable time. 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 relating to Facility Work. The right to withhold shall be limited to actual claim payments made by the Authority to the Authority's Contractor.

3.7 Disputes

The Authority and the Facility Owner agree that, as a general principle, the Parties shall identify and engage in measures to prevent and resolve potential sources of conflict before they escalate into disputes through a process involving partnering, collaboration and cooperation, which shall attempt to identify and resolve potential disputes without resort to formal legal process. Such process shall include establishing for each phase of the HST Project impacting Facility Owner's Facilities a hierarchy of individuals within each Party's organization to whom issues



may be addressed as they arise in order to resolve such issues before they are elevated to the next level in the hierarchy, and periodic meetings at the request of either Party to review the ongoing status of the HST Project and the Facility Work.

In the event the Facility Owner disagrees with a determination or direction made by the Authority in connection with the Facility Work, the Facility Owner shall provide prompt written notice of its objection to Authority, including the reasons for such objection. Thereafter, the Parties shall attempt to resolve such potential dispute through the partnering process, which may include escalation through the hierarchy established for the partnering process, at either Party's request. If, within 14 days after conclusion of such partnering, the dispute persists, then the Facility Owner may request a written statement of the Authority concerning its decision. The request shall state clearly, and in detail, the basis for the objection, a statement of the facts asserted, and the nature and amount of the costs involved. The Authority shall reduce its decision to writing and provide notice of such decision, including a copy thereof, to the Facility Owner. Failure of the Authority to provide a written decision shall be deemed denial of Facility Owner's objection. The decision of the Authority shall be final and conclusive unless, on or before the 28th day from the date of receipt of such decision, or if no written decision is received from the Authority, 42 days from the Facility Owner's original written objection, the Facility Owner appeals such decision by written notice to the Authority.

In connection with any appeal of the Authority's decision, the Facility Owner shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. The Authority shall then, within two weeks from the date of the hearing, or if no hearing is requested, from the date of Facility Owner's notice of appeal, either issue a modified decision, or such prior decision shall be deemed affirmed. If the dispute still remains after such decision, then either Party may, within 42 days after such decision is issued or deemed affirmed, refer the dispute to binding arbitration.

In the event either Party, within the timeframe specified above, elects to refer a dispute to binding arbitration, then within 30 days after such election to arbitrate, the Parties will seek to appoint a panel of three arbitrators with not less than 10 years of experience each in complex construction disputes involving public works transportation projects. If the Parties cannot agree on a panel of three arbitrators, 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 this Cooperative 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 this Cooperative 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 as a direct result of such erroneous determination (crediting the Authority for any corresponding reduction in the Facility Owner's other costs) and shall in no event exceed the amounts allowed hereunder with respect thereto.

At all times during the course of the dispute resolution process, the Facility Owner shall continue with or permit the continuance of the Facility Work as directed, in a diligent manner, and without delay; shall conform to any of the Authority's responses, decisions, or orders; and shall be governed by all applicable provisions of this Cooperative Agreement. Records of the Facility Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in this Cooperative Agreement irrespective of the ultimate outcome of any dispute.

4 PERFORMANCE OF WORK

4.1 General

All Facility Work (design and construction phases) or portion thereof may be performed by the Facility Owner, the Authority or the Authority's Contractor. 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, employed by Facility Owner on a continuing basis pursuant to a written contract, or
- C. Cause the work to be performed through a contract with the lowest qualified bidder, 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 Authority's or the Authority's Contractor's schedule and/or 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 on the part of the Facility Owner in completing Facility Work in accordance with the schedule and/or 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 HST 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.

4.4 Insurance

The Facility Owner and the Authority and their respective officers and employees, as well as such other additional insureds as either the Authority or the Facility Owner shall reasonably require are collectively referred to herein as the "Additional Insured Group".

Any Design Contract, Construction Contract or Design/Build Contract entered into by the Authority or the Facility Owner in connection with Facility Work shall contain a provision which requires the contractor, as part of the liability insurance requirements, to provide an endorsement to each policy of general or automobile liability insurance that names as additional insureds to such policy the Additional Insured Group.



Unless otherwise mutually agreed upon by the Parties, the construction contractor, design contractors and design/build contractors shall provide evidence of at least:

- A. Commercial General Liability coverage, including coverage for bodily injury, property damage, personal injury and advertising injury liability written on an occurrence form that shall be no less comprehensive and more restrictive than the coverage provided by Insurance Services Office Form CG 00 01. There shall be no exclusion for fire legal liability (not less than the replacement value of the portion of the premises occupied), blanket contractual, independent contractors, premises operations, and work within 50 feet of a railroad. The coverage shall have an annual minimum limit of \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
- B. Automobile Liability, coverage including owned, hired and non-owned automobile liability with a combined single limit of at least \$2,000,000 per accident.
- C. Statutory Workers' Compensation including Employer's Liability insurance complying with the applicable Workers' Compensation laws, with a limit of at least \$1,000,000 per accident.
- D. If applicable, Railroad Protective Liability as required by any applicable railroad agreements.
- E. Insurance policies required to be provided by a contractor hereunder shall contain or be endorsed to contain the following provisions:
 1. Additional Insured Group, its members, directors, officers, employees and agents and such other parties as may be designated in writing shall, to the extent of Contractor's indemnity obligations contained in the General Provisions, be covered as additional insureds under Contractor's and subcontractor's commercial general and automobile liability policies.
 2. Each policy (including the Workers' Compensation and Employer's Liability policies) shall include a waiver of any right of subrogation against Additional Insured Group (and its members, directors, officers, employees and agents).

The minimum amounts of insurance specified above may be adjusted from time to time by Authority if commercially reasonable to do so.

Each policy of insurance and endorsement required to be provided by a contractor hereunder shall be in form and substance acceptable to Authority, in its sole discretion. Prior to commencement of work, a Certificate evidencing the required coverage and providing that said coverage shall not be reduced in scope or cancelled without thirty (30) days prior written notice to the Facility Owner and the Authority shall be transmitted directly by the insurer to the Facility Owner and the Authority. The Facility Owner recognizes and agrees that all or part of



such insurance can be provided by the Authority through an owner-controlled insurance program.

4.5 Stakeholder Collaboration

In signing this Agreement, the Facility Owner agrees to collaborate with the Authority, the Authority's Contractor, and any other third-party entities affected by the HST Project, including regulatory agencies, local agencies, and public and private Facility Owners, hereinafter referred to as stakeholders, to identify collaborative methods for resolving issues that may arise as part of the HST Project and/or Facility Work in an effort to achieve a quality HST that meets the HST 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 HST Project. During the initial workshop, stakeholders will develop procedures and agreements (including Task Orders) as specified in Appendix C, "STAKEHOLDER COLLABORATION," incorporated herein, facilitating the collaborative relationship and aid in identifying and resolving issues as they arise throughout the HST Project.

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

Subject to the requirements of the Public Information Act and to the maximum extent permitted by law, neither the language of this clause, including the language in Appendix C, nor any 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.

5 PAYMENT FOR WORK

5.1 Cost of Facility Work

Cost of Facility Work 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 to that work, and any necessary new private Facility right-of-way involved in Facility Work, except as follows:

- A. In any case in which the Authority is required under the provisions of this Agreement to pay its share of the cost of Relocation of any Facility by the Facility Owner, the Authority shall be entitled to credits as follows:



1. The amount of any Betterment to the utility Facility resulting from such relocation.
2. The salvage value of any materials or parts salvaged and retained by Facility Owner.
3. If a new utility 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.

$$\text{Credit} = \frac{\text{Age of FACILITY}}{\text{Normal expected Life}} \times \text{Original Cost}$$

- B. A credit shall not be allowed against any portion of the cost that is otherwise chargeable to the Facility Owner.
- C. A credit allowance for age shall not be applied to publicly owned sewers.
- D. Eligible Facility Owner costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A. Facility Owner agrees that costs referenced in Title 23 C.F.R. Part 645 Section 117(d)(2) are not eligible for reimbursement. These regulations can be found at: <http://www.access.gpo.gov/nara/cfr/waisidx/cfr-table-search.html>

5.2 Payment for the Cost of Facility Work

If Facility Work is at the Authority's expense, then the Authority shall pay or cause payment to be made to the Facility Owner in the amounts as established for Facility Work performed by the Facility Owner, less the credits as determined. At the Authority's discretion, the responsibility for making such payments to the Facility Owner may be delegated to the Authority's Contractor; in such circumstances, the Facility Owner agrees to the Authority's delegation of responsibility to the Authority's Contractor to make reimbursement payments to the Facility Owner.

If Facility Work is at the Facility Owner's expense and is performed by the Authority or the Authority's Contractor, the Facility Owner shall pay or cause payment to be made to the Authority or the Authority's Contractor in the amounts established pursuant to this Agreement for Facility Work plus appropriate amounts for Betterments, salvage and expired service life. At the Authority's written direction given in its sole discretion, the Authority's Contractor may be authorized to accept such payment from the Facility Owner; in such circumstances, the Facility Owner agrees to the Authority's Contractor collection of reimbursement directly from the Facility Owner.



5.3 Invoicing Procedures

Invoicing procedures will be mutually agreed upon by the Authority, the Authority's Contractor and the Utility Owner and set forth in Task Orders.

6 GENERAL CONDITIONS

6.1 Deactivated Facilities

The Facility Owner's Facilities shall not remain in the Authority's right-of-way after Facilities are no longer active ("Deactivated"), unless specifically allowed for by the Authority in advance, and in writing. The following terms and conditions shall apply to Deactivated Facilities allowed to remain within the Authority's right-of-way:

- A. The Facility Owner acknowledges its present and continuing ownership of and responsibility for the Deactivated Facilities.
- B. If the Authority subsequently agrees to allow the Facility Owner to leave the Deactivated Facilities located within the right-of-way, it shall be subject to the continuing satisfactory performance of the conditions of this Agreement by the Facility Owner. In the event of a breach of this Agreement by the Facility Owner, the Deactivated Facilities shall be removed upon demand from the Authority.
- C. The Facility Owner shall take such steps to secure the Deactivated Facilities and otherwise make such Deactivated Facilities safe in accordance with any and all applicable local, state or federal laws and regulations and in accordance with the legal duty of the Facility Owner to use due care in its dealings with others. The Facility Owner shall be solely responsible for gathering all information necessary to meet these obligations.
- D. The Facility Owner shall keep and preserve all records relating to the Deactivated Facilities, including, but not limited to, records of the location, nature of, and steps taken to safely secure the Deactivated Facilities and shall promptly respond to information requests from the Authority concerning the Deactivated Facilities or other permittees using or seeking use of the right-of-way.
- E. The Facility Owner shall remove the Deactivated Facilities upon thirty (30) days prior written request of the Authority in the event that the Authority determines removal necessary for any of the following reasons: the Authority needs the use of the right-of-way, right-of-way is needed for other active Facilities that cannot be otherwise accommodated, or where the Deactivated Facility adversely affects safety and operation of the HST Project. In the event that the Deactivated Facilities would not have qualified for reimbursement under this Agreement, removal shall be at the sole cost and expense of the Facility Owner and without any right of the Facility Owner to object or make any



claim of any nature whatsoever with regard thereto. In the event that the Deactivated Facilities would have qualified for reimbursement, removal of the Deactivated Facilities shall be reimbursed by the Authority as though the Deactivated Facilities had not been Deactivated. In the event that the Facility Owner fails to perform the removal properly within the specified time, the Authority may proceed to perform the removal at the Facility Owner's sole expense.

- F. Except as otherwise provided in this Section 6, the Facility Owner agrees that the Deactivated Facilities shall forever remain the legal and financial responsibility of the Facility Owner. Except as otherwise provided in this Section 6, the Facility Owner shall reimburse the Authority for any and all costs of any nature whatsoever resulting from the presence of the Deactivated Facilities within the right-of-way. Said costs shall include, but shall not be limited to, charges or expenses which may result from the future need to remove the Deactivated Facilities or from the presence of any hazardous substance or material in the Deactivated Facilities or the discharge of hazardous substances or materials from the Deactivated Facilities.

6.2 Default

In the event that the Facility Owner breaches any provision of this Agreement, 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 cost thereof.

In the event that the Authority 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 between the Parties, nor from any statutory obligations that either Party may have with regard to the subject matter hereof.

The Authority may unilaterally cancel this Agreement for 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 HST 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 by Amendment. The



Amendment shall provide 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 HST Project. Consequently, the Authority shall be entitled to specific performance in the event of any breach of this Agreement that imminently threatens to delay HST Project construction.

6.3 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 to the Facility Owner by the Authority of the Authority's Contractor;
- 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

The foregoing events shall relieve a Party of liability only if the Party's failure to perform as a result of such event 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 Facility Owner agrees, if requested by the



Authority, 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 such efforts.

Force Majeure excludes:

- 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.

6.4 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 are to be relocated from the existing Right-of-way of Facility Owner to a new location that falls outside such existing Right-of-way of Facility Owner, the Authority shall convey or cause to be conveyed a new right-of-way for such relocated Facilities. For such Relocated Facilities, the Authority shall issue, or cause to be issued, to the Facility Owner, 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 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 existing Right of Way of Facility Owner 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 Relocated Facilities shall become the



property of the Facility Owner.

6.5 Applicability

Except as otherwise provided in the following paragraph, this Cooperative Agreement applies to the Relocation of Facility Owner's Facilities to accommodate or permit construction of the HST Project.

Excluded Entities may perform construction activities related to the HST Project. Any activities undertaken by Facility Owner or Excluded Entities with respect to Facilities pursuant to arrangements made with Excluded Entities are specifically excluded from the terms and conditions of this Cooperative Agreement.

6.6 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 the contract award to Authority's Contractor. Copies of the Authority policies and procedures will be provided to the Facility Owner as soon as practicable after they become available. To the extent otherwise allowable pursuant to Title 23 C.F.R. Part 645, Subpart A, the Authority shall pay for any incremental costs incurred by the Utility Owner as a result of the application of Authority's policies and procedures that would not have been incurred pursuant to this Agreement absent such policies and procedures. This Agreement cannot be modified except by an instrument, in writing, signed by the Party to be charged.

6.7 Severability

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

6.8 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.

6.9 Notices

All required notices may be sent by first class United States Mail, facsimile transmission, 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. The Facility Owner shall have a



continuing obligation to notify the Authority 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:

Facility Owner Name:

Person in Charge:

Address:

Facsimile Number

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

Facsimile Number

6.10 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.

6.11 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 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 5, "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.

6.12 Successors and Assigns

This Agreement shall inure to the benefit of, and shall be binding upon, the successors and permitted assigns of the Parties. None of the rights, obligations or interests of either party under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise, without the written consent of the other party, not to be unreasonably withheld, in the form of a formal written amendment, except that either party may assign the Agreement to its successor or any entity acquiring all or substantially all of such party's assets.

6.13 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. 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.

6.14 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.

6.15 American Recovery and Reinvestment Act and the Authority

The provisions included in Appendix B, "ARRA AND AUTHORITY PROVISIONS," are hereby incorporated in and are integral to this Agreement, and the Facility Owner shall ensure full compliance with these provisions to the extent they apply to this Agreement and subsequent Task Orders.



6.16 Special Terms and Conditions

The provisions included in Appendix D, "SPECIAL TERMS AND CONDITIONS," are hereby incorporated in and are integral to this Agreement, and the Facility Owner shall ensure full compliance with these provisions in connection with this Agreement and subsequent Task Orders. References in such Special Terms and conditions to "Contractor" shall be deemed to refer to Facility Owner. The Dispute provisions in Section C of the Special Terms and Conditions are superseded by the Dispute process in Section 3.6 of this Agreement.

6.17 Appendices

Appendices A, B, C and D to this Agreement are attached hereto and incorporated by reference herein. This Agreement and the Appendices are intended to be complementary and shall, to the extent reasonably feasible, be interpreted so as to give force and effect to all provisions. In case of conflict between the provisions of this Agreement and those set forth in the Appendices, or between the provisions of the Appendices, the provision with the most stringent standard applicable to the party to be charged shall take precedence.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement effective the day and year first written.

FACILITY OWNER:

Signature Date

Typed Name

Typed Title

Approval by the California High Speed Rail Authority

Signature Date:

Typed Name

Typed Title

AUTHORITY Legal Review

Signature Date:



Typed Name

AUTHORITY Legal Counsel

Typed Title



Appendix 1: Design-Build Procedures

17. INITIAL COORDINATION

- A. The Facility Owner shall advise the Authority in writing of the place and the name and telephone number of a contact person for the Facility Owner who has charge over the Facility Work and will serve as the primary contact for the Facility Owner on all related issues.
- B. The Authority will compile information from the Facility Owner that will illustrate the nature and locations of the Facility Owner's existing Facilities. The Authority will present this information on a series of drawings and tables that will be used to determine conflicts with the HST Project.
- C. The Facility Owner will furnish markups to the Authority of their existing and proposed Facilities within 20 working days.
- D. The Authority will prepare preliminary design plans that indicate which utilities are to be relocated and conceptual arrangements of the relocated utilities.
- E. The Facility Owner will verify, to the best of its ability, the correctness and completeness of the plans prepared by the Authority.
- F. These plans will form the basis of subsequent design to be performed by the Facility Owner, the Authority or the Authority's Contractor, as the case may be; the Facility Owner shall take sole and full responsibility for the accuracy of its depicted Facilities.

18. PERFORMANCE OF THE FACILITY WORK (PERFORMANCE BY AUTHORITY'S CONTRACTOR)

The method of performance to be utilized in the design and construction of the Facility Work, as described below ("Method"), will be specified in the executed Task Order for the particular Facility Work contemplated.

The Facility Owner agrees to (a) the Authority's delegation to the Authority's Contractor, the responsibility to reimburse the Facility Owner, and (b) the Authority's Contractor's collection of reimbursement directly from the Facility Owner having cost responsibility for Facility Relocations and/or for Betterments.

Performance of the Facility Work shall be in accord with the following Method:

The Authority's Contractor performs all design and construction services for the Facility Work.

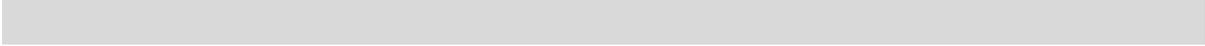


- A. At such time as the Authority's Contractor has the HST Project plans prepared to a level where the impact on the Facility Owner's Facilities and the nature and extent of the Facility Work can be determined, the Authority's Contractor shall prepare plans for the Facility Work (hereinafter referred to as "Facility Plans") and provide a copy of the Facility Plans to the Facility Owner in AUTOCAD and PDF format. The Facility Plans shall include a preliminary Facility Work design concept which was created by the Authority's Contractor and in accordance with the Facility Owner's standards.
- B. The Facility Owner shall have fifteen (15) working days from receipt of the Facility Plans to review them and provide comments, including any applicable technical requirements and standards, to the Authority's Contractor and the Authority. Failure to provide comments within such fifteen (15) working days shall be deemed approval.
- C. At such time as the Authority's Contractor has prepared final Facility Plans, including the Facility Work, the Authority's Contractor will provide a copy thereof to the Facility Owner. The final Facility Plans shall incorporate the comments of the Facility Owner provided such comments are reasonable and do not create inconsistencies with the contract between Authority and the Authority's Contractor. A detailed list of final method of inclusion of the Facility Owner's comments shall be provided to the Facility Owner by the Authority's Contractor.
- D. The Facility Owner shall have fifteen (15) working days from receipt of the final Facility Plans to review them and provide final comments to the Authority's Contractor. If the Facility Owner's comments are not fully addressed or incorporated, the Facility Owner shall return final Facility Plans for corrections and shall not be considered as final Facility plans by the Authority's Contractor. Failure to provide comments within the time period allowed shall be deemed as an approval.
- E. The Authority's Contractor shall make final corrections to the Facility Plans and provide a copy to the Facility Owner. This section shall not apply until paragraph 2.E of Appendix A is satisfied.
- F. The Authority's Contractor shall perform the construction services for the Facility Work in accordance with the Facility Plans.
- G. Deviations from the Authority's Contractor's Facility Plan initiated by the Authority, the Authority's Contractor or the Facility Owner, must be agreed upon by all parties and memorialized in an Amendment to the Task Order for the original Facility Work. No deviation from the original Facility Work shall commence without a fully executed Amendment.



- H. The Facility Owner shall be entitled to have representatives on the site of the HST Project to verify that the Facility Work is being properly performed by the Authority's Contractor. The Facility Owner's representatives shall at all times comply with all of the Authority's Contractor's work rules and regulations while on the HST Project Site. If after reasonable notice, any representative fails to comply with said work rules and regulations, the Authority's Contractor shall have the exclusive right to prohibit the representative from access to the HST Project Site thereafter.
- I. Upon completion of the Facility Work, the Facility Owner agrees to accept ownership and maintenance of the constructed Facilities.
- J. The process established above shall apply separately to each phase or segment of the HST Project, as established in accordance with the agreement between the Authority's Contractor and the Authority.
- K. The Authority's Contractor shall provide the Facility Owner with as-built drawings of Facility Work outside the Authority's right-of-way. The as-built drawings shall be in AUTOCAD and PDF format for that particular Facility Work.





Appendix 2: ARRA and Authority Provisions

- SUPPLEMENTAL TERMS AND CONDITION FOR CONTRACTS USING ARRA FUNDS
- CCC 307 – CERTIFICATION
- GTC 610
- SPECIAL TERMS AND CONDITIONS

If any term or condition in Appendix B conflicts with any term or condition elsewhere in the Cooperative Agreement, the term or condition in Appendix B will apply.

DEFINITIONS

As used in this Appendix B, the following term has the following meaning:

“Contractor” means Facility Owner. The Facility Owner, however, is not a contractor.

“State” includes Authority.



SUPPLEMENTAL TERMS AND CONDITION FOR CONTRACTS USING ARRA FUNDS**19. ARRA FUNDED PROJECT:**

Funding for this contract has been provided through the America Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

20. ENFORCEABILITY:

Contractor agrees that if the Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds allowing an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

21. PROHIBITION ON USE OF ARRA FUNDS:

Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.

22. REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS:

Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor nor its subcontractors will use ARRA funds for a project for construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with the United States obligations under international agreements. The contractor understands that these requirements may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

23. WAGE RATE REQUIREMENTS:

In accordance with ARRA, Section 1605, the Contractor assures that it and its sub-recipients shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subconsultants on project funded directly by or assisted in whole or in part by and through the federal government pursuant to ARRA shall be paid wages at rates not less



than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganized Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.

24. INSPECTION OF RECORDS:

In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:

- 1) Examine any records that directly pertain to, and involve transactions relating to, this contract; and
- 2) Interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

Contractor shall include this provision in all of the Contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA funded work.

25. WHISTLEBLOWER PROTECTION:

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- 1) Gross mismanagement of a contract relating to ARRA funds;
- 2) A gross waste of ARRA funds;
- 3) A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- 4) An abuse of authority related to implementation or use of ARRA funds; or
- 5) A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.



Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

26.FALSE CLAIMS ACT:

Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

27.REPORTING REQUIREMENTS:

Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a monthly (quarterly) basis:

- b. The total amount of ARRA funds received by Contractor during the Reporting Period;
- c. The amount of ARRA funds that were expended or obligated during the Reporting Period;
- d. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including
 - i. The name of the project or activity;
 - ii. A description of the project activity;
 - iii. An evaluation of the completion status of the project or activity; and
 - iv. An estimate of the number of jobs created and/or retained by the project or activity;
- e. For any contracts equal to or greater than \$25,000:
 - i. The name of the entity receiving the contract;
 - ii. The amount of the contract;
 - iii. The transaction type;
 - iv. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;



- v. The Program source
 - vi. An award title descriptive of the purpose of each funding action;
 - vii. The location of the entity receiving the contract;
 - viii. The primary location of the contract, including the city, state, congressional district and county;
 - ix. The DUNS number, or name and zip code for the entity headquarters;
 - x. A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 - xi. The names and total compensation of the five most highly compensated officers of the company if received:
 - 1) 80% or more of its annual gross revenues in Federal awards;
 - 2) \$25M or more in annual gross revenue from Federal awards and;
 - 3) If the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986.;
- f. For any contract of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

Any other information reasonably requested by the State of California or required by state or federal law or regulation

Standard data elements and federal instruction for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalRegister.gov. The additional requirements will be added to this contract(s).



CCC 307 – CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Executed in the County of	

CONTRACTOR CERTIFICATION CLAUSES**1. STATEMENT OF COMPLIANCE:**

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS:

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:



- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS:

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with State of California.



6. SWEATFREE CODE OF CONDUCT:

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph a.

7. DOMESTIC PARTNERS:

For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

NOTE: This form represents only the certification portion of the Contractor Certification Clauses (CCC). Additional information about contracting with the State appears in the full text of the applicable CCC. Visit this web site to view the entire document: <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.



GTC 610**GENERAL TERMS AND CONDITIONS****1. APPROVAL:**

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT:

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT:

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT:

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION:

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.



6. DISPUTES:

Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE:

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR:

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION:

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and



made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES:

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS:

Time is of the essence in this Agreement.

13. COMPENSATION:

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW:

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS:

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.



- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT:

For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.



17. UNENFORCEABLE PROVISION:

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS:

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)



SPECIAL TERMS AND CONDITIONS

21. AMENDMENT (CHANGE IN TERMS)

- c. The Contractor shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided in writing by the Authority's Contract Manager.
- d. There shall be no change in the Contractor's Project Manager or members of the project team, as listed in the cost proposal, which is a part of this Agreement, without prior written approval by the Authority's Contract Manager. If the Contractor obtains approval from the Authority's Contract Manager to add or substitute personnel, the Contractor must provide the Personnel Request Form, a copy of the SF330 or resume for the additional or substituted personnel, along with a copy of the certified payroll for that person.

22. TERMINATION

This section regarding termination is in addition to GTC 610.

- c. The Authority reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the Contractor, or upon thirty (30) calendar days written notice to the Contractor if terminated for the convenience of the Authority.
- d. The Authority may terminate this Agreement and be relieved of any payments except as provided for under early termination should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the Authority may proceed with the work in any manner deemed proper by the Authority. All costs to the Authority shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

23. EARLY TERMINATION OF THIS AGREEMENT OR SUSPENSION OF THIS AGREEMENT

General Conditions

- c. In the event this Agreement is terminated, suspended, or a Work Plan is terminated for the convenience of the Authority, the Contractor shall be paid for the percentage of the work completed, relative to the total work effort called for under this Agreement, and for termination costs. No billable costs will be considered payable under the Agreement during suspension.



- d. Within 30 days of the date the Contractor is notified of the early termination of Work Plan(s) issued against this Agreement for the convenience of the Authority, the Contractor shall prepare and submit to the Authority's Contract Manager, for approval, two (2) separate supplemental cost proposals:
 - i. A final revised cost proposal for all project-related costs for the revised termination date.
 - ii. A cost proposal specifically addressing the termination settlement costs only.

24.CONTRACTOR'S DELIVERABLES UNDER EARLY TERMINATION

The Contractor shall provide all project-related documents and correspondence required as part of the Scope of Work/Deliverables. Project-related documents shall be described, listed, and identified as part of the final revised cost proposal. Project-related documents shall include all documents that are in complete and final form and which have been accepted as complete by the Authority, or documents in draft and/or incomplete form for those deliverables, which are in progress by the Contractor and have not been accepted as complete. All documents must be received and accepted before the settlement cost invoice is paid.

25.INVOICE SUBMITTAL UNDER EARLY TERMINATION

Separate final invoices for project-related costs and termination settlement costs shall be submitted no later than thirty (30) calendar days after the date the Contractor is notified of acceptance of the final cost proposals by the Authority's Contract Manager. Invoices shall be submitted in accordance with EXHIBIT B. The invoice for termination settlement costs shall include the following, to the extent they are applicable: lease termination costs for equipment and facilities approved under the terms of this Agreement; equipment salvage costs for equipment valued over \$500.00; rental costs for unexpired leases, less the residual value of the lease; cost of alterations and reasonable restorations required by the lease; settlement expenses, e.g., accounting, legal, clerical, storage, transportation, protection and disposition of property acquired or produced under this Agreement, indirect costs, such as payroll taxes, fringe benefits, occupancy costs, and immediate supervision costs related to wages and salaries, incurred as settlement costs.

26.TERMINATION ISSUES FOR SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS

The Contractor shall notify any Subcontractor and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any Subcontractor and service or supply vendor shall result in the Contractor being liable for the



termination costs incurred by any Subcontractor and service or supply vendor for work performed under this Agreement, except those specifically agreed to in the termination notice to the Contractor.

27.AUDIT REVIEW PROCEDURES UNDER EARLY TERMINATION

Audit review procedures shall be in accordance with Appendix D, Audit Review Procedures, section 10 below.

28.CONTRACTOR CLAIMS AGAINST THIS AGREEMENT UNDER EARLY TERMINATION

The Contractor agrees to release the Authority from any and all further claims for services performed arising out of this Agreement or its early termination, upon acceptance by the Contractor of payment in the total amount agreed upon as full and final payment of its costs from performance and early termination of this Agreement.

29.RETENTION OF RECORD/AUDITS

- c. For the purpose of determining compliance with Public Contract Code Section 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, Subcontractors, and the Authority shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of expenditure under this Agreement. The Authority, the State Auditor, or any duly authorized representative having jurisdiction under any laws or regulations shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- d. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all the provisions of this clause.

30.AUDIT REVIEW PROCEDURES

- d. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement shall be reviewed by the Project Manager.



- e. Not later than 30 days after issuance of an interim or final audit report, the Contractor may request a review by the Project Manager of unresolved audit issues. The request for review will be submitted in writing to the Chief Executive Officer. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the Chief Executive Officer will be scheduled if the Project Manager concurs that further review is warranted. After the meeting, the Project Manager will make recommendations to the Chief Executive Officer will make the final decision for the Authority. The final decision will be made within three (3) months of receipt of the notification of dispute.
- f. Neither the pendency of a dispute nor its consideration by Authority will excuse the Contractor from full and timely performance, in accordance with the terms of this clause.

31. PURCHASE OF EQUIPMENT

No equipment identified in this Agreement is approved for purchase.

32. INSPECTION OF WORK

The Contractor shall permit the Authority to review and inspect the project activities at all reasonable times during the performance period of this Agreement including review and inspection on a daily basis.

33. OWNERSHIP OF DATA

- e. Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this Agreement will automatically be vested in the Authority and no further agreement will be necessary to transfer ownership to the Authority. The Contractor shall furnish the Authority all necessary copies of data needed to complete the review and approval process.
- f. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine readable form, are intended for one-time use in the construction of the project for which this Agreement has been entered into.
- g. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by the Authority of the machine readable information and data provided by the Contractor under this agreement; further, the Contractor is not liable for claims, liabilities or losses arising out of, or connected with, any use by the Authority of the project documentation on other projects, for additions to this project, or



for the completion of this project by others, excepting only such use as may be authorized, in writing, by the Contractor.

- h. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

34. CONFIDENTIALITY OF DATA

- f. All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.
- g. Permission to disclose information on one occasion or public hearing held by the Authority relating to this Agreement shall not authorize the Contractor to further disclose such information or disseminate the same on any other occasion.
- h. The Contractor shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, Contractor's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative committee.
- i. The Contractor shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.
- j. All information related to the construction estimate is confidential and shall not be disclosed by the Contractor to any entity, other than the Authority.

35. STATEMENT OF COMPLIANCE

The Contractor's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor has, unless exempt, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

36. DEBARMENT AND SUSPENSION CERTIFICATION

- c. The Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor or any person associated therewith in the capacity of owner, partner, director, officer or manager:



- iii. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - iv. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - v. Does not have a proposed debarment pending; and
 - vi. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- d. Any exceptions to this certification must be disclosed to the Authority. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining bidder responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

37.CONFLICT OF INTEREST

- e. During the term of this Agreement, the Contractor shall disclose any financial, business, or other relationship with Authority that may have an impact upon the outcome of this Agreement or any ensuing Authority construction project. The Contractor shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing Authority construction project which will follow.
- f. The Contractor hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.
- g. The Contractor and its employees, and all its subcontractors and employees, shall comply with the Authority's Conflict of Interest Code.
- h. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this clause.



Appendix 3: Stakeholder Collaboration

In order to accomplish the HST Project through the most effective means available, a collaborative relationship will be formed as agreed to by Parties in Section 4.5 “STAKEHOLDER COLLABORATION.” As part of this collaborative relationship, a cooperative 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. Collaboration is strongly encouraged in preference to formal dispute resolution and adjudication mechanisms. Collaboration in this context is intended to be mandatory, but non-binding. The identified procedures will be available for use by the Stakeholders to resolve issues that may arise during the performance of Facility Work.

1. INITIAL KICK-OFF WORKSHOP

In order to achieve effective and efficient completion of the HST 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 collaborative relationship and aid in identifying and resolving issues as they may arise throughout the HST Project:

“Issues Resolution Ladder” (IRL) – a hierarchy of those individuals within the HST Project including the Stakeholders and Dispute Resolution Board 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.

“Stakeholder Implementation Plan” (SIP) – the intention of the SIP is to sustain the collaborative 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.

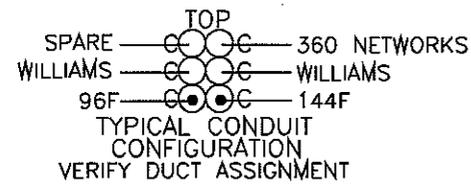
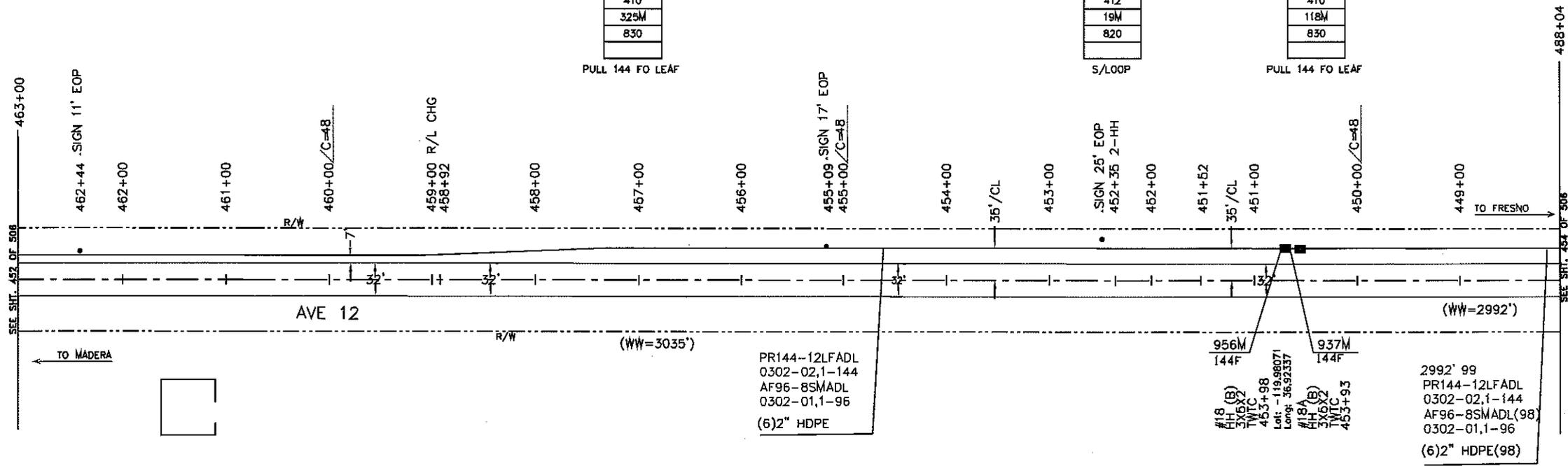
“Stakeholder Charter” – the charter will express the vision for the project, a statement of mutual goals and positive behavior practices and will be a visual reminder of mutual commitment to the stakeholder vision, goals and relationship. The charter will be signed by all Stakeholders.



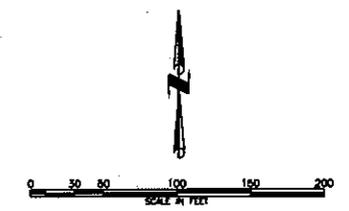
2. STAKEHOLDER MEETINGS

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





REEL NO: 812019-01
 SIZE: 144 FO LEAF
 MFG: FUJIKURA



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412	62'	820	S/LOOP												
250	2	826	HH												

TIME WARNER TELECOM

**AS-BUILT
 MADERA REGEN
 TO FRESNO HUB**

DRAWING NUMBER: **042R453A**

DATE: 453 OF 506

SCALE: B-SHEET --- D-SHEET ---

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443+51 .SIGN 14' EOP

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440+00 / C=48

35' / CL

439+00

438+68 .SIGN 13' EOP

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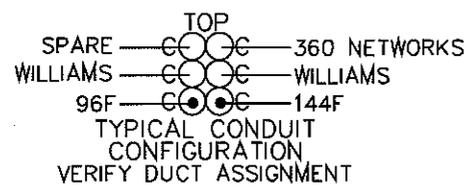
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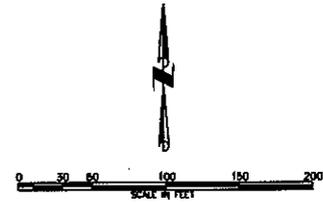
AVENUE 12

TO MADERA ←

→ TO FRESNO



REEL NO: 812019-01
SIZE: 144 FO LEAF
MFG: FUJIKURA

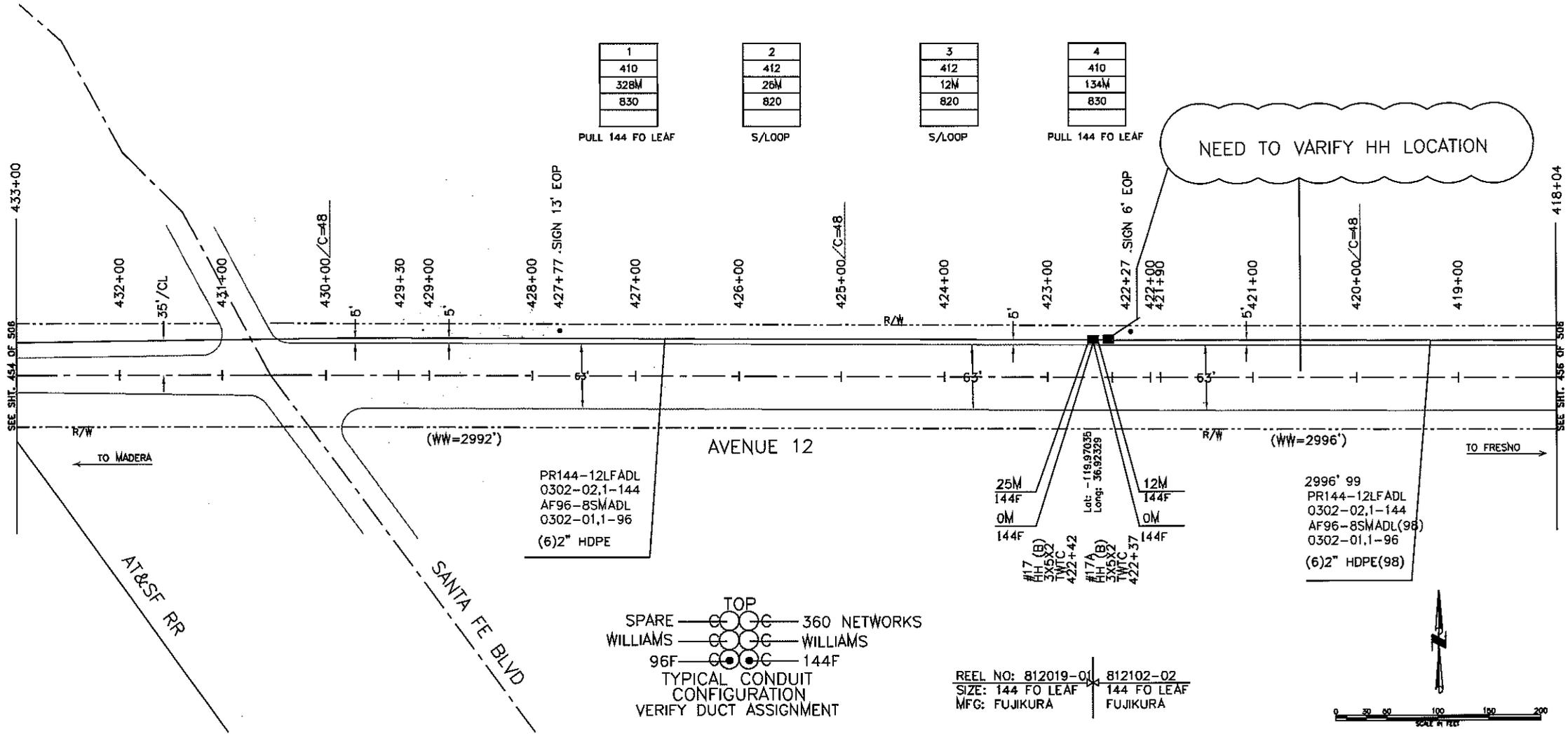


ASSEMBLY UNITS				ASSEMBLY UNITS				ASSEMBLY UNITS				REVISION			
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410	1529'	820	PULL 144 FO LEAF												



AS-BUILT
MADERA REGEN
TO FRESNO HUB

DATE	
APPROVED BY	
DATE	
APP. NO./COMP.	
WORKSHEET NO.	
DRAWING NUMBER	042R454A
ETS	454
OF	508
SCALE	
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D-920	--



ASSEMBLY UNITS				ASSEMBLY UNITS				ASSEMBLY UNITS				REVISION			
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412	121'	820	S/LOOP												
250	2	826	HH												

TIME WARNER TELECOM

**AS-BUILT
MADERA REGEN
TO FRESNO HUB**

DATE: _____
APPROVED BY: _____
DATE: _____
DRAWN BY: _____
DATE: _____
CHECKED BY: _____
DATE: _____
SCALE: 455 OF 506

8-920 --
D-920 --

California High-Speed Train Project



Draft Task Order

Date: November 20, 2012

Local Agency: Unknown Owner

Agreement No:

Task Order No: 1

Project Title: California High-Speed Rail Project

Description: CHSRP Interaction Removal or Relocation Plan

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Task Order No.

1

GENERAL

This Task Order supplements and amends the Construction Contract and Cooperative Agreement. The purpose of this Task Order is to authorize Facility Work for the Facility Owner. Each Facility that requires relocation will be handled under a separate subtask of this Task Order.

WORK TO BE DONE

1 Cooperative Agreement

This Task Order is issued in order to authorize Facility Work described herein. This Task Order does not express all of the terms and conditions relevant to Facility Work; accordingly, the Cooperative Agreement and all of the provisions thereof are incorporated into this Task Order by this reference. Capitalized terms used but not identified in this Task Order shall have the definitions set forth in the Cooperative Agreement. All attachments referenced in this Task Order are incorporated herein by such reference. All Facility Work shall be performed in accordance with the requirements of the Cooperative Agreement and, in the event of any inconsistency between the provisions of this Task Order and the Cooperative Agreement, the provisions of the Cooperative Agreement shall prevail.

2 Scope of Work

Facility Work as defined in the definitions section of the Cooperative Agreement is incorporated by reference. Each separate Facility that requires Relocation will be treated as a subtask to this Task Order.

2.1 Location and General Description of the Work Covered by this Task Order (Including Disposition of Existing Facilities):

The Authority's Contractor will furnish all labor, material, equipment and supervision required to complete the relocation of Facilities and appurtenances. All work shall be performed substantially in accordance with "Request for Proposal for Design Build Services-RFP No. 11-16 consisting of Hybrid Alternative, Contract Package 1A, Contract Package 1B and Contract Package 1C, a copy of which is on file in the Authority's office at 770 L St, Suite 800, Sacramento, CA 95814.

2.2 Facility Work to be Performed by Parties Pursuant to this Task Order:

The Authority's Contractor performs all design and construction services for Facility Work. The Facility Owner will review and approve Facility plans and be entitled to have a reasonable



number of representatives on site of HST Project to verify that Facility Work is being properly performed by the Authority's Contractor and approve that Facility Work.

2.2.1 Subtask 1.01

Scope: Design, secure permits, traffic control and relocate OH telephone facilities near SR 145 and proposed alignment. Facility location is shown on CHSTP Utility Exhibit, Hybrid Alternative, County of Madera, sheet 2 of 25.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$83,536

2.2.2 Subtask 1.02

Scope: Design, secure permits, traffic control and relocate OH TV facilities near Watson St. and proposed alignment. Facility location is shown on CHSTP Utility Exhibit, Hybrid Alternative, County of Madera, sheet 2 of 25.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$26,536

2.2.3 Subtask 1.03

Scope: Design, secure permits, traffic control and relocate OH Telecom near 15 ½ and proposed alignment. Facility location is shown on CHSTP Utility Exhibit, Hybrid Alternative, County of Madera, sheet 2 of 25.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$48,196

2.2.4 Subtask 1.04

Scope: Design, secure permits, traffic control and relocate OH TV near Road 29 and Ave. 15 ½. Facility location is shown on CHSTP Utility Exhibit, Hybrid Alternative, County of Madera, sheet 2 of 25.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$48,196

2.2.5 Subtask 1.05

Scope: Design, secure permits, traffic control and relocate OH telephone facilities along Golden State Blvd near McKinley Ave, Olive Ave and Belmont Ave. Facility is shown on Drawing UT-C4036, UT-C4037, UT-C4038, UT-C4039, UT-C4040, UT-C4041 and UT-C4042.



Estimated Period of Performance: 12 Months

Estimated value of this Facility Work: \$504,350

2.2.6 Subtask 1.06

Scope: Design, secure permits, traffic control and relocate telephone facilities along Golden State Blvd near McKinley Ave, Olive Ave and Belmont Ave. Facility is shown on Drawing UT-C4037, UT-C4038, UT-C4039, UT-C4046 and UT-C4047

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$137,550

2.2.7 Subtask 1.07

Scope: Design, secure permits, traffic control and relocate telephone facilities near Belmont Ave and Golden State Blvd. Facility is shown on Drawing UT-C4052.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$110,072

2.2.8 Subtask 1.08

Scope: Design, secure permits, traffic control and relocate telephone facilities at G St and Fresno St. Facility is shown on Drawing UT-C4055.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$64,536

2.2.9 Subtask 1.09

Scope: Design, secure permits, traffic control and relocate telephone facilities along G St between Fresno St and Tulare St. Facility is shown on Drawing UT-C4055 and UT-C4056.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$129,072

2.2.10 Subtask 1.10

Scope: Design, secure permits, traffic control and fiber optic facilities near Tulare St and G St. Facility is shown on Drawing UT-C4056.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$127,536



2.2.11 Subtask 1.11

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near G St and Ventura St. Facility Work is shown on Drawing UT-C4057.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$64,536

2.2.12 Subtask 1.12

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near G St and Ventura St. Facility Work is shown on Drawing UT-C4057.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$144,144

2.2.13 Subtask 1.13

Scope: AUTHORITY’S CONTRACTOR shall reimburse the UTILITY OWNER for all costs resulting from plan check review, permits, inspection and testing (inspection & testing in an oversight Quality Assurance capacity only). AUTHORITY’S CONTRACTOR is still responsible to provide Quality Assurance and Quality Control for design and construction through project completion and closeout.

Estimated Period of Performance: Duration of Project

Estimated value of this Facility Work: \$100,000

3 Project Schedule

Deadlines for the completion of Facility Work are provided for in the contract between the Authority and the Authority’s Contractor.

3.1 Schedule for Facility Work (This Task Order Only)

The Authority’s Contractor shall complete the design work in accordance with the schedule specified in this Task Order. The Authority’s Contractor shall commence construction work only after acceptance of the final design for such work in accordance with Appendix A – Design Build Procedures of the Cooperative Agreement. The Authority’s Contractor must comply with or receive a written variance for applicable city and county laws, regulations, and ordinances including permitting, inspection processes, work hours regulations, traffic management plan, dust control and noise regulations.

Design:		Construction:	
Start Date:	June 2013	Start Date:	December 2013



Completion Date:	December 2013	Completion Date:	February 2017
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4 Performance of Work

4.1 Design

The design furnished by the Authority's Contractor pursuant to this Task Order shall be substantially in accordance with the Proposed Preliminary Design (see Appendix A – Design Build Procedures of the Cooperative Agreement) attached to this Task Order, and shall be consistent with 30% design submittal of the HST Project plans. All plans for Facility Work are subject to review by the Authority, the Facility Owner, and the Authority's Contractor, in accordance with the time frames and procedures set forth in Appendix A – Design Build Procedures of the Cooperative Agreement.

By Facility Owner: The Facility Owner will review Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify Facility Work is being properly performed by the Authority's Contractor.

BY Authority's Contractor: The Authority's Contractor performs all design and construction services for Facility Work.

4.2 Construction

The Authority's Contractor will perform all the construction services for the Facility Work. The construction of Facility Work shall be performed substantially in accordance with the final Facility plans. Deviations from the final Facility plans may occur only in conformity with the Cooperative Agreement.

5 Liability For Work

In accordance with section 3, "Liability for Work," of the Cooperative Agreement, the Facility Owner and the Authority shall each be responsible for the cost of Facility Work as specified herein.

The total estimated cost for Facility Work is: \$1,588,260

5.1 Cost Allocation

To be determined by Prior Rights.

6 Cost Estimate

The amounts stated herein are estimates of the costs associated with Facility Work. Authorized expenditures and reimbursements will be based on the terms of the Cooperative Agreement.



California High-Speed Train Project



Draft Task Order

Date: November 20, 2012

Local Agency: Unknown Owner

Agreement No: _____

Task Order No: 2

Project Title: California High-Speed Rail Project

Description: CHSRP Interaction Removal or Relocation Plan

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2.2.8 Subtask 2.08.....	3
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8 Billing and Payment	5
9 Contacts	5



Task Order No.

2

GENERAL

This Task Order supplements and amends the Construction Contract and Cooperative Agreement. The purpose of this Task Order is to authorize Facility Work for the Facility Owner. Each Facility that requires relocation will be handled under a separate subtask of this Task Order.

WORK TO BE DONE

1 Cooperative Agreement

This Task Order is issued in order to authorize Facility Work described herein. This Task Order does not express all of the terms and conditions relevant to Facility Work; accordingly, the Cooperative Agreement and all of the provisions thereof are incorporated into this Task Order by this reference. Capitalized terms used but not identified in this Task Order shall have the definitions set forth in the Cooperative Agreement. All attachments referenced in this Task Order are incorporated herein by such reference. All Facility Work shall be performed in accordance with the requirements of the Cooperative Agreement and, in the event of any inconsistency between the provisions of this Task Order and the Cooperative Agreement, the provisions of the Cooperative Agreement shall prevail.

2 Scope of Work

Facility Work as defined in the definitions section of the Cooperative Agreement is incorporated by reference. Each separate Facility that requires Relocation will be treated as a subtask to this Task Order.

2.1 Location and General Description of the Work Covered by this Task Order (Including Disposition of Existing Facilities):

The Authority's Contractor will furnish all labor, material, equipment and supervision required to complete the relocation of Facilities and appurtenances. All work shall be performed substantially in accordance with "Request for Proposal for Design Build Services-RFP No. 11-16 consisting of Hybrid Alternative, Contract Package 1A, Contract Package 1B and Contract Package 1C, a copy of which is on file in the Authority's office at 770 L St, Suite 800, Sacramento, CA 95814.

2.2 Facility Work to be Performed by Parties Pursuant to this Task Order:

The Authority's Contractor performs all design and construction services for Facility Work. The Facility Owner will review and approve Facility plans and be entitled to have a reasonable



number of representatives on site of HST Project to verify that Facility Work is being properly performed by the Authority's Contractor and approve that Facility Work.

2.2.1 Subtask 2.01

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near SR 41 and G St. Facility Work is shown on Drawing UT-C4060.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$72,072

2.2.2 Subtask 2.02

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near California Ave and Railroad Ave. Facilities are shown on Drawing UT-C4061.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$53,072

2.2.3 Subtask 2.03

Scope: Design, secure permits, traffic control and relocate telephone facilities along Railroad Ave between Florence Ave and East Ave. Facility is shown on Drawing UT-C4062, UT-C4063, UT-C4064 and UT-C4081.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$202,762

2.2.4 Subtask 2.04

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near Orange Ave / Golden State Blvd and Jensen Ave and Railroad Ave. Facility Work is shown on Drawing UT-C4066 and UT-C4067.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$62,064

2.2.5 Subtask 2.05

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near North Ave and Cedar Ave. Facility Work is shown on Drawing UT-C4070.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$37,936



2.2.6 Subtask 2.06

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near Malaga Ave and Cedar Ave. Facility Work is shown on drawing UT-C4075.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$22,736

2.2.7 Subtask 2.07

Scope: Design, secure permits, traffic control and relocate overhead telecom facilities near American Ave and Cedar Ave. Facility Work is shown on Drawing UT-C4077, UT-C4087 and UT-C4088.

Estimated Period of Performance: 6 Months

Estimated value of this Facility Work: \$98,418

2.2.8 Subtask 2.08

Scope: Design, secure permits, traffic control and relocate fiber optic facilities near Church Ave and Railroad Ave. Facility Work is shown on Drawing UT-C4063, UT-C4064 and UT-C4065.

Estimated Period of Performance: 12 Months

Estimated value of this Facility Work: \$2,494,200

2.2.9 Subtask 2.09

Scope: AUTHORITY'S CONTRACTOR shall reimburse the UTILITY OWNER for all costs resulting from plan check review, permits, inspection and testing (inspection & testing in an oversight Quality Assurance capacity only). AUTHORITY'S CONTRACTOR is still responsible to provide Quality Assurance and Quality Control for design and construction through project completion and closeout.

Estimated Period of Performance: Duration of Project

Estimated value of this Facility Work: \$100,000

3 Project Schedule

Deadlines for the completion of Facility Work are provided for in the contract between the Authority and the Authority's Contractor.

3.1 Schedule for Facility Work (This Task Order Only)

The Authority's Contractor shall complete the design work in accordance with the schedule specified in this Task Order. The Authority's Contractor shall commence construction work only after acceptance of the final design for such work in accordance with Appendix A – Design



Build Procedures of the Cooperative Agreement. The Authority’s Contractor must comply with or receive a written variance for applicable city and county laws, regulations, and ordinances including permitting, inspection processes, work hours regulations, traffic management plan, dust control and noise regulations.

Design:		Construction:	
Start Date:	June 2013	Start Date:	December 2013
Completion Date:	December 2013	Completion Date:	February 2017

4 Performance of Work

4.1 Design

The design furnished by the Authority’s Contractor pursuant to this Task Order shall be substantially in accordance with the Proposed Preliminary Design (see Appendix A – Design Build Procedures of the Cooperative Agreement) attached to this Task Order, and shall be consistent with 30% design submittal of the HST Project plans. All plans for Facility Work are subject to review by the Authority, the Facility Owner, and the Authority’s Contractor, in accordance with the time frames and procedures set forth in Appendix A – Design Build Procedures of the Cooperative Agreement.

By Facility Owner: The Facility Owner will review Facility plans and be entitled to have a reasonable number of representatives on site of HST Project to verify Facility Work is being properly performed by the Authority’s Contractor.

BY Authority’s Contractor: The Authority’s Contractor performs all design and construction services for Facility Work.

4.2 Construction

The Authority’s Contractor will perform all the construction services for the Facility Work. The construction of Facility Work shall be performed substantially in accordance with the final Facility plans. Deviations from the final Facility plans may occur only in conformity with the Cooperative Agreement.

5 Liability For Work

In accordance with section 3, “Liability for Work,” of the Cooperative Agreement, the Facility Owner and the Authority shall each be responsible for the cost of Facility Work as specified herein.

The total estimated cost for Facility Work is: \$3,143,260

5.1 Cost Allocation

To be determined by Prior Rights.



6 Cost Estimate

The amounts stated herein are estimates of the costs associated with Facility Work. Authorized expenditures and reimbursements will be based on the terms of the Cooperative Agreement.

6.1 For Work by Facility Owner

The Facility Owner's costs for Facility Work shall be developed pursuant to section 5, "Payment of Work," of the Cooperative Agreement, and shall be performed in accordance with the procedures set forth in section 4, "Performance of Work" and Appendix A – Design Build Procedures of this Cooperative Agreement.

6.2 For Work by Authority's Contractor

The Authority has prepared an initial cost estimate in the amount of \$3,143,260 for Facility Work included in this Task Order.

The Authority's Contractor shall prepare an independent cost estimate for Facility Work which shall be submitted for the Authority's approval. Such estimate will reflect appropriate estimated charges for Betterment and salvage value, if any. Upon approval, the parties shall revise this Task Order to incorporate the approved estimate.

7 Betterment, Accrued Depreciation, Salvage

The Facility Owner shall credit the Authority for the actual cost of any Betterment, salvage value, and accrued depreciation on the Facilities as required pursuant to the Cooperative Agreement, and pay the Authority's Contractor for the actual cost of any Betterment constructed by the Authority's Contractor.

Facility Work in this Task Order does not include any Betterment.

8 Billing and Payment

Billing and payment shall be in accordance with section 5, "Payment for Work," of the Cooperative Agreement.

9 Contacts

The contacts for this Task Order will be as follows:

Local Agency: _____

Authority: _____

Authority's Contractor: _____



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LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—————	—————	—————
ROW	—————	—————	—————
PARCEL	—————	—————	—————
STORM DRAIN	---sd---	---SD---	---SD---
FIBER OPTIC	---fo---	---(OH)---	---
TEL/COM	---tc---	---TC---	---
SEWER	---s---	---S---	---
WATER	---w---	---W---	---
TV	---tv---	---TV---	---
NAT GAS	---g---	---G---	---
OIL	---o---	---O---	---
ELECTRIC OH	---e---	---E---	---



PRELIMINARY
 NOT FOR CONSTRUCTION

MARCH 2012



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LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	—	—	—
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



PRELIMINARY
 NOT FOR CONSTRUCTION

MARCH 2012



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LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - - -	- - - - -	- - - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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 Huante

LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—————	—————	—————
ROW	- - - - -	- - - - -	- - - - -
PARCEL	—————	—————	—————
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	

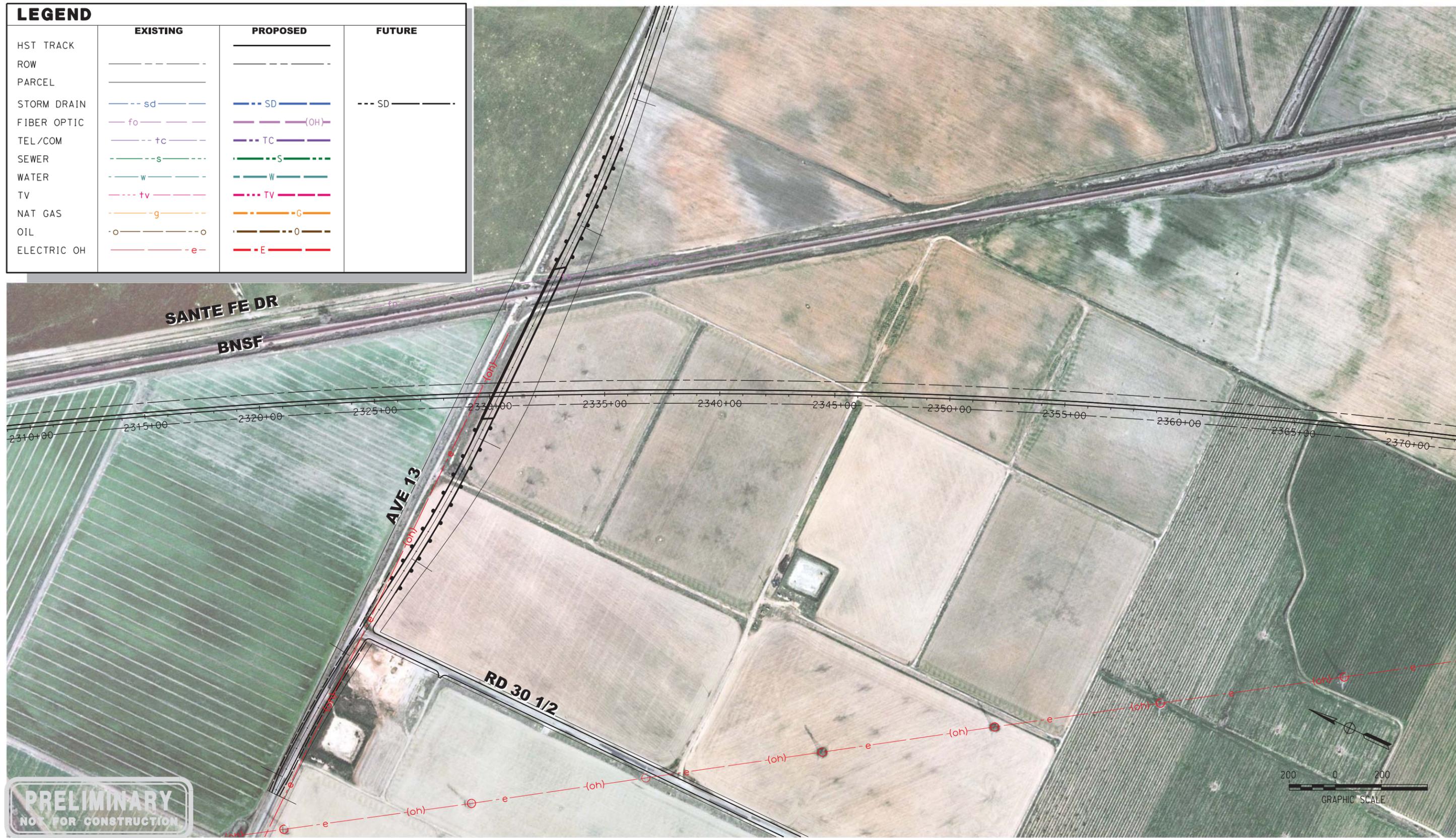


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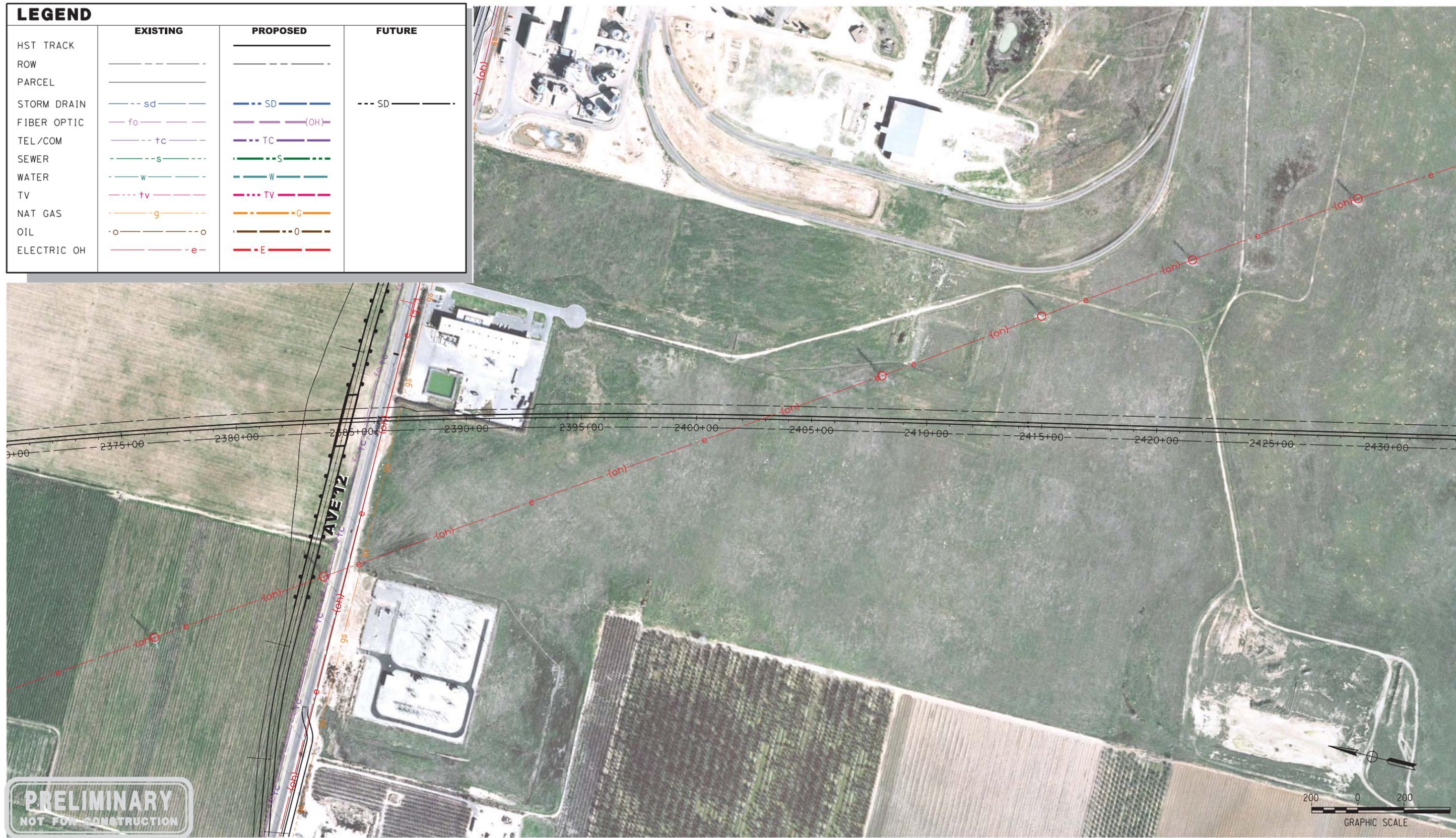
LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - - -	- - - - -	- - - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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 Huante

LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - -	- - - -	- - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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 Huante

LEGEND

	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - -	- - - -	- - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



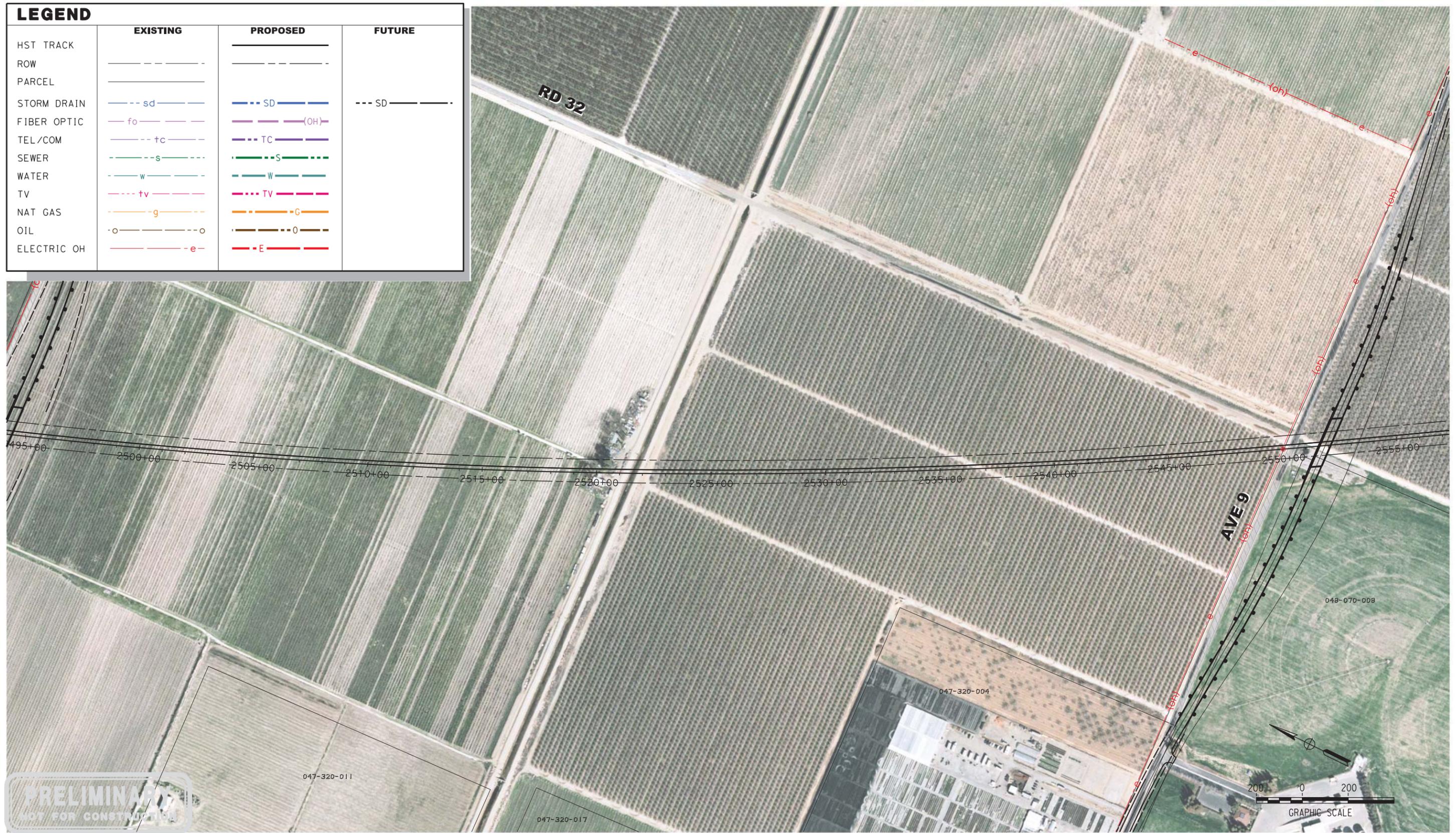
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LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	---	---	---
PARCEL	---	---	---
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



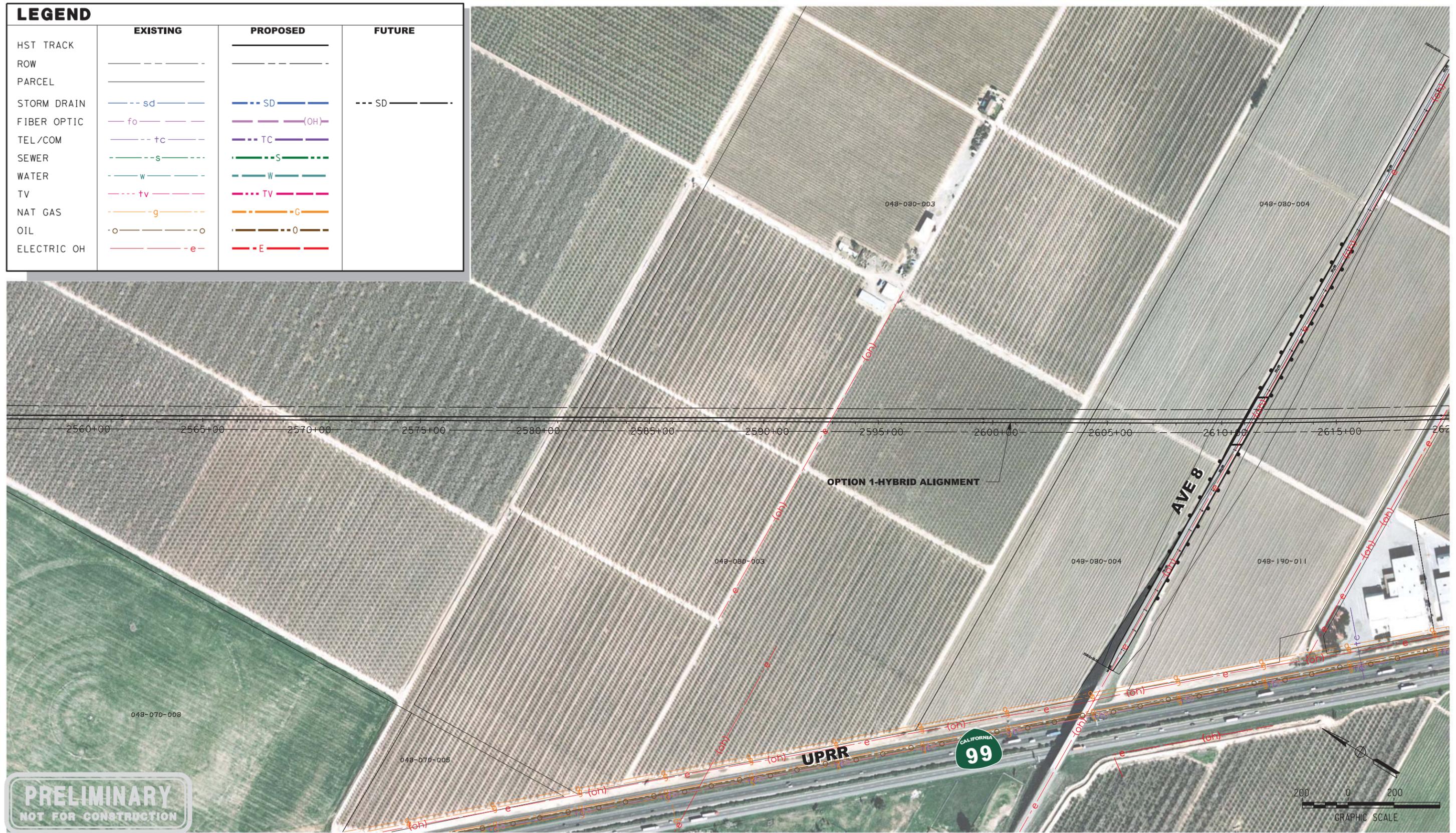
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LEGEND	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - - -	- - - - -	- - - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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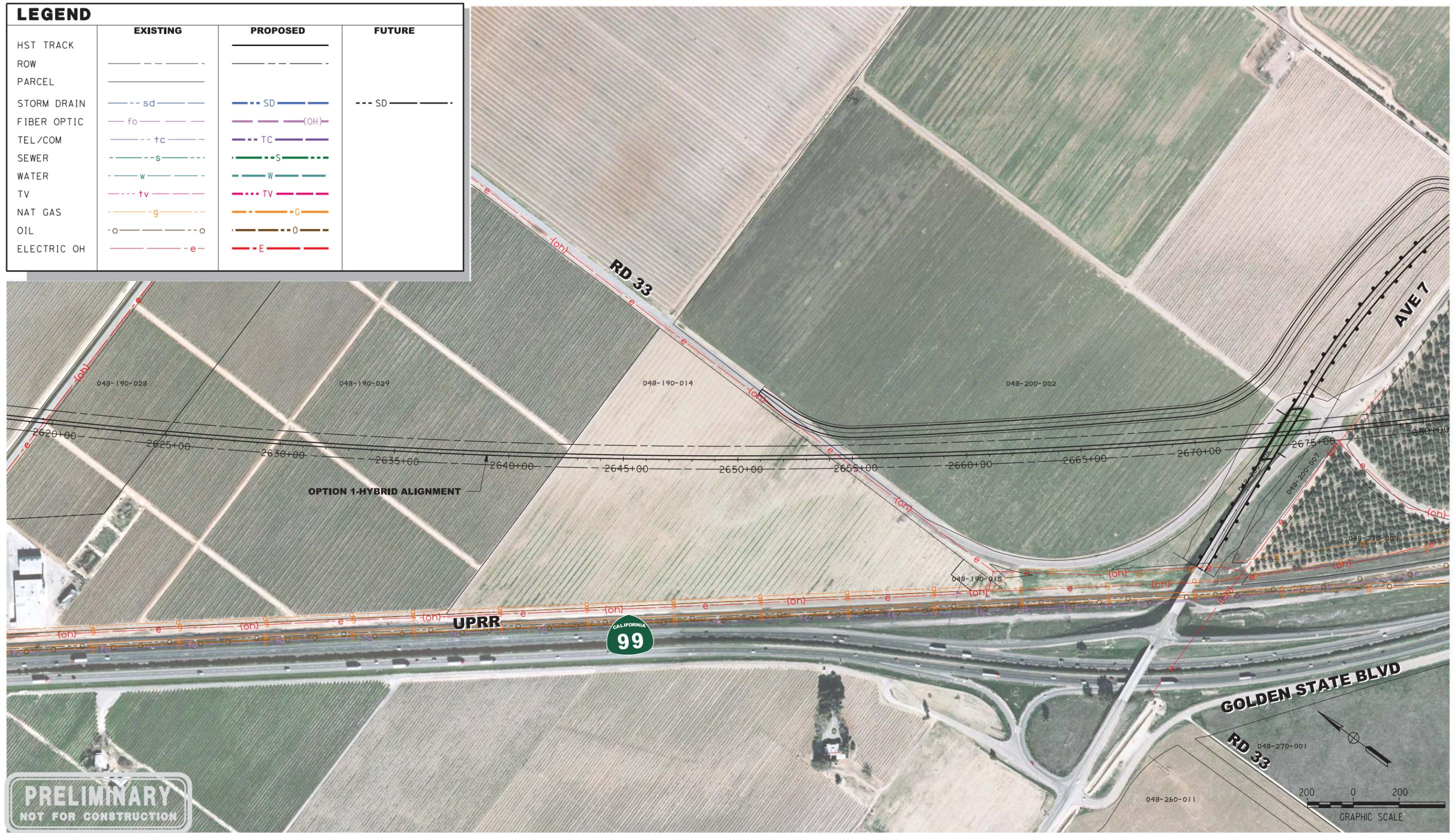
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LEGEND

	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - -	- - - -	- - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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LEGEND

	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	---	---	---
PARCEL	---	---	---
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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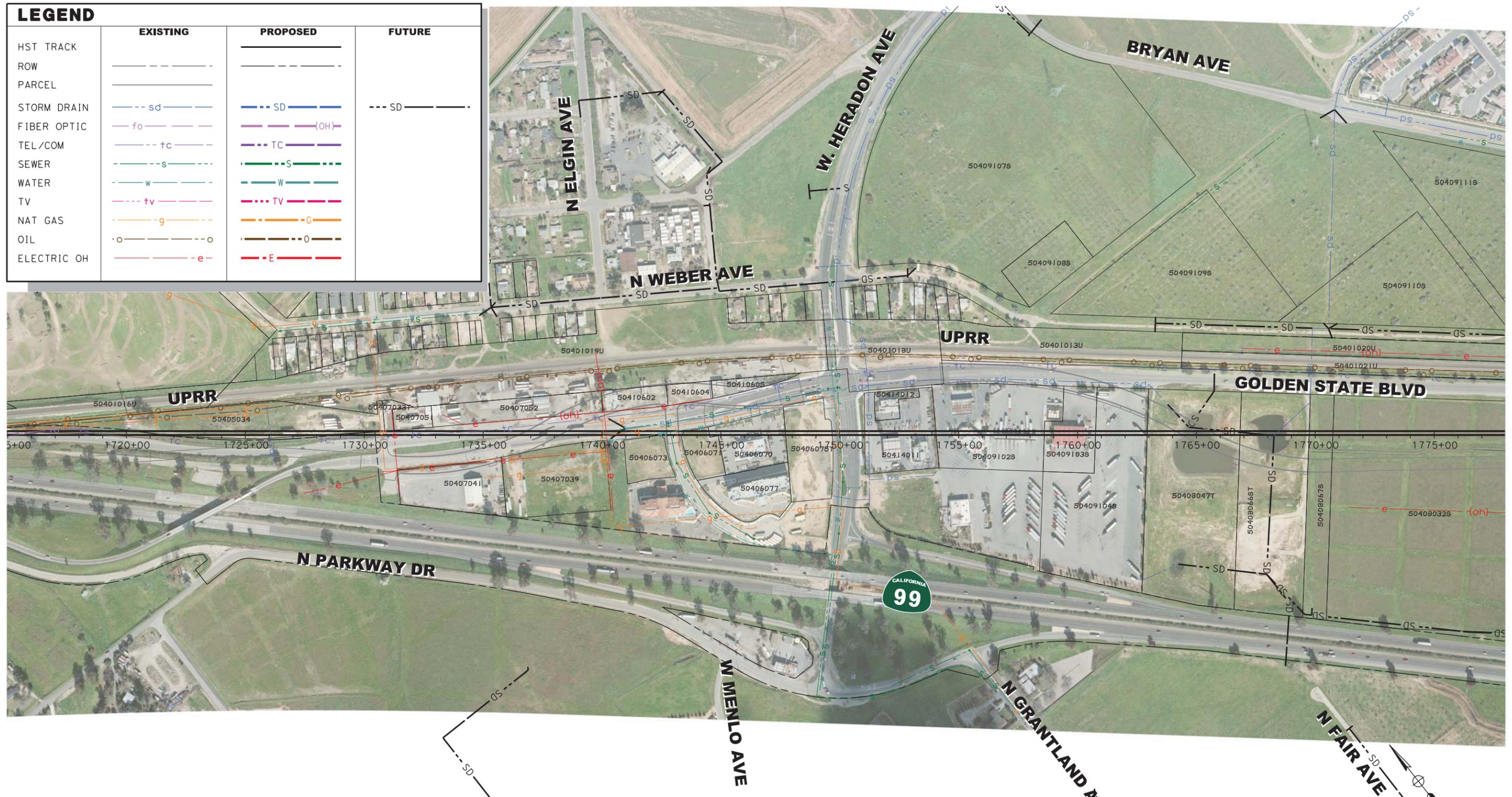
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LEGEND

	EXISTING	PROPOSED	FUTURE
HST TRACK	—	—	—
ROW	- - - -	- - - -	- - - -
PARCEL	—	—	—
STORM DRAIN	sd	SD	SD
FIBER OPTIC	fo	(OH)	
TEL/COM	tc	TC	
SEWER	s	S	
WATER	w	W	
TV	tv	TV	
NAT GAS	g	G	
OIL	o	O	
ELECTRIC OH	e	E	



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6.1 For Work by Facility Owner

The Facility Owner’s costs for Facility Work shall be developed pursuant to section 5, “Payment of Work,” of the Cooperative Agreement, and shall be performed in accordance with the procedures set forth in section 4, “Performance of Work” and Appendix A – Design Build Procedures of this Cooperative Agreement.

6.2 For Work by Authority’s Contractor

The Authority has prepared an initial cost estimate in the amount of \$1,588,260 for Facility Work included in this Task Order.

The Authority’s Contractor shall prepare an independent cost estimate for Facility Work which shall be submitted for the Authority’s approval. Such estimate will reflect appropriate estimated charges for Betterment and salvage value, if any. Upon approval, the parties shall revise this Task Order to incorporate the approved estimate.

7 Betterment, Accrued Depreciation, Salvage

The Facility Owner shall credit the Authority for the actual cost of any Betterment, salvage value, and accrued depreciation on the Facilities as required pursuant to the Cooperative Agreement, and pay the Authority’s Contractor for the actual cost of any Betterment constructed by the Authority’s Contractor.

Facility Work in this Task Order does not include any Betterment.

8 Billing and Payment

Billing and payment shall be in accordance with section 5, “Payment for Work,” of the Cooperative Agreement.

9 Contacts

The contacts for this Task Order will be as follows:

Local Agency: _____

Authority: _____

Authority’s Contractor: _____

