



DEVELOPMENT SERVICES
ENGINEERING DIVISION
156 S. BROADWAY, SUITE 150
TURLOCK, CA 95380

PHONE: (209) 668-5520
FAX: (209) 668-5563
TDD: (800) 735-2929
engineering@turlock.ca.us

Date: 8/20/18

City Project No.: 0828

Addendum No.: 1

Plan holders:

The following changes and notations shall be made to the request for proposals:

PROPOSAL SUBMISSION DEADLINE:

Friday August 24, 2018
5:00 PM PST

TENTATIVE SCHEDULE:

| | |
|--|---------------------------------|
| Begin Circulation of RFP to Consultants | July 26, 2018 |
| Deadline for Receipt of Questions (by 5:00 p.m.) | August 9, 2018 |
| Addendum issued (if necessary) | August 20, 2018 |
| Deadline to Submit Proposals | August 24, 2018 |
| Evaluate Proposals | August 27 - August 29, 2018 |
| Interviews consultants (if necessary) | August 30 – 31, 2018 |
| Obtain City Council Approval | September 5, 2018 |
| Construction Prof. Ser. Contract Notice to Proceed | September 6, 2018 |
| Groundbreaking Ceremony | Monday September 17, 2018, 11AM |

DBE GOAL:

There is not a DBE Goal for this project.

RE OFFICE:

The construction contractor shall furnish, maintain and remove the resident engineer office. Refer to Section 16-3 Resident Engineer Office of the Special Provisions for project 0828 Fulkerth Road Interchange.

PROFESSIONAL SERVICES AGREEMENT:

Please find a sample professional services agreement the consultant will be expected to enter into with the City attached.

COOPERATIVE AGREEMENT #10-446:

Please find a copy of the Cooperative agreement #10-446 between the City and Caltrans attached.

Sincerely,

Nathan Bray, P.E.

Interim Development Services Director / City Engineer



AGREEMENT FOR SPECIAL SERVICES
between
THE CITY OF TURLOCK
and

for

CITY PROJECT NO. XX-XX

THIS AGREEMENT is made this ____ day of _____, 20__, by and between the **CITY OF TURLOCK**, a municipal corporation of the State of California hereinafter referred to as "CITY" and _____, a _____, hereinafter referred to as "CONSULTANT."

WITNESSETH:

WHEREAS, in accordance with California Government Code §37103, CITY has a need for _____; and

WHEREAS, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as "Services."

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF WORK: CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and the specifications attached hereto as Exhibit __. CONSULTANT shall provide Services that are acceptable to CITY.

2. PERSONNEL AND EQUIPMENT: CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably require to accomplish said Services.

3. SAFETY REQUIREMENT: All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.

4. COMPENSATION: CITY agrees to pay CONSULTANT in accordance with Exhibit __ as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit __ and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In no event shall the total amount of this Agreement exceed _____ and No/100^{ths} Dollars (\$_____). CONSULTANT agrees that compensation shall

be paid in the manner and at the times set forth below:

(a) Invoices: CONSULTANT shall submit dated invoices to CITY specifying the date, location and service rendered, and the charge therefor.

(b) Payment:

(1) All payments by CITY shall be made in arrears, after satisfactory service, as determined and approved by CITY, has been provided. Payment shall be made by CITY no more than thirty (30) days from CITY's receipt of invoice.

(2) CITY shall normally pay by voucher or check within ten (10) working days after each City Council meeting at which payments can be authorized, provided that CITY receives the invoice at least five (5) working days prior to CITY's meeting date.

(3) If CITY disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, CITY may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by CITY. CITY shall assign a sequential reference number to each deletion.

(4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.

(5) CITY reserves the right to only pay for such services rendered to the satisfaction of CITY.

5. TERM OF AGREEMENT: This Agreement shall become effective _____ and end _____, subject to CITY's availability of funds.

6. EXTENSION OF AGREEMENT: CITY may elect to extend this Agreement for three (3) additional one-year terms, on the same terms and conditions, upon issuing an "Election to Extend Agreement" letter executed by the City Manager to CONTRACTOR thirty (30) days prior to the expiration of this Agreement. On each anniversary date, CONTRACTOR will be allowed to increase prices. Increases may not exceed increases in the San Francisco-Oakland Consumer Price Index for all urban consumers or percentage increases in CONTRACTOR's published prices, whichever is lower. In all cases, CITY may cancel the contract if a requested price increase is not acceptable.

7. INSURANCE: CONSULTANT shall not commence work under this Agreement until CONSULTANT has obtained City's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract. Any available insurance proceeds in excess of the specified minimum limits and coverage shall

be available to City.

(a) General Liability Insurance: CONSULTANT shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence, four million dollars (\$4,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. CONSULTANT's general liability policies shall be primary and not seeking contribution from the City's coverages, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

(b) Workers' Compensation Insurance: CONSULTANT shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). CONSULTANT shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

(c) Auto Insurance: CONSULTANT shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than two million dollars (\$2,000,000) per accident. If CONSULTANT owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

(d) Builder's Risk Insurance: Upon commencement of construction and with approval of City, CONSULTANT shall obtain and maintain Builder's Risk/Course of Construction insurance. Policy shall be provided for replacement value on an "all-risk" basis. The City shall be named as Loss Payee on the policy and there shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures, and all other properties constituting a part of the project; (2) coverage with limits sufficient to insure the full replacement value of any property or equipment stored either on or off the project site, whether provided from within a Builder's Risk policy or through the addition of an Installation Floater. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and limits. CONSULTANT shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City.

(e) Contractors Pollution Insurance: Pollution Coverage shall be provided on a Contractors Pollution Liability form or other form acceptable to City providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than one million dollars (\$1,000,000) per claim. All activities contemplated in this Agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

(f) Professional Liability Insurance: When applicable, CONSULTANT shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement,

in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and CONSULTANT agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

(g) Deductibles and Self-Insured Retentions: Upon request of City, any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) CONSULTANT shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(h) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:

(1) City, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance (at least as broad as CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing operations and completed operations coverage.

(2) For any claims related to this project, CONSULTANT's insurance coverage shall be primary insurance as respects City and any insurance or self-insurance maintained by City shall be excess of CONSULTANT's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to City under this Agreement, the insurer, broker/producer, or CONSULTANT shall provide City with thirty (30) days' prior written notice of such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(i) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII or with an insurer to which the City has provided prior approval.

(j) Verification of Coverage: CONSULTANT shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT's obligation to provide them. City

reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(k) **Waiver of Subrogation:** With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of City for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(l) **Subcontractors:** CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(m) **Surety Bonds:** CONSULTANT shall provide a Performance Bond and a Payment Bond.

8. INDEMNIFICATION:

Indemnity for Professional Liability: When the law establishes a professional standard of care for CONSULTANT's Services, to the fullest extent permitted by law, CONSULTANT shall indemnify, protect, defend, and hold harmless CITY and any and all of its elective and appointive boards, officers, officials, agents, employees or volunteers from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the CONSULTANT (and its Subcontractors) are responsible for such damages, liabilities and costs on a comparative basis of fault between the CONSULTANT (and its Subcontractors) and the CITY in the performance of professional services under this Agreement. CONSULTANT shall not be obligated to defend or indemnify CITY for the CITY's own negligence or for the negligence of others.

Indemnity for other than Professional Liability: Other than in the performance of professional services and to the full extent permitted by law, CONSULTANT shall indemnify, defend, and hold harmless CITY and any and all of its elective and appointive boards, officers, officials, agents, employees or volunteers from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by CONSULTANT or by any individual or agency for which CONSULTANT is legally liable, including, but not limited to, officers, agents, employees, or subcontractors of CONSULTANT.

9. INDEPENDENT CONTRACTOR RELATIONSHIP: All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee

of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.

CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT'S assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT'S personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

10. VOLUNTARY TERMINATION: CITY may terminate this Agreement without cause or legal excuse by providing thirty (30) days' written notice to CONSULTANT.

11. TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by CITY for Default of CONSULTANT. Should

CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of CITY's property by CONSULTANT, dishonesty or theft.

(c) Termination by CONSULTANT for Default of CITY. Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by CITY for Change of CONSULTANT'S Tax Status. If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If CITY so requests, and at CITY's cost, CONSULTANT shall provide sufficient oral or written status reports to make CITY reasonably aware of the status of CONSULTANT'S work on the project. Further, if CITY so requests, and at CITY's cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

12. CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

13. NONDISCRIMINATION: In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment

because of age, race religion, color, sex, or national origin. CONSULTANT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

14. TIME: Time is of the essence in this Agreement.

15. ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering into and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

16. OBLIGATIONS OF CONSULTANT: Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

17. OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the CITY, and may be used by CITY as it may require without any additional cost to CITY. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of CITY.

18. NEWS AND INFORMATION RELEASE: CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

19. INTEREST OF CONSULTANT: CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.

20. AMENDMENTS: Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

21. PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

22. CERTIFIED PAYROLL REQUIREMENT: For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of the California Labor Code including, but not limited to, Section 1776 regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

23. PARTIAL INVALIDITY: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

24. WAIVER: The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

25. AUDIT: CITY's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT'S charges to CITY under this Agreement.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

26. GOVERNING LAW: This Agreement shall be governed according to the laws of the State of California.

27. HEADINGS NOT CONTROLLING: Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

28. COMPLIANCE WITH LAWS: CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws including, but not limited to, prevailing wage laws, if applicable. CONSULTANT shall fully comply with all applicable federal, state, and local laws,

ordinances, regulations and permits.

29. CITY BUSINESS LICENSE: CONSULTANT will have a City of Turlock business license.

30. ASSIGNMENT: This Agreement is binding upon CITY and CONSULTANT and their successors. Except as otherwise provided herein, neither CITY nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

31. RECORD INSPECTION AND AUDIT: CONSULTANT shall maintain adequate records to permit inspection and audit of CONSULTANT's time and material charges under this Agreement. CONSULTANT shall make such records available to CITY during normal business hours upon reasonable notice. Such records shall be turned over to CITY upon request.

32. EXCLUSIVE USE: Services provided within the scope of this Agreement are for the exclusive use of CITY and CONSULTANT agrees that, until final approval by CITY, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of CITY.

33. EMPLOYMENT OF CITY OFFICIAL OR EMPLOYEE: CONSULTANT shall employ no CITY official or employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 *et seq.*; nor shall CITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

34. NOTICE: Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

for CONSULTANT: _____

PHONE: _____
FAX: _____

for CITY: CITY OF TURLOCK
ATTN: _____
ENGINEERING DIVISION
156 SOUTH BROADWAY, SUITE 150
TURLOCK, CALIFORNIA 95380-5454
PHONE: (209) 668-5599 Ext. _____
FAX: (209) _____

35. CITY CONTRACT ADMINISTRATOR: The City's contract administrator and contact person for this Agreement is:

Name of City Employee
Department
156 S. Broadway, Suite ____
Turlock, California 95380-5456
or 244 N. Broadway
Turlock, California 95380-4737
Telephone: (209) 668-____
E-mail: _____@turlock.ca.us

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

CITY OF TURLOCK, a municipal corporation

By: _____

Gary Soiseth, Mayor

or

Robert C. Lawton, City Manager

Date: _____

By: _____

Title: _____

Print name: _____

Date: _____

APPROVED AS TO SUFFICIENCY: <<OPTIONAL SIGNATURE LINE - delete if not used

By: _____

Nathan Bray, Interim City Engineer

APPROVED AS TO FORM:

By: _____

Jose M. Sanchez, Interim City Attorney

ATTEST:

By: _____

Jennifer Land, City Clerk

COOPERATIVE AGREEMENT

State Independent Quality Assurance

This AGREEMENT, effective on September 15, 2015, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

City of Turlock, a body politic and municipal corporation city of the State of California, referred to hereinafter as CITY.

RECITALS

1. PARTNERS are authorized to enter into a cooperative agreement for improvements to the state highway system (SHS) per the California Streets and Highways Code sections 114 and 130.
2. For the purpose of this AGREEMENT, *work to improve east-west circulation and local access with Route 99 at Fulkerth Road and to accommodate planned future growth by providing additional roadway capacity through modifications to the SR99/Fulkerth Road Interchange* will be referred to hereinafter as PROJECT. The project scope of work is defined in the PROJECT initiation and approval documents (e.g. Project Study Report, Permit Engineering Evaluation Report, or Project Report).
3. All responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENTS will be referred to hereinafter as OBLIGATIONS:

This AGREEMENT includes the following PROJECT COMPONENTS:

- CONSTRUCTION SUPPORT
 - CONSTRUCTION CAPITAL
4. This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between PARTNERS regarding the PROJECT.

5. The following work associated with this PROJECT has been completed or is in progress:
 - CALTRANS approved the Categorical Exemption on December 6, 2013.
 - CITY developed the Plans, Specifications and Estimate (Cooperative Agreement No. 10-345).
 - CITY developed the Project Initiation Document that was approved by CALTRANS on April 4, 2013.
 - CITY developed the Project Report that was approved by CALTRANS on May 7, 2014 (Cooperative Agreement No. 10-345).
6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
7. PARTNERS hereby set forth the terms, covenants, and conditions of this AGREEMENT, under which they will accomplish OBLIGATIONS.

RESPONSIBILITIES

Sponsorship

8. CITY is the SPONSOR for the PROJECT COMPONENT in this AGREEMENT.

Funding

9. The OBLIGATIONS do not use funds administered by CALTRANS. PARTNERS will amend this AGREEMENT should this condition change.
10. Each PARTNER is responsible for the costs they incur in performing the OBLIGATIONS of this AGREEMENT unless otherwise stated in this AGREEMENT.

Implementing Agency

11. CITY is the IMPLEMENTING AGENCY for CONSTRUCTION.
12. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will provide a Quality Management Plan (QMP) for that component as part of the PROJECT MANAGEMENT PLAN. The Quality Management Plan describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The Quality Management Plan is subject to CALTRANS review and approval.

13. Any PARTNER responsible for completing WORK shall make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT COMPONENT work that may occur under separate agreements.

Independent Quality Assurance

14. CALTRANS will provide Independent Quality Assurance for the portions of WORK within the existing and proposed SHS right-of-way.

CALTRANS' Independent Quality Assurance efforts are to ensure that CITY'S quality assurance activities result in WORK being developed in accordance with the applicable standards and within an established Quality Management Plan. Independent Quality Assurance does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking work performed by another party.

When CALTRANS performs Independent Quality Assurance it does so for its own benefit. No one can assign liability to CALTRANS due to its Independent Quality Assurance.

CEQA Lead Agency

15. CALTRANS is the CEQA Lead Agency for the PROJECT.

Environmental Permits, Approvals and Agreements

16. PARTNERS will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTNER's responsibilities in this AGREEMENT.
17. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

Construction

18. As IMPLEMENTING AGENCY for CONSTRUCTION, CITY is responsible for all CONSTRUCTION SUPPORT WORK except those CONSTRUCTION SUPPORT activities and responsibilities that are assigned to another PARTNER in this AGREEMENT and those activities that may be specifically excluded.

19. CALTRANS will be responsible for completing the following CONSTRUCTION SUPPORT activities:

| |
|---|
| CALTRANS Work Breakdown Structure Identifier (If Applicable) |
| 285.05.15.xx Change Order Review & Approval as required in this Agreement |
| 270.20.45.xx SWPPP/WPCP Review & Approval |

20. Physical and legal possession of right-of-way must be completed prior to construction advertisement, unless PARTNERS mutually agree to other arrangements in writing. Right of way conveyances must be completed prior to OBLIGATION COMPLETION, unless PARTNERS mutually agree to other arrangements in writing.
21. CITY will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, CITY also accepts responsibility to administer the construction contract.
22. Caltrans will not issue an Encroachment Permit for construction work until CALTRANS accepts:
- The final plans, specifications, and estimate package
 - The Right of Way Certification
 - The PROJECT SPONSOR verifies full funding of CONSTRUCTION SUPPORT and CONSTRUCTION CAPITAL.
23. CITY will provide a Resident Engineer and CONSTRUCTION SUPPORT staff that are independent of the construction contractor. The Resident Engineer will be a Civil Engineer, licensed in the State of California, who is responsible for construction contract administration activities.

24. CALTRANS will review and approve:
- Change Orders affecting public safety, public convenience, protected environmental resources, the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS Construction Manual. These Change Orders must receive written concurrence by CALTRANS prior to implementation.
 - The Stormwater Pollution Prevention Plan (SWPPP) or the Water Pollution Control Plan (WPCP).
25. If CONSTRUCTION CAPITAL is funded with state or federal funds then CITY will administer and process all construction contract claims using a CALTRANS-approved process. CALTRANS will provide Independent Quality Assurance for the claims process.
26. CITY will require the construction contractor to furnish payment and performance bonds naming CITY as obligee, and CALTRANS as additional obligee, and to carry liability insurance in accordance with CALTRANS Standard Specifications.
27. CITY will submit a written request to CALTRANS for any DFM identified in the PROJECT plans, specifications, and estimate a minimum of 45 days prior to the bid advertisement date for PROJECT construction contract. CITY will submit a written request to CALTRANS for any additional DFM deemed necessary during PROJECT construction.
28. CALTRANS will make DFM available at a CALTRANS-designated location after CITY requests DFM and pays CALTRANS' invoice for estimated DFM cost.
29. The cost of all DFM is a CONSTRUCTION CAPITAL cost.
- CALTRANS will invoice CITY for the actual cost of any DFM as a CONSTRUCTION CAPITAL cost.
- After PARTNERS agree that all WORK is complete, CALTRANS will submit a final accounting for all DFM costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the financial commitments of this Agreement.
30. CITY is designated as the Approved Signatory Authority responsible for preparing and filing all Regional Water Quality Control Board (RWQCB) Permit Registration Documents including certifying the accuracy of all documents and its compliance in accordance with the Construction General Permit, and CALTRANS MS4 National Pollutant Discharge Elimination System (NPDES) permit for all work within the SHS.

31. The QMP will describe how construction material verification and workmanship inspections will be performed at manufacturing sources and the PROJECT job-site. The construction material and source inspection QMP is subject to review and approval by the CALTRANS Materials Engineer.
32. As IMPLEMENTING AGENCY for construction, CITY is responsible for maintenance of the State Highway System within the PROJECT limits as part of the construction contract.
33. After OBLIGATION COMPLETION SHS maintenance will be handled through an existing maintenance agreement.
34. Within one hundred eighty (180) calendar days following the completion and acceptance of the PROJECT construction contract, CITY shall furnish CALTRANS with a complete set of "As-Built" plans and Change Orders, including any changes authorized by CALTRANS, on a CD ROM and in accordance with CALTRANS' then current CADD User's Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineers name, contract number, and construction contract acceptance date printed on each plan sheet, and with the Resident Engineer's signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 7.0 or later. In addition, CITY will provide one set of As-Built plans and addenda in TIFF format.

The submittal must also include all CALTRANS requested contract records, and land survey documents. The land survey documents include monument preservation documents and Records of Surveys prepared to satisfy the requirements of the California Land Surveyors Act (Business and Professions Code sections 8700 – 8805). Copies of survey documents and Records of Surveys filed in accordance with Business & Professions Code, including sections 8762 and 8771, shall contain the filing information provided by the county in which filed..

35. Upon OBLIGATION COMPLETION, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the SHS within SHS right-of-way as part of WORK become the property of CALTRANS.

CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside the SHS right-of-way.

Schedule

36. PARTNERS will manage the schedule for OBLIGATIONS through the work plan included in the PROJECT MANAGEMENT PLAN.

Additional Provisions

37. PARTNERS will perform all OBLIGATIONS in accordance with applicable federal and California laws, regulations, and standards; FHWA STANDARDS; and CALTRANS STANDARDS.
38. CALTRANS retains the right to reject noncompliant WORK, protect public safety, preserve property rights, and ensure that all WORK is in the best interest of the SHS.
39. Each PARTNER will ensure that personnel participating in OBLIGATIONS are appropriately qualified or licensed to perform the tasks assigned to them.
40. PARTNERS will invite each other to participate in the selection of any consultants who participate in OBLIGATIONS.
41. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within SHS right-of-way. Contractors and/or agents, and utility owners will not work within the SHS right-of-way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to PARTNERS, their contractors, consultants and agents, at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT shall prevail.
42. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the PROJECT COMPONENT WORK.
43. If any PARTNER discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTNER will notify all PARTNERS within twenty-four (24) hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and a plan is approved for its removal or protection.
44. PARTNERS will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the PROJECT in confidence to the extent permitted by law and where applicable, the provisions of California Government Code section 6254.5(e) shall protect the confidentiality of such documents in the event that said documents are shared between PARTNERS.

PARTNERS will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the PROJECT without the written consent of the PARTNER authorized to release them, unless required or authorized to do so by law.

45. If a PARTNER receives a public records request pertaining to OBLIGATIONS, that PARTNER will notify PARTNERS within five (5) working days of receipt and make PARTNERS aware of any disclosed public documents. PARTNERS will consult with each other prior to the release of any public documents related to the PROJECT.
46. If HM-1 or HM-2 is found during a PROJECT COMPONENT, the IMPLEMENTING AGENCY for that PROJECT COMPONENT will immediately notify PARTNERS.
47. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing SHS right-of-way. CALTRANS will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule.

CALTRANS, independent of the PROJECT will pay, or cause to be paid, the cost of HM MANAGEMENT ACTIVITIES related to HM-1 found within the existing SHS right-of-way.
48. CITY, independent of the PROJECT, is responsible for any HM-1 found within the PROJECT limits and outside the existing SHS right-of-way. CITY will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule.

CITY, independent of the PROJECT, will pay, or cause to be paid, the cost of HM MANAGEMENT ACTIVITIES related to HM-1 found within the PROJECT limits and outside of the existing SHS right-of-way.
49. If HM-2 is found within the PROJECT limits, the public agency responsible for the advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM MANAGEMENT ACTIVITIES related to HM-2.
50. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.
51. CITY will accept, reject, compromise, settle, or litigate claims of any non-AGREEMENT parties hired to complete OBLIGATIONS.
52. PARTNERS will confer on any claim that may affect OBLIGATIONS or PARTNERS' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTNER will prejudice the rights of another PARTNER until after PARTNERS confer on the claim.

53. If the PROJECT expends state or federal funds, each PARTNER will comply with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTNERS will ensure that any for-profit party hired to participate in the OBLIGATIONS will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the PROJECT these principles and requirements apply to all funding types included in this AGREEMENT.
54. If the PROJECT expends state or federal funds, each PARTNER will undergo an annual audit in accordance with the Single Audit Act and the federal Office of Management and Budget (OMB) Circular A-133.
55. If the PROJECT expends federal funds, any PARTNER that hires an A&E consultant to perform WORK on any part of the PROJECT will ensure that the procurement of the consultant and the consultant overhead costs are in accordance with Chapter 10 of the *Local Assistance Procedures Manual*.
56. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right-of-way in a safe and operable condition acceptable to CALTRANS.
57. If WORK stops for any reason, each PARTNER will continue to implement all of its applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, as they apply to each PARTNER's responsibilities in this AGREEMENT, in order to keep the PROJECT in environmental compliance until WORK resumes.
58. Fines, interest, or penalties levied against a PARTNER will be paid by the PARTNER whose action or lack of action caused the levy.
59. CITY will furnish CALTRANS with the Project History Files related to the PROJECT facilities on SHS within sixty (60) days following the completion of each PROJECT COMPONENT. CITY will prepare the Project History File in accordance with the Project Development Procedures Manual, Chapter 7. All material will be submitted neatly in a three-ring binder and on a CD ROM in PDF format.

GENERAL CONDITIONS

60. PARTNERS understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTNER initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.

61. All CALTRANS' OBLIGATIONS under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
62. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
63. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CITY under this AGREEMENT. It is understood and agreed that CITY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
64. PARTNERS do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this AGREEMENT. PARTNERS do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling OBLIGATIONS different from the standards imposed by law.
65. PARTNERS will not assign or attempt to assign OBLIGATIONS to parties not signatory to this AGREEMENT without an amendment to this AGREEMENT.
66. PARTNERS will not interpret any ambiguity contained in this AGREEMENT against PARTNERS. PARTNERS waive the provisions of California Civil Code section 1654.

A waiver of a PARTNER's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.
67. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

68. If any PARTNER defaults in its OBLIGATIONS, a non-defaulting PARTNER will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTNER fails to do so, the non-defaulting PARTNER may initiate dispute resolution.
69. PARTNERS will first attempt to resolve AGREEMENT disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of CITY will attempt to negotiate a resolution. If PARTNERS do not reach a resolution, PARTNERS' legal counsel will initiate mediation. PARTNERS agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTNERS from full and timely performance of OBLIGATIONS in accordance with the terms of this AGREEMENT. However, if any PARTNER stops fulfilling OBLIGATIONS, any other PARTNER may seek equitable relief to ensure that OBLIGATIONS continue.

Except for equitable relief, no PARTNER may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTNERS will file any civil complaints in the Superior Court of the county in which the CALTRANS district office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located. The prevailing PARTNER will be entitled to an award of all costs, fees, and expenses, including reasonable attorney fees as a result of litigating a dispute under this AGREEMENT or to enforce the provisions of this article including equitable relief.

70. PARTNERS maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
71. If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.
72. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTNERS will amend this AGREEMENT to include completion of those additional tasks.
73. Except as otherwise provided in the AGREEMENT, PARTNERS will execute a formal written amendment if there are any changes to OBLIGATIONS.

74. When WORK performed on the PROJECT is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771, PARTNERS shall conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTNERS shall include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts. Work performed by a PARTNER's own employees is exempt from the Labor Code's Prevailing Wage requirements.
75. If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTNERS shall conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. § 276(a).
- When applicable, PARTNERS shall include federal prevailing wage requirements in contracts for public work. WORK performed by a PARTNER's employees is exempt from federal prevailing wage requirements.
76. PARTNERS agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.
77. PARTNERS intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the OBLIGATIONS. The requirements of this agreement shall preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

DEFINITIONS

AGREEMENT – This agreement including any attachments, exhibits, and amendments.

CALTRANS STANDARDS – CALTRANS policies and procedures, including, but not limited to, the guidance provided in the Project Development Procedures Manual (PDPM) and the CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG) [which contains the CALTRANS Work Breakdown Structure (WBS) and was previously known as the WBS Guide] and is available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

CEQA (California Environmental Quality Act) – The act (California Public Resources Code, sections 21000 et seq.) that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those significant impacts, if feasible.

CFR (Code of Federal Regulations) – The general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

CONSTRUCTION – See PROJECT COMPONENT.

CONSTRUCTION CAPITAL – See PROJECT COMPONENT.

CONSTRUCTION SUPPORT – See PROJECT COMPONENT.

CLOSURE STATEMENT – A document signed by PARTNERS that verifies the completion of all OBLIGATIONS included in this AGREEMENT and in all amendments to this AGREEMENT.

DFM – Department Furnished Materials.

FHWA – Federal Highway Administration.

FHWA STANDARDS – FHWA regulations, policies and procedures, including, but not limited to, the guidance provided at www.fhwa.dot.gov/topics.htm.

GAAP (Generally Accepted Accounting Principles) – Uniform minimum standards and guidelines for financial accounting and reporting issued by the Federal Accounting Standards Advisory Board that serve to achieve some level of standardization. See <http://www.fasab.gov/accepted.html>.

HM-1 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law whether it is disturbed by the PROJECT or not.

HM-2 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by the PROJECT.

HM MANAGEMENT ACTIVITIES – Management activities related to either HM-1 or HM-2 including, without limitation, any necessary manifest requirements and disposal facility designations.

IMPLEMENTING AGENCY – The PARTNER responsible for managing the scope, cost, and schedule of a PROJECT COMPONENT to ensure the completion of that component.

IQA (Independent Quality Assurance) – CALTRANS' efforts to ensure that another PARTNER's quality assurance activities are in accordance with the applicable standards and the PROJECT's Quality Management Plan (QMP). When CALTRANS performs Independent Quality Assurance it does not develop, produce, validate, verify, re-check, or quality control another PARTNER's work products.

OBLIGATIONS – All WORK responsibilities and their associated costs.

OBLIGATION COMPLETION – PARTNERS have fulfilled all OBLIGATIONS included in this AGREEMENT and have signed a COOPERATIVE AGREEMENT CLOSURE STATEMENT.

PARTNER – Any individual signatory party to this AGREEMENT.

PARTNERS – The term that collectively references all of the signatory agencies to this AGREEMENT. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one PARTNER's individual actions legally bind the other PARTNER.

PROJECT COMPONENT – A distinct portion of the planning and project development process of a capital project as outlined in California Government Code, section 14529(b).

- **PID (Project Initiation Document)** – The work required to deliver the project initiation document for the PROJECT in accordance with CALTRANS STANDARDS.
- **PA&ED (Project Approval and Environmental Document)** – The work required to deliver the project approval and environmental documentation for the PROJECT in accordance with CALTRANS STANDARDS.
- **PS&E (Plans, Specifications, and Estimate)** – The work required to deliver the plans, specifications, and estimate for the PROJECT in accordance with CALTRANS STANDARDS.
- **R/W (Right of Way)** – The project components for the purpose of acquiring real property interests for the PROJECT in accordance with CALTRANS STANDARDS.
 - **R/W (Right of Way) SUPPORT** – The work required to obtain all property interests for the PROJECT.
 - **R/W (Right of Way) CAPITAL** – The funds for acquisition of property rights for the PROJECT.
- **CONSTRUCTION** – The project components for the purpose of completing the construction of the PROJECT in accordance with CALTRANS STANDARDS.
 - **CONSTRUCTION SUPPORT** – The work required for the administration, acceptance, and final documentation of the construction contract for the PROJECT.
 - **CONSTRUCTION CAPITAL** – The funds for the construction contract.

PROJECT MANAGEMENT PLAN – A group of documents used to guide the PROJECT's execution and control throughout that project's lifecycle.

QMP (Quality Management Plan) – An integral part of the PROJECT MANAGEMENT PLAN that describes IMPLEMENTING AGENCY's quality policy and how it will be used.

SHS (State Highway System) – All highways, right-of-way, and related facilities acquired, laid out, constructed, improved, or maintained as a state highway pursuant to constitutional or legislative authorization.

SPONSOR – Any PARTNER that accepts the responsibility to establish scope of the PROJECT and the obligation to secure financial resources to fund the PROJECT COMPONENTS in this AGREEMENT. A SPONSOR is responsible for adjusting the PROJECT scope to match committed funds or securing additional funds to fully fund the PROJECT COMPONENTS in this AGREEMENT. If this AGREEMENT has more than one SPONSOR, funding adjustments will be made by percentage (as outlined in Responsibilities). Scope adjustments must be developed through the project development process and must be approved by CALTRANS as the owner/operator of the SHS.


WORK – All efforts to complete the OBLIGATIONS included in this AGREEMENT as described by the activities in the CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG).

SIGNATURES

PARTNERS are empowered by California Streets and Highways Code section 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

Signatories may execute this AGREEMENT through individual signature pages provided that each signature is an original. This AGREEMENT is not fully executed until all original signatures are attached.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

for


Dennis T. Agar
District 10 Director

Certified as to funds:

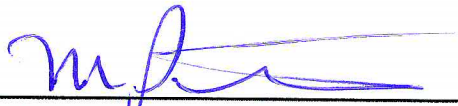


Athena J. Cline
District 10 Budget Manager

CITY OF TURLOCK




Name: *Gray Soiseth*
Title: *MAYOR*




Michael G. Pitcock, P.E.
Director of Development Services/City
Engineer

Attest:



Kellie E. Weaver
City Clerk

Approved as to form and procedure:



Phaedra A. Norton
City Attorney