

California High-Speed Rail Authority



RFP No.: HSR 13-57

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

**Book II, Part B.2
Master Agreement
Fresno Irrigation District**

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

THIS AGREEMENT is made effective as of the date first signed below by and between (i) the California High Speed Rail Authority, an agency of the State of California (“AUTHORITY”) and (ii) the Fresno Irrigation District, a California irrigation district (“FID”). AUTHORITY and FID are sometimes referred to below individually as “Party” and together as the “Parties.”

RECITALS

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

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

C. The Parties desire to provide terms for the modification or replacement of various FID 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.

NOW THEREFORE, in consideration of the mutual terms and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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.

“Betterment” means any change or upgrade to FID Facilities not attributable to the Project and made solely for the benefit and at the request or election of FID. As employed herein, Betterment does not include: (i) modifications occasioned by changes in manufacturing standards, availability of materials, regulatory requirements or any upgrades required by FID’s customary practices, drawings and specifications, or (ii) standards of practice and construction methods applied to comparable FID Facilities constructed by or for FID at its own expense, that are in effect as of the date of execution of the specific Task Order for that FID Facility Work.

“Claims” is defined in Section 4.1.

“Days” means calendar days, unless otherwise stated.

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

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

“Engineer” is defined in Section 2.1.

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

“FID 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 Project. “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.

“Rail Facilities” is defined in Recital B.

“Plans and Specifications” is defined in Section 2.1.

“Prior Rights” is defined in Section 3.11.

“Projects” is defined in Recital C. The definition of Project does not include any portion for which design or construction work, including facility work, is performed, managed, contracted, or directed by an Excluded Entity, directly or indirectly.

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

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

“Task Order” is defined in Section 3.3.

“Unforeseen Work” means any new and 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 or construction work performed by FID upon written direction from AUTHORITY, for 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 Project and is subsequently rendered unnecessary.

Article II DESIGN AND ENGINEERING

2.1 Design/Build. AUTHORITY shall cause Authority’s Contractor (as defined below) to prepare drawings, plans and specifications as necessary to set forth in detail the requirements for the FID Facility Work to be performed under this Agreement (the “Plans and Specifications”), as otherwise provided in Exhibit A hereto. 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 FID Facility Work. AUTHORITY or Authority’s Contractor (as defined below) shall perform the FID Facility Work in accordance with the Plans and Specifications applicable to each Project. FID Facility Work includes the permitting related to the Relocation, as well as any necessary certification or coordination with regulatory agencies and any other miscellaneous work related to the Relocation of an existing or construction of a new (or any combination thereof) FID Facility. FID Facility Work specific to a particular FID Facility’s Relocation or replacement shall be detailed in a subsequently executed Task Order.

3.2 Authority’s Contractor. The FID Facility Work shall be performed by licensed, qualified contractors to be hired by AUTHORITY (each an “Authority’s Contractor”). Authority’s Contractor, subcontractors or other individuals directly or indirectly hired or employed by AUTHORITY shall have the skills and experience required to perform the FID Facility Work assigned to them.

3.3 Task Orders. Work specific to particular FID Facilities (“Facility Project”) shall be detailed in a subsequently executed Task Order Agreement to be executed by AUTHORITY, Authority’s Contractor and FID (“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 FID Facilities Work for specific FID Facilities. Format of the Task Order and its content shall be mutually agreed upon by AUTHORITY, Authority’s Contractor, and FID subject to the

requirements of this agreement. Task Orders may cover Relocation of a single FID Facility, or a group of FID Facilities.

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

- (a) Ensuring that that all construction means, methods, techniques, sequences and procedures, and construction quality conform to the Plans and Specifications;
- (b) Facility Project site safety, including implementing, maintaining and supervising a project safety plan;
- (c) Coordinating all portions of Facility Project;
- (d) Implementation of all reasonable measures and precautions to prevent damage, injury or loss to: (i) all persons who are on the Facility Project site or who could foreseeably be affected by construction of the Facility Project; (ii) the Facility 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 Facility Project site;
- (f) Reasonable clean-up of the Facility Project site at the end of each day during which work on the Facility Project site is performed;
- (g) Risk of loss for damage to or loss to the FID Facility or of any property at the Facility Project site occurring prior to final acceptance by FID;
- (h) Securing, at its expense, any permits and governmental approvals necessary for the proper execution and completion of the Facility Project;
- (i) Giving any notices required by laws, ordinances, rules, regulations and lawful orders of public authorities;
- (j) Ensuring that all Facility Projects remain free and clear of any and all claims for laborer, materials, and design services;
- (h) Perform the FID 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 FID Facility Work (i) on a timely basis, with due consideration given to FID's irrigation schedules.

When all or portions of the FID Facility Work are performed by Authority's Contractor, FID shall have access to all phases of the FID Facility Work for the purpose of inspection to ensure 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 to AUTHORITY or its

authorized agent for evaluation and final disposition. Nevertheless, FID shall not disrupt or interfere with the FID Facility Work or the Authority Project.

3.5 General Project Construction Requirements. General construction requirements for FID Facility Work are set forth in Exhibit B hereto. Exceptions from such requirements may be made for specific Facility Projects by FID written approval.

3.6 FID Representatives. FID 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 Authority's Contractor. The presence of such representative, however, is solely for FID's benefit, and shall not relieve AUTHORITY of its obligation to supervise and perform the FID Facility Work in accordance with the Plans and Specifications and otherwise in accordance with this Agreement and the applicable Task Order. Nevertheless, FID representatives, including the Engineer, shall not disrupt or interfere with the FID Facility Work or the Project.

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

3.8 Unforeseen Work. If Unforeseen Work arises during the performance of the FID Facility Work, it shall be performed under the Task Order that is applicable to the FID Facility Work it arose in connection with. AUTHORITY shall be responsible for the cost of any Unforeseen Work.

3.9 Hazardous Material. Upon discovery of Hazardous Material in connection with the FID Facility Work, both FID and 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. Authority will pay, in its entirety, those costs for additional necessary effort undertaken within AUTHORITY's right-of-way to comply with existing statutes or regulations concerning the disposition of Hazardous Material found as a consequence of that FID Facility Work, unless Hazardous Materials are attributable to or exacerbated by FID's Facilities or FID's operations. Those costs for additional necessary efforts undertaken within the area of the replacement property right located outside 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 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 FID's Request. Any work considered 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 FID.

3.11 Liability for Work. Liability for the cost of FID Facility Work shall be determined by statute, superior rights, prescriptive rights or by permit, collectively referred to as Prior Rights. FID is responsible to prepare, document, and submit a claim for its declared right of occupancy in the defined property area where FID's Facility is located.

3.12 AUTHORITY's Expense.

(a) Unless FID agrees otherwise in writing, FID Facility Work will be performed at AUTHORITY'S expense where by Prior Rights dictate that the cost for such work shall be borne by AUTHORITY. FID shall have no responsibility to pay for any Facility Work, except as provided in Section 3.13 below.

(b) The burden of establishing Prior Rights rests with FID. 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 FID, executed by the grantor, (iii) a written statement, executed by an officer of FID, indicating that according to FID's records, FID has maintained a given facility in its current location for a certain period of time, or (iv) any other historic document evidencing that an irrigation facilities (public or private) has been located in a given location for a certain period of time.

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

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

3.15 Liability in Dispute. In signing this Agreement, neither AUTHORITY nor FID shall diminish their respective positions nor waive any of their respective rights no does either Party accept liability for any disputed work. AUTHORITY and FID 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 Authority's Contractor makes any claim against AUTHORITY relating to the FID Facility Work, AUTHORITY will notify FID of the claim and FID will cooperate with AUTHORITY in assessing and resolving the claim within a reasonable time.

3.17 Stakeholder Collaboration. In signing this Agreement, FID agrees to collaborate with AUTHORITY, 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 FID Facility Work in an effort to achieve a quality Project that meets the 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 D, “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 FID for the cost of participation in the initial workshop and subsequent stakeholder meetings shall be made by either AUTHORITY or 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 D, 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 FID Facility Work. Cost of FID Facility Work includes the actual, allowable (pursuant to Title 49 Code of Federal Regulations, Part 19 or OMB Circular A-122), allocable, and reasonable cost of all necessary engineering, labor and transportation, and all necessary materials exclusive of any dismantled FID Facilities used in any Relocation, together with reasonable and usual indirect and overhead charges attributable to such FID Facility Work, and any necessary new FID Right-of-Way involved in the FID Facility Work, except that, AUTHORITY shall be entitled to credit for the cost of any Betterment to the FID Facility included as part of the Project . A credit allowance for age shall not be applied to existing FID Facilities that are directly required to be relocated because of the Project

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

The amount of any Betterment to the FID Facility resulting from such Relocation and the salvage value of any materials or parts salvaged or retained by FID.

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

3.19 Payment for the Cost of FID Facility Work.

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

(b) If FID Facility Work is at FID’s expense and is performed by Authority’s Contractor, FID shall pay or cause payment to be made to Authority’s Contractor (as designated by the AUTHORITY in writing) in the amounts established pursuant to this Agreement for FID Facility Work.

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

Article IV
INDEMNITY AND INSURANCE

4.1 Indemnity by AUTHORITY.

(a) Subject to Section 4.3 below and to the fullest extent permitted by law, the AUTHORITY shall defend, indemnify, and hold FID 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 FID Facilities Work ("Claims"), provided that such excepting only such Claims as may be proximately caused by the fault or negligence of, or by the willful misconduct of, FID or its employees, directors, agents, servants, or independent contractors who are directly responsible to FID.

(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 FID is solely negligent or has acted with willful misconduct. Only a final adjudication or judgment finding that FID 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 FID. FID'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 FID in the performance of services required under this Agreement, the AUTHORITY will immediately forward the Claim to FID. The AUTHORITY and FID 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 FID in the defense of the Claim or to require FID to defend AUTHORITY in such Claim. The AUTHORITY's failure to notify FID of a claim shall not release FID from any of the requirements of this section or Section 4.2.

4.2 Indemnity by FID. To the fullest extent permitted by law, FID 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 FID or its employees, directors, agents, servants, or independent contractors who are directly responsible to FID. FID's obligation to defend and indemnify shall not be excused because of FID's inability to evaluate liability or because FID evaluates liability and determines FID is not liable or determines 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 FID. FID shall pay all costs and fees related to this obligation and its enforcement by the AUTHORITY. The AUTHORITY's delay in notifying FID of a Claim shall not release FID of the above duty to defend.

4.3 Limitation. The provisions of this Article IV shall apply to Claims for unpaid materials, labor or other services, and injury to persons or property arising prior to FID's acceptance of the FID Facilities. While the parties do not waive any legal or equitable rights they may have with respect to Claims arising after FID's acceptance of the FID Facilities, this Article IV shall not apply to such claims.

4.4 Insurance. Any contract entered into by AUTHORITY in connection with the FID Facility Work shall contain a provision which requires the Authority's 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 (not subject to any premiums or assessments) FID and AUTHORITY and their respective officers and employees, as well as such other additional insureds 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 insureds. FID 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 FID FACILITIES

5.1 Relocation of FID Rights-of-Way. Whenever affected FID Facilities are to be relocated from the existing FID Right-of-Way to a new location, AUTHORITY shall convey or cause to be conveyed a new right-of-way for such relocated Facilities on terms and conditions that are similar to the existing FID Right-of-Way. For such Relocations, AUTHORITY shall issue, or cause to be issued, to FID, without charge to FID, appropriate replacement rights in the new location mutually acceptable to both AUTHORITY and FID for those rights previously associated with the existing FID Right-of-Way. Without limiting the foregoing, if FID has exclusive rights to the existing FID Right-of-Way, any replacement right-of-way shall provide FID with similar exclusive rights, except to the extent that the new location falls within the right-of-way under the jurisdiction of AUTHORITY, where Parties shall agree upon terms for common use during the right-of-way process. In consideration for these replacement rights being issued by AUTHORITY, FID shall subsequently quitclaim to AUTHORITY, or its nominee, within AUTHORITY's Right-of-Way, all of its corresponding right, title and interest the FID Right-of-Way so vacated.

5.2 Compensation for Property. If the AUTHORITY acquires any existing FID Right-of-Way including fee title and does not issue replacement rights in a new location that are substantially similar to the existing FID Right-of-Way, AUTHORITY shall acquire from FID, for just compensation under California law. Those property rights required by AUTHORITY for its Rail Facilities will be acquired by a separate transaction, leaving to FID those remaining property rights appropriate for the placement and operation the FID Facilities.

Article VI MISCELLANEOUS

6.1 AUTHORITY to Remain Liable. Authority's Contractor shall be considered AUTHORITY's agent under this Agreement, and AUTHORITY shall be responsible to ensure that Authority's Contractor performs all obligations required to be performed by Authority's

Contractor hereunder. Nevertheless, the AUTHORITY shall remain liable for all AUTHORITY obligations herein.

6.2 Compliance with Public Works Laws. AUTHORITY shall be responsible to comply with or ensure compliance by its 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"). AUTHORITY acknowledges that FID does not have extensive experience with public works projects that involve state and federal funds, and that FID has elected to have AUTHORITY perform the FID Facilities Work for, among other reasons, the purpose of utilizing AUTHORITY's resources in complying with Public Works Laws. AUTHORITY shall defend, indemnify and hold FID 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 FID.

6.3 Compliance with CEQA. 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 FID. To the maximum extent permitted by law, AUTHORITY shall defend, indemnify and hold FID harmless from and against any claims arising from any failure to comply with Environmental Review Laws as described in this Section 6.3.

6.4 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.

6.5 Exhibits. To the extent applicable, the provisions included in the Exhibits attached hereto are hereby incorporated in this Agreement.

6.6 Force Majeure. Neither FID nor 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 FID employee or consultant.

Provided that it is beyond the 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 possible. If any such event of Force Majeure occurs, Parties agree, if requested by the other Party, to accelerate its efforts if reasonably feasible in order to regain lost time, each Party will bear its own costs of such efforts.

If any work stoppage due to a Force Majeure Event cannot be promptly remedied or mitigated as provided in this Section, and such work stoppage prevents or is likely to prevent the delivery of irrigation water through the FID Facility in question during the irrigation season, AUTHORITY shall promptly restore such FID Facility to a condition capable of delivering materially the same amounts of irrigation water during the irrigation season, or shall provide a bypass facility to deliver such water, at AUTHORITY's expense.

Force Majeure events exclude:

(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 FID employees or contractors); and

(d) All other matters not caused by or beyond the control of the Authority or a FID employee or contractors and not listed in the definition of Force Majeure above.

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

6.8 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.

6.9 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.

6.10 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.

6.11 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.

6.12 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. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of the parties hereto.

6.13 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.

6.14 Dispute Resolution. The AUTHORITY and FID 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 Project impacting FID'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 Project and the Facility Work.

In the event the FID disagrees with a determination or direction made by the Authority in connection with the Facility Work, the FID 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 FID 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 FID. Failure of the Authority to provide a written decision shall be deemed denial of FID'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 FID's original written objection, the FID appeals such decision by written notice to the Authority.

In connection with any appeal of the Authority's decision, the FID 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 FID'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. Arbitration proceeding shall take place in the Fresno County, California. 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 FID, 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 FID's claim and any award by resolver of the dispute shall be limited to the incremental costs incurred by the FID with respect to the disputed matter as a direct result of such erroneous determination (crediting the Authority for any corresponding reduction in the FID'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 FID 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.

This Section shall apply only to monetary disputes and requests for declaratory relief; the arbitrator(s) shall not have the power to compel specific performance or provide injunctive relief.

6.15 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.

6.16 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 FID 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) 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, General Counsel
770 L Street, Suite 800
Sacramento, CA 95814
Fax: (916) 322-0827

To FID: Fresno Irrigation District
2907 South Maple Avenue
Fresno, CA 93725-2218
Attn: General Manager
Fax: (559) 233-8227

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 Project. Consequently, the Parties shall be entitled to specific performance in

the event of any breach of this Agreement that imminently threatens to delay Project construction.

6.21 Project Cancellation. If any portion of the AUTHORITY's Project is canceled or modified so as to eliminate the necessity of the FID Facilities Work, AUTHORITY will notify FID in writing, and 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

By Jeff Morales
Jeff Morales, Chief Executive Officer

Date July 10, 2013

AUTHORITY Legal Review

By Thomas C. Kelly
AUTHORITY Legal Counsel

Date July 9, 2013

Fresno Irrigation District, a California irrigation district

By Ryan Jacobsen
Ryan Jacobsen, President

Date June 18, 2013

By Gary R. Serrato
Gary R. Serrato, Secretary

Date June 18, 2013

EXHIBIT A

DESIGN BUILD PROCEDURES

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

Authority's Contractor, together with the Engineer, shall perform all design services for the FID Facility Work in connection with each Facility Project.

(a) Authority's Contractor will provide a preliminary copy of Project-specific Plans and Specifications to FID according to the AUTHORITY's Contractor's approved schedule and may include intermediate, Released for Construction ("RFC") and as-built stages.

(b) FID shall have fifteen (15) Working Days from receipt of the preliminary Plans and Specifications and intermediate submittals to review them, and to provide comments to the Authority's Contractor. FID shall also provide any applicable technical provisions and standard drawings along with its comments.

(c) At such time as Authority's Contractor has prepared final RFC Plans and Specifications for the FID Facility Work, Authority's Contractor will provide a copy thereof to FID. The RFC Plans and Specifications shall incorporate the comments of FID provided that the comments are reasonable.

(d) FID shall have fifteen (15) Working Days from receipt of the RFC Plans and Specifications to review them and provide final comments to AUTHORITY.

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

(f) Authority's Contractor shall perform the FID Facility Work in accordance with the RFC Plans and Specifications as approved by FID.

(g) AUTHORITY shall provide FID with as-built drawings of FID Facility Work. The as-built drawings shall be in the format provided for in the Task Order for that particular FID Facility Work.

(h) FID's failure to provide review and comment of plans submitted by AUTHORITY or Authority's Contractor within the time periods specified in this Agreement, including but not limited to Plans and Specifications, shall be deemed approval of plans allowing AUTHORITY to proceed with design and construction of FID Facility Work.

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 FID Facility is to be relocated, AUTHORITY shall acquire an exclusive easement on FID's behalf, at FID's standard widths for such facility and on FID's standard terms and conditions.
- (d) All work shall conform to FID 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 FID's operations and maintenance. Additional requirements include:

- (a) Minimum freeboard of 2.0 feet through the canal crossing shall be maintained where possible. Crossings shall be clear span bridges with no obstructions within the canal whenever reasonably possible.
- (b) 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 FID's crews to access the collected trash. Trash piers, board guides, aprons and ladders shall be constructed in accordance with FID's current requirements.
- (c) Sufficient easement rights for FID to dredge the canals in accordance with its standard practices, including access for heavy equipment and trucks.
- (d) 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.
- (e) Culverts are to be extended past the AUTHORITY's right-of-way such that FID'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.

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

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

(h) 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 FID.

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

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

B-3 Construction Windows. All construction physically impacting the operation of FID Facilities must occur outside FID's irrigation season. The permitted construction window is determined each year by the FID Board of Directors based on hydrologic conditions, but is typically between October 1 through February 22. An exception to the above construction window requirement can only occur by mutual agreement between Authority's Contractor and FID.

B-4 Stormwater Routings. Where FID Facilities are used by the Fresno Metropolitan Flood Control District and/or the Army Corps of Engineers 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.

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

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

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

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

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

(a) Pilings or columns for elevated Rail Facilities crossing FID pipelines shall be located outside of the FID Right-of-Way. Alternatively, 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.

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

(c) Sufficient clearance shall be provided over both canal maintenance/access roads for FID'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.

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

B-6 General.

(a) To the extent the Authority's Contractor needs import material for the Project, FID has material available for export from FID ponding basin properties currently under its ownership, dependent on seasonal conditions. Authority's Contractor is responsible to verify that the material is suitable for use and material quantities available for exporting.

(b) Without limiting the foregoing, new canals shall not be subject to materially greater amounts of siltation than the canals to be replaced.

(c) All work shall be performed in accordance with FID's customary practices, drawings and specifications.

EXHIBIT C

FEDERAL, STATE, AND AUTHORITY PROVISIONS

These Terms and Conditions shall apply to FID only to the extent that FID performs Facility Work, if any.

- SUPPLEMENTAL TERMS AND CONDITION FOR CONTRACTS USING FEDERAL FUNDS
- GTC 610
- SPECIAL TERMS AND CONDITIONS

DEFINITIONS

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

“Contractor” means the FID.

“State” includes AUTHORITY.

SUPPLEMENTAL TERMS AND CONDITION FOR CONTRACTS USING FEDERAL FUNDS

1. FEDERAL REQUIREMENTS

The Contractor understands that the Authority has received Federal funding from the Federal Rail Administration (FRA) for the Project and acknowledges that it is required to comply with all applicable federal laws, regulations, policies and related administrative practices, whether or not they are specifically referenced herein. The Contractor acknowledges that federal laws, regulations, policies and related administrative practices may change and that such changed requirements will apply to the Project. The Contractor shall ensure compliance by its subcontractors and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable federal laws, regulations, policies and related administrative practices, whether or not specifically referenced herein.

Notwithstanding anything to the contrary contained in this Agreement, all FRA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of FRA requirements.

2. COMPLIANCE WITH FEDERAL REQUIREMENTS

The Contractor's failure to comply with Federal Requirements shall constitute a breach of this Agreement.

3. FEDERAL STANDARDS

The Contractor agrees to comply with the Procurement Standards requirements set forth at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48 inclusive, whichever may be applicable, and with applicable supplementary U.S. Department of Transportation (U.S. DOT) or FRA directives or regulations. If determined necessary for proper Project administration, FRA reserves the right to review the Contractor's technical specifications and requirements.

4. FEDERAL LOBBYING ACTIVITIES CERTIFICATION

The Contractor certifies, to the best of its knowledge and belief, that:

- A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal Agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal Agreement, grant, loan, or cooperative agreement.

- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form LL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- D. The Contractor also agrees that by signing this document, it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

5. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of 2 C.F.R. 1200. As such, the Contractor is required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180.

To the extent required by the aforementioned U.S. DOT regulations and U.S. OMB guidance, the Contractor must verify that the subcontractor is not excluded or disqualified in accordance with said regulations by reviewing the "Excluded Parties Listing System" at <http://epls.gov/>. The Contractor shall obtain appropriate certifications from each such subcontractor and provide such certifications to the Authority.

The Contractor shall include a term or condition in the contract documents for each lower tier covered transaction, assuring that, to the extent required by the U.S. DOT regulations and U.S. OMB guidance, each subcontractor will review the "Excluded Parties Listing System," will obtain certifications from lower tier subcontractors, and will include a similar term or condition in each of its lower-tier covered transactions.

6. SITE VISITS

The Contractor agrees that FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons. If any site visit is made by FRA on the premises of the Contractor or any of its subcontractors under this Agreement, the Contractor shall provide and shall require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Contractor or subcontractor.

7. SAFETY OVERSIGHT

To the extent applicable, the Contractor agrees to comply with any Federal regulations, laws, or policies and other guidance that FRA or U.S. DOT may issue pertaining to safety oversight in general, and in the performance of this Agreement, in particular.

8. ENVIRONMENTAL PROTECTION

The Contractor and any subcontractor under this Agreement shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

A. CLEAN AIR:

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate Environmental Protection Agency Regional Office.

B. CLEAN WATER:

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor agrees to report each violation to the Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate EPA Regional Office.

C. ENERGY CONSERVATION:

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 *et seq.*)

D. AGREEMENT NOT TO USE VIOLATING FACILITIES:

The Contractor agrees not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the EPA. The Contractor shall promptly notify the Authority if the Contractor any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Agreement is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the Contractor's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.

E. ENVIRONMENTAL PROTECTION:

The Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*

F. INCORPORATION OF PROVISIONS:

The Contractor shall include the above provisions (1) through (6) in every subcontract hereunder exceeding \$50,000 financed in whole or in part with federal assistance provided by the FRA.

9. CIVIL RIGHTS

The following requirements apply to this Agreement:

A. NONDISCRIMINATION:

In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended; 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990; 42 U.S.C. § 12132; and 49 U.S.C. § 306, the Contractor agrees that it will not discriminate against any individual because of race, color, religion, national origin, sex, age or disability in any activities leading up to or in performance of this Agreement. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

B. EQUAL EMPLOYMENT OPPORTUNITY:

The following equal employment opportunity requirements apply to this Agreement:

- A. Race, Color, Religion, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," including 41 C.F.R 60 et seq. (which implements Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.
- B. Age: In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.
- C. Disabilities: In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the

requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

The Contractor also agrees not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

10. CARGO PREFERENCE

The Contractor agrees to the following:

- A. To use privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- B. To furnish within 20 Working Days following the date of loading for shipments originating within the United States, or within 30 Working Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the first bullet of this clause above. This bill-of-lading shall be furnished to the Authority (through the Contractor in the case of a subcontractor's bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20590, marked with appropriate identification of the Project.
- C. To include these requirements in all subcontracts issued pursuant to this Agreement when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

11. PROPERTY, EQUIPMENT AND SUPPLIES

- A. Contractor agrees that Project property, equipment, and supplies shall be used for the Project activity for the duration of its useful life, as determined by FRA. Should the Contractor unreasonably delay or fail to use Project property, equipment, or supplies during its useful life, the Contractor agrees that FRA may require the Contractor to return

the entire amount of FRA assistance expended on that property, equipment, or supplies. The Contractor further agrees to notify the Authority when any Project property or equipment is withdrawn from use in the Project activity.

- B. Contractor agrees to comply with the property standards of 49 C.F.R. §§ 19.30 through 19.37 inclusive, including any amendments thereto, and other applicable guidelines or regulations that are issued.
- C. Contractor agrees to maintain the Project property and equipment in good operating order, and in accordance with any guidelines, directives, or regulations that FRA may issue.
- D. The Contractor agrees to keep satisfactory records with regard to the use of the property, equipment, and supplies, and submit to FRA, upon request, such information as may be required to assure compliance with this section.
- E. Contractor agrees that FRA may:
 - 1. Require the Contractor to transfer title to any property, equipment, or supplies financed with FRA assistance, as permitted by 49 C.F.R. §§ 19.30 through 19.37 inclusive.
 - 2. Direct the disposition of property or equipment financed with FRA assistance as set forth by 49 C.F.R. §§ 19.30 through 19.37 inclusive.
- F. If any Project property, equipment, or supplies are not used for the Project for the duration of its useful life, as determined by FRA, whether planned withdrawal, misuse or casualty loss, the Contractor agrees to notify the Authority immediately. Disposition of withdrawn property, equipment, or supplies shall be in accordance with 49 C.F.R. §§ 19.30 through 19.37 inclusive.
- G. Unless expressly authorized in writing by the Authority, the Contractor agrees to refrain from:
 - 1. executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would affect Authority or FRA interest in any Property or equipment; or
 - 2. obligating itself in any manner to any third party with respect to Project property or equipment.

Contractor agrees to refrain from taking any action or acting in a manner that would adversely affect FRA's interest or impair the Authority's continuing control over the use of Project property or equipment.

12. FLOOD HAZARDS

Contractor agrees to comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012(a) with respect to any construction or acquisition Project.

13. ARRA FUNDED PROJECT

Funding for this Agreement 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 Agreement if any Contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

14. 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.

15. LABOR PROVISIONS

49 U.S.C. 24405(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided through this Agreement shall be considered a "rail carrier," as defined by 49 U.S.C. 10102(5), for the purposes of Title 49, U.S.C., and any other statute that adopts that definition or in which that definition applies, including the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*), the Railway Labor Act (43 U.S.C. 151 *et seq.*), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*) To the extent required by 49 U.S.C. 24405(b) and other laws referenced above, the Contractor shall reflect these provisions in its agreements funded in whole or in part by this Agreement with entities operating rail services over such rail infrastructure.

16. LABOR PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the applicable protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), 45 U.S.C. 836, with respect to employees affected by actions taken in connection with the Project. The Contractor also agrees to include the applicable protective arrangements established by the U.S. DOL under 45 U.S.C. 836 in its arrangements with entities operating rail services over rail infrastructure constructed as part of this Agreement.

17. PROHIBITION ON USE OF ARRA FUNDS

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

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

Contractor agrees that in accordance with the Passenger Rail Investment and Improvement Act (PRIIA) of 2008, Pub. L. 110-432, section 24405(a), which provides that Federal funds may not be obligated unless steel, iron, and manufactured products used in FRA-funded projects are produced in the United States, unless a waiver has been granted by the US Secretary of Transportation. For more information on FRA's Buy America requirements and processes please see FRA's Answers to Frequently Ask Questions (FAQ) available at, <http://www.fra.dot.gov/Page/P0391>.

19. WAGE RATE REQUIREMENTS

Payment of prevailing wages on the Project is required by 49 U.S.C. 24405(c)(2) and ARRA section 1606. For Project components that use or would use rights-of-way owned by a railroad, the Contractor shall comply with the Provisions of 49 U.S.C. 24312. For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements. For Project components that do not use or would not use rights-of-way owned by a railroad, the Contractor will comply with the provisions of 40 U.S.C 3141 *et seq.*

20. 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, the United States Department of Transportation Secretary, or their representatives or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:

- A. Examine any records that directly pertain to, and involve transactions relating to, this Agreement; and
- B. 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.

21. 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:

- A. Gross mismanagement of a contract relating to ARRA funds;
- B. A gross waste of ARRA funds;

- C. A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- D. An abuse of authority related to implementation or use of ARRA funds; or
- E. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contractor) 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.

22. 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.

23. 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 Authority 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 expended or obligated, including:
 - 1. The name of the project or activity;
 - 2. A description of the project activity;
 - 3. An evaluation of the completion status of the project or activity; and
 - 4. 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:
 - 1. The name of the entity receiving the contract;
 - 2. The amount of the contract;
 - 3. The transaction type;

4. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
 5. The Program source;
 6. An award title descriptive of the purpose of each funding action;
 7. The location of the entity receiving the contract;
 8. The primary location of the contract, including the city, state, congressional district and county;
 9. The DUNS number, or name and zip code for the entity headquarters;
 10. A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 11. The names and total compensation of the five most highly compensated officers of the company if received:
 - i. 80% or more of its annual gross revenues in Federal awards;
 - ii. \$25,000,000 or more in annual gross revenue from Federal awards and;
 - iii. 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.
- F. 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 Agreement(s).

GTC 610: GENERAL TERMS AND CONDITIONS

PLEASE NOTE: This page will not be included with the final agreement. The General Terms and Conditions will be included in the agreement by reference to Internet site:
www.dgs.ca.gov/contracts

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SPECIAL TERMS AND CONDITIONS

1. Early Termination

A. TERMINATION

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. 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.

C. COST PRINCIPLES UNDER EARLY TERMINATION

Termination settlement expenses will be reimbursed in accordance with 48 C.F.R., Federal Acquisition Regulations System, Chapter 1, Part 31. Subpart 31.205-42 (c) dealing with initial costs is not applicable to Architectural and Engineering Agreement terminations.

D. 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 for performance and early termination of this Agreement.

2. NON-DISCRIMINATION

This section regarding non-discrimination is in addition to GTC 610 and any Federal Requirements.

- A. During the performance of this agreement, the 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), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave. Contractors and subcontractors shall insure the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The Contractor and subcontractors shall comply with the provision of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the

applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 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. The 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.

- B. The Contractor shall include the nondiscrimination and compliance provisions of this clause in all sub-agreements to perform work under this clause.
- C. 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.

3. 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 expiration 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 subagreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions of this clause.

4. PURCHASE OF EQUIPMENT

No equipment identified in this Agreement is approved for purchase.

5. 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:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. 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.

6. 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, except for such use as may be authorized, in writing, by the Contractor.
- D. Any sub agreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

7. 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.

8. CONFLICT OF INTEREST

- A. During the term of this Agreement, the Contractor shall disclose any financial, business, or other relationship with the 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.
- 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 Policy.
- D. Any subagreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

9. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The Contractor certifies that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised by or paid to any Authority agency employee. For breach or violation of this warranty, the Authority shall have the right, in its discretion, to terminate this Agreement without liability, to pay only for the value of the work actually performed, or to deduct from this Agreement price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

EXHIBIT D – STAKEHOLDER COLLABORATION

In order to accomplish PROJECT(s) 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 will 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. Use of the procedures described below is mandatory, but the results are non-binding. The identified procedures will be available for use by the Stakeholders to resolve issues that may arise during the performance of FID Facility 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 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 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. “*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 FID Facility 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.