

10:30 am-B
5/17/12

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER HSR11-29
REGISTRATION NUMBER

CITY OF FRESNO
City Clerk's Office (Original)

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California High-Speed-Rail Authority

CONTRACTOR'S NAME

City of Fresno

2. The term of this Agreement is: April 20, 2012 through June 30, 2013
or upon DGS approval, whichever is later

3. The maximum amount of this Agreement is: \$ 296,000.00
Two Hundred Ninety-six Thousand Dollars

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 3 page(s)

Exhibit B – Budget Detail and Payment Provisions 3 page(s)

Exhibit C* – General Terms and Conditions 4 page (s)

Check mark one item below as Exhibit D:

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 10 page(s)

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions 2 page(s)

Attachment 1 - Cost Proposal/Timeline 7 page(s)

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Fresno

BY (Authorized Signature)

DATE SIGNED(Do not type)

5/7/2012

PRINTED NAME AND TITLE OF PERSON SIGNING

Scott Mozier, P.E., City Engineer/Assistant Director

ADDRESS

City of Fresno, Public Works Department
2600 Fresno Street, 4th Floor, Fresno, CA 93721-3623

STATE OF CALIFORNIA

AGENCY NAME

California High-Speed-Rail Authority

BY (Authorized Signature)

DATE SIGNED(Do not type)

5/23/12

PRINTED NAME AND TITLE OF PERSON SIGNING

Thomas Fellenz, Chief Counsel

ADDRESS

770 L Street, Suite 800, Sacramento, CA 95814

California Department of General Services Use Only



Exempt per:

EXHIBIT A
SCOPE OF WORK AND DELIVERABLES

I. BACKGROUND

The California High-Speed Rail Authority (AUTHORITY) is undertaking a project to design and construct a high-speed rail line to connect the major cities in California. The system is scheduled to begin operation in 2020. The California High-Speed Train Project (CHSTP) will have a nominal end-to-end length of 800 miles, with trains travelling at speeds up to 220 mph. The AUTHORITY will operate in and out of the (CONTRACTOR) service territory.

- A. This Agreement will commence on the start date April 20, 2012 as presented herein or upon approval by the AUTHORITY, whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by the AUTHORITY. The Contractor shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the AUTHORITY's Contract Manager. This Agreement shall expire on June 30, 2013. The services shall be provided during Monday through Friday, except designated State holidays. The parties may amend this agreement as permitted by law.
- B. All inquiries during the term of this Agreement will be directed to the project representatives identified below:

California High-Speed Rail Authority	City of Fresno, Public Works Department
Contract Manager: Shahin Pourvahidi, P.E.	Project Manager: Scott Mozier, P.E.
Address: 770 L Street, Suite 800 Sacramento, CA 95814	Address: 2600 Fresno Street, 4 th Floor Fresno, CA 93721-3623
Phone: (916) 384-0564	Phone: (559) 621-8811
Fax: (916) 322-0827	Fax: (559) 488-1045
e-mail: spourvahidi@hsr.ca.gov	e-mail: scott.mozier@fresno.gov

The project representatives during the term of this Agreement may be changed by advance written notice without the necessity of an amendment to the Agreement.

II. CONTRACTOR REPORTS AND/OR MEETINGS

- A. The Contractor shall submit a schedule for the submittal of reports, and report content, within the first 30-days of this Agreement.
- B. The Contractor's Project Manager shall be available to the AUTHORITY's Contract Manager as needed to discuss progress on the Agreement.

EXHIBIT A
SCOPE OF WORK AND DELIVERABLES

III. SCOPE OF WORK

I. Agreement

1.1 Risk Management

- A. Risk Analysis

1.2 Legal Services

- A. Review and re-review of Agreement by City Attorney's Office
- B. Review of reports prepared by staff for City Council consideration

1.3 Project Meetings

- A. Publications, project meetings, and notices
- B. Staff participation in project meetings

1.4 City Staff Effort

- A. Preparation of draft agreement
- B. Negotiations with HSR staff and consultants regarding terms, content and form of Agreement
- C. Verification of existing rights of way information requested by design/build contractors
- D. Staff effort by the City's Finance and Public Works Departments in budgeting and preparing Appropriations Resolutions
- E. Overall oversight of the agreement development process by the City Engineer and City Traffic Engineer
- F. Preparation of various City Council Reports, including Council presentation
- G. Attend design coordination meetings

2. Prior Rights

2.1 Street Construction

- A. Review of Design for conformance to City Standards
- B. Plan review and approval
- C. Study vehicle Circulation Impacts
- D. Street rights of way analysis

2.2 Underground Utilities

- A. Analyze City owned utilities within HSR R/W which shall remain under City ownership
- B. Analyze easements containing utilities which shall remain with the City

EXHIBIT A
SCOPE OF WORK AND DELIVERABLES

3. Project Conflicts with Existing Infrastructure
 - 3.1 Conflict Review
 - A. Preliminary and pre-plan check review of conflicts with City owned utilities, sanitary sewer, water, and fiber optic network
 - B. Analyze vehicular circulation conflicts with construction
4. Consultant Selection
 - 4.1 Selection of Special Consultant/s to Assist in Development of Master Cooperative Agreement
 - A. Analyze consultant/s work schedule
 - B. Determine consultant/s costs and fees
 - C. Interview and hire consultants for plan checking

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

A. FUNDING REQUIREMENTS

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for pursuing work under this contract, this Agreement shall be of no further force and effect. In this event, the AUTHORITY shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provision of this Agreement.
2. In addition, this Agreement is subject to any additional restrictions, limitations, conditions or any statute enacted by the Congress or State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.
3. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Agreement, the AUTHORITY shall have the option to either cancel this Agreement with no liability occurring to the AUTHORITY or Contractor, or offer an Agreement Amendment to the Contractor to reflect the reduced amount.

B. COMPENSATION, INVOICING AND PAYMENT

1. The total amount payable by the AUTHORITY, for this Agreement shall not exceed \$296,000.00. It is understood and agreed this total is an estimate, and the actual amount of work requested by the AUTHORITY may be less.
2. Any changes in scope requested by the AUTHORITY or work required beyond expectations may result in additional time to complete the Study and shall be billed accordingly and proceeded with as outlined. At any time the Contractor determines the Study is expected to cost more than \$296,000.00, the CONTRACTOR shall promptly notify the AUTHORITY and provide an estimate of any additional costs. Upon receipt of such notice, the AUTHORITY shall either: (a) request the CONTRACTOR to terminate the Study, or (b) amend the agreement.
3. The Contractor shall not commence performance nor will payment be made for any work performed prior to approval of this Agreement by State and written notification to proceed has been issued by the AUTHORITY's Contract Manager, nor will any payment be made for work performed after the expiration date of this Agreement.
4. Invoices shall include the Agreement Number, include actual hours worked (by individual positions), actual costs for salaries/benefits, travel and other direct and indirect costs (by individual), with accompanying receipts and other documentation to support travel/other direct costs.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

5. Invoices shall be submitted monthly in arrears to:

California High-Speed Rail Authority
Financial Operations Section
770 L Street, Suite 800
Sacramento, CA 95814

6. If the AUTHORITY determines additional work beyond that specified in the Cost Proposal is desired, the AUTHORITY may increase the additional work by an agreement amendment. The maximum total cost as specified in this Exhibit B, shall not be exceeded unless authorized by an agreement amendment.
7. The Authority may demand that CONTRACTOR terminate the Study at any time. Immediately following receipt of written notice of such termination from the Authority, CONTRACTOR shall terminate the Study as demanded. In such case, the Authority shall reimburse CONTRACTOR only for the costs actually incurred for the performance of the terminated Study.

C. COST PRINCIPLES

1. The Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., shall be used to determine the allowability of individual items of cost.
2. The Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. Any costs for which payment has been made to the Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq. or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by the Contractor to the AUTHORITY.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

D. CONTINGENT FEE

The Contractor warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the AUTHORITY has the right to annul this Agreement without liability, pay only for the value of the work actually performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

GTC 610

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

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

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

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

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

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

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

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

EXHIBIT C
GENERAL TERMS AND CONDITIONS

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

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

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

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

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

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

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

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

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

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support

EXHIBIT C
GENERAL TERMS AND CONDITIONS

enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

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

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

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

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

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

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

20. LOSS LEADER:

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

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

A. AMENDMENT (CHANGE IN TERMS)

1. No amendment or variation of the terms of this agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in agreement is binding on any of the parties.
2. The Contractor shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided in writing by the AUTHORITY's Contract Manager.
3. There shall be no change in the Contractor's Project Manager or members of the project team, as listed in the cost proposal, which is a part of this Agreement, without prior written approval by the AUTHORITY's Contract Manager. If the Contractor obtains approval from the AUTHORITY's Contract Manager to add or substitute personnel, the Contractor must provide the Personnel Request Form, a copy of the SF330 or resume for the additional or substituted personnel, along with a copy of the certified payroll for that person.

B. DISPUTES

1. The Contractor shall continue with the responsibilities under this Agreement during any work dispute. Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Chief Executive Officer.
2. In the event of a dispute, the Contractor shall file a "Notice of Dispute" with the California High-Speed Rail Authority and the Chief Executive Officer within ten (10) days of discovery of the problem. Within ten (10) days, the Chief Executive Officer shall meet with the Project Manager for purposes of resolving the dispute. The decision of the Chief Executive Officer shall be final.
3. Neither the pendency of a dispute nor its consideration by the Chief Executive Officer will excuse the Contractor from full and timely performance in accordance with the terms of this Agreement.

C. TERMINATION

This section regarding termination is in addition to GTC 610.

1. 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

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

(30) calendar days written notice to the Contractor if terminated for the convenience of the AUTHORITY.

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

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

General Conditions

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

E. CONTRACTOR'S DELIVERABLES UNDER EARLY TERMINATION

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

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

F. INVOICE SUBMITTAL UNDER EARLY TERMINATION

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

G. 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.

H. COST PRINCIPLES UNDER EARLY TERMINATION

Termination settlement expenses will be reimbursed in accordance with 48 CFR, 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.

I. DISPUTES UNDER EARLY TERMINATION CONDITIONS

Disputes under early termination conditions shall be resolved in accordance with this Exhibit.

J. AUDIT REVIEW PROCEDURES UNDER EARLY TERMINATION

Audit Review procedures shall be in accordance with Exhibit D, Audit Review Procedures, section XIV below.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

K. CONTRACTOR CLAIMS AGAINST THIS AGREEMENT UNDER EARLY TERMINATION

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

L. NON-DISCRIMINATION

This section regarding non-discrimination is in addition to GTC 610.

1. 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.
2. The Contractor shall include the nondiscrimination and compliance provisions of this clause in all sub agreements to perform work under this clause.

M. RETENTION OF RECORD/AUDITS

1. 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

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for thirty-five (35) years from the date of expenditure under this Agreement. The AUTHORITY, the State Auditor, or any duly authorized representative having jurisdiction under any laws or regulations shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

2. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all the provisions of this clause.

N. AUDIT REVIEW PROCEDURES

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

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

O. SUBCONTRACTING

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons wither directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

P. PURCHASE OF EQUIPMENT

No equipment identified in this Agreement is approved for purchase.

Q. INSPECTION OF WORK

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

R. SAFETY

1. The Contractor shall comply with OSHA regulations applicable to the Contractor regarding necessary safety equipment or procedures. The Contractor shall comply with safety instructions issued by the AUTHORITY's Safety Officer and other State representatives. The Contractor's personnel shall wear white hard hats and orange safety vests at all times while working on the construction project site.
2. Pursuant to the authority contained in Section 591 of the Vehicle Code, the AUTHORITY has determined that within such areas as are within the limits of the project and are open to public traffic, the Contractor shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The Contractor shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
3. The Contractor must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s) as outlined in California Labor Code Sections 6500 and 6705,

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

prior to the initiation of any practice, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

S. OWNERSHIP OF DATA

1. 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.
2. 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.
3. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by the AUTHORITY of the machine readable information and data provided by the Contractor under this agreement; further, the Contractor is not liable for claims, liabilities or losses arising out of, or connected with, any use by the AUTHORITY of the project documentation on other projects, for additions to this project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by the Contractor.
4. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

T. CONFIDENTIALITY OF DATA

1. 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.
2. 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.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

3. 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.
4. 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.
5. All information related to the construction estimate is confidential and shall not be disclosed by the Contractor to any entity, other than the AUTHORITY.

U. STATEMENT OF COMPLIANCE

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

V. DEBARMENT AND SUSPENSION CERTIFICATION

1. 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:
 - a. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - b. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - c. Does not have a proposed debarment pending; and
 - d. 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.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

2. 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.

W. CONFLICT OF INTEREST

1. During the term of this Agreement, the Contractor shall disclose any financial, business, or other relationship with AUTHORITY that may have an impact upon the outcome of this Agreement or any ensuing AUTHORITY construction project. The Contractor shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing AUTHORITY construction project which will follow.
2. 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.
3. The Contractor and its employees, and all its Subcontractors and employees, shall comply with the AUTHORITY's Conflict of Interest Code.
4. Any sub agreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

X. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised 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.

Y. PROHIBITION OF EXPENDING STATE FUNDS FOR LOBBYING

1. The Contractor certifies, to the best of his or her knowledge and belief, that:

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

No State 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 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 agreement, the making of any State grant, the making of any State, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State agreement, grant, loan, or cooperative agreement.

2. 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 \$10,000.00 and not more than \$100,000.00 for each such failure.
3. The Contractor also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier sub agreements, which exceed \$100,000.00, and that all such sub recipients shall certify and disclose accordingly.

EXHIBIT E
ADDITIONAL PROVISIONS

Supplemental Terms and Conditions for Contracts Using ARRA Funds

1. **ARRA FUNDED PROJECT:** Funding for this contract has been provided through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.
2. **ENFORCEABILITY:** Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.
3. **PROHIBITION ON USE OF ARRA FUNDS:** Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.
4. **REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS (Buy America):** Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor nor its subcontractors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605 [49 U.S.C. 211.405(a)]
5. **WAGE RATE REQUIREMENTS:** In accordance with ARRA, Section 1606, [49 U.S.C. 2105(c)(2)] the Contractor assures that it and its subrecipients shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.
6. **INSPECTION OF RECORDS:** In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA. Contractor shall include this provision in all of the contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA funded work.
7. **WHISTLEBLOWER PROTECTION:** Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds. Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

EXHIBIT E
ADDITIONAL PROVISIONS

8. **FALSE CLAIMS ACT:** Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
9. **REPORTING REQUIREMENTS:** Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a monthly (quarterly) basis:
- a. The total amount of ARRA funds received by Contractor during the Reporting Period;
 - b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
 - c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including:
 - (i.) The name of the project or activity;
 - (ii.) A description of the project or activity;
 - (iii.) An evaluation of the completion status of the project or activity; and
 - (iv.) An estimate of the number of jobs created and /or retained by the project or activity;
 - d. For any contracts equal to or greater than \$25,000:
 - (i.) The name of the entity receiving the contract;
 - (ii.) The amount of the contract;
 - (iii.) The transaction type;
 - (iv.) The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
 - (v.) The Program source;
 - (vi.) An award title descriptive of the purpose of each funding action;
 - (vii.) The location of the entity receiving the contract;
 - (viii.) The primary location of the contract, including the city, state, congressional district and country;
 - (ix.) The DUNS number, or name and zip code for the entity headquarters;
 - (x.) A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 - (xi.) The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; 2) \$25M or more in annual gross revenue from Federal awards and; 3) if the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986.;
 - e. For any contracts of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

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

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

BUDGET/COSTS

Any invoice submitted by contractor will identify line item costs and corresponding task number

Task #	Personal Services				Fringe Benefits	Operating Expenses	Travel Expenses	Overhead	Sub-Total By Task	Total by Task
	Estimated # of hours needed for contract services multiplied by individual or position rates per hr. Do not include travel or overhead. Include name/position title and hours.				Identify fringe benefit costs citing actual benefits or as a percentage of personal service costs.	Operating expenses related to the services provided including rent and supplies.	include travel expense and per diem. Rates are set at the rate specified by DPA.	This information must be provided.		
	Name/Position	\$/Hr	Hrs	Total \$						
1	MASTER AGM'T									
1.1	Risk Management									
1.1A	Risk Analysis									
	Scott Mozier	\$ 55.42	6	\$ 332.52	\$ 87.12			\$ 482.15		\$ 901.79
	David Cisneros	\$ 48.45	80	\$ 3,876.00	\$ 1,015.51			\$ 5,620.20		\$ 10,511.71
	Carl Kassabian	\$ 50.00	30	\$ 1,500.00	\$ 393.00			\$ 2,175.00		\$ 4,068.00
	Sub-total Task 1.1								\$ 15,481.51	
1.2	Legal Services									
1.2A	City Attorney Staff	\$ 130.00	40	\$ 5,200.00	\$ 1,362.40			\$ 7,540.00		\$ 14,102.40
	David Cisneros	\$ 48.45	24	\$ 1,162.80	\$ 304.65			\$ 1,686.06		\$ 3,153.51
	Carl Kassabian	\$ 50.00	10	\$ 500.00	\$ 131.00			\$ 725.00		\$ 1,356.00
1.2B	Efren Banuelos	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	Scott Mozier	\$ 55.42	12	\$ 665.04	\$ 174.24			\$ 964.31		\$ 1,803.59
	Scott Tyler	\$ 48.45	12	\$ 581.40	\$ 152.33			\$ 843.03		\$ 1,576.76
	Sub-total Task 1.2								\$ 24,397.04	
1.3	Project Meetings									
1.3A	P.W. Staff	\$ 43.31	64	\$ 2,771.84	\$ 726.22			\$ 4,019.17		\$ 7,517.23
	David Cisneros	\$ 48.45	64	\$ 3,100.80	\$ 812.41			\$ 4,496.16		\$ 8,409.37
	Carl Kassabian	\$ 50.00	64	\$ 3,200.00	\$ 838.40			\$ 4,640.00		\$ 8,678.40

BUDGET/COSTS

Any invoice submitted by contractor will identify line item costs and corresponding task number

Task #	Personal Services				Fringe Benefits	Operating Expenses	Travel Expenses	Overhead	Sub-Total By Task	Total by Task
	Estimated # of hours needed for contract services multiplied by individual or position rates per hr. Do not include travel or overhead. Include name/position title and hours.				Identify fringe benefit costs citing actual benefits or as a percentage of personal service costs.	Operating expenses related to the services provided including rent and supplies.	Include travel expense and per diem. Rates are set at the rate specified by DPA.	This information must be provided.		
	Name/Position	\$/Hr	Hrs	Total \$						
1.3B	P.W. Staff	\$ 28.04	24	\$ 672.96	\$ 176.32			\$ 975.79		\$ 1,825.07
	David Cisneros	\$ 48.45	30	\$ 1,453.50	\$ 380.82			\$ 2,107.58		\$ 3,941.89
	Carl Kassabian	\$ 50.00	16	\$ 800.00	\$ 209.60			\$ 1,160.00		\$ 2,169.60
	Sub-total Task 1.3								\$ 32,541.56	
1.4	City Staff Effort									
1.4A	Scott Mozier	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	Scott Tyler	\$ 48.45	16	\$ 775.20	\$ 203.10			\$ 1,124.04		\$ 2,102.34
	Efren Banuelos	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	David Cisneros	\$ 48.45	64	\$ 3,100.80	\$ 812.41			\$ 4,496.16		\$ 8,409.37
	Carl Kassabian	\$ 50.00	40	\$ 2,000.00	\$ 524.00			\$ 2,900.00		\$ 5,424.00
1.4B	P.W. Staff	\$ 28.04	10	\$ 280.40	\$ 73.46			\$ 406.58		\$ 760.44
	Scott Mozier	\$ 55.42	24	\$ 1,330.08	\$ 348.48			\$ 1,928.62		\$ 3,607.18
	Scott Tyler	\$ 48.45	12	\$ 581.40	\$ 152.33			\$ 843.03		\$ 1,576.76
	Efren Banuelos	\$ 55.42	12	\$ 665.04	\$ 174.24			\$ 964.31		\$ 1,803.59
	David Cisneros	\$ 48.45	60	\$ 2,907.00	\$ 761.63			\$ 4,215.15		\$ 7,883.78
	Carl Kassabian	\$ 50.00	16	\$ 800.00	\$ 209.60			\$ 1,160.00		\$ 2,169.60
1.4C	Alan James	\$ 32.63	60	\$ 1,957.80	\$ 512.94			\$ 2,838.81		\$ 5,309.55
	Bruce Abbott	\$ 28.04	24	\$ 672.96	\$ 176.32			\$ 975.79		\$ 1,825.07
1.4D	P.W. and Finance Dept. Staff	\$ 37.00	24	\$ 888.00	\$ 232.66			\$ 1,287.60		\$ 2,408.26

BUDGET/COSTS

Any invoice submitted by contractor will identify line item costs and corresponding task number

Task #	Personal Services				Fringe Benefits	Operating Expenses	Travel Expenses	Overhead	Sub-Total By Task	Total by Task
	Estimated # of hours needed for contract services multiplied by individual or position rates per hr. Do not include travel or overhead. Include name/position title and hours.				Identify fringe benefit costs citing actual benefits or as a percentage of personal service costs.	Operating expenses related to the services provided including rent and supplies.	Include travel expense and per diem. Rates are set at the rate specified by DPA.	This information must be provided.		
	Name/Position	\$/Hr	Hrs	Total \$						
1.4E	Scott Mozier	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	Scott Tyler	\$ 48.45	16	\$ 775.20	\$ 203.10			\$ 1,124.04		\$ 2,102.34
	Efren Banuelos	\$ 55.42	10	\$ 554.20	\$ 145.20			\$ 803.59		\$ 1,502.99
	David Cisneros	\$ 48.45	48	\$ 2,325.60	\$ 609.31			\$ 3,372.12		\$ 6,307.03
	Carl Kassabian	\$ 50.00	24	\$ 1,200.00	\$ 314.40			\$ 1,740.00		\$ 3,254.40
1.4F	Scott Mozier	\$ 55.42	10	\$ 554.20	\$ 145.20			\$ 803.59		\$ 1,502.99
	David Cisneros	\$ 48.45	24	\$ 1,162.80	\$ 304.65			\$ 1,686.06		\$ 3,153.51
	Carl Kassabian	\$ 50.00	24	\$ 1,200.00	\$ 314.40			\$ 1,740.00		\$ 3,254.40
1.4G	Scott Mozier	\$ 55.42	20	\$ 1,108.40	\$ 290.40			\$ 1,607.18		\$ 3,005.98
	Scott Tyler	\$ 48.45	20	\$ 969.00	\$ 253.88			\$ 1,405.05		\$ 2,627.93
	David Cisneros	\$ 48.45	20	\$ 969.00	\$ 253.88			\$ 1,405.05		\$ 2,627.93
	Carl Kassabian	\$ 50.00	12	\$ 600.00	\$ 157.20			\$ 870.00		\$ 1,627.20
	Sub-total Task 1.4								\$ 81,460.99	
2	PRIOR RIGHTS									
2.1	Street Construction									
2.1A	Const. Mang't Staff	\$ 44.03	40	\$ 1,761.20	\$ 461.43			\$ 2,553.74		\$ 4,776.37
	Efren Banuelos	\$ 55.42	20	\$ 1,108.40	\$ 290.40			\$ 1,607.18		\$ 3,005.98
2.1B	P.W. Staff	\$ 28.04	40	\$ 1,121.60	\$ 293.86			\$ 1,626.32		\$ 3,041.78
	Scott Mozier	\$ 55.42	30	\$ 1,662.60	\$ 435.60			\$ 2,410.77		\$ 4,508.97
	Scott Tyler	\$ 48.45	24	\$ 1,162.80	\$ 304.65			\$ 1,686.06		\$ 3,153.51

BUDGET/COSTS

Any invoice submitted by contractor will identify line item costs and corresponding task number

Task #	Personal Services				Fringe Benefits	Operating Expenses	Travel Expenses	Overhead	Sub-Total By Task	Total by Task
	Name/Position	\$/Hr	Hrs	Total \$						
	Estimated # of hours needed for contract services multiplied by individual or position rates per hr. Do not include travel or overhead. Include name/position title and hours.				Identify fringe benefit costs citing actual benefits or as a percentage of personal service costs.	Operating expenses realted to the services provided including rent and supplies.	Include travel expense and per diem. Rates are set at the rate specified by DPA.	This information must be provided.		
2.1C	Scott Mozier	\$ 55.42	12	\$ 665.04	\$ 174.24			\$ 964.31		\$ 1,803.59
	Scott Tyler	\$ 48.45	48	\$ 2,325.60	\$ 609.31			\$ 3,372.12		\$ 6,307.03
	Randy Schrey	\$ 44.03	50	\$ 2,201.50	\$ 576.79			\$ 3,192.18		\$ 5,970.47
2.1D	P.W. Staff	\$ 28.04	40	\$ 1,121.60	\$ 293.86			\$ 1,626.32		\$ 3,041.78
	Scott Mozier	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	Scott Tyler	\$ 48.45	24	\$ 1,162.80	\$ 304.65			\$ 1,686.06		\$ 3,153.51
	Sub-total Task 2.1								\$ 41,167.78	
2.2	Underground Utilities									
2.2A	Scott Mozier	\$ 55.42	12	\$ 665.04	\$ 174.24			\$ 964.31		\$ 1,803.59
	Scott Tyler	\$ 48.45	16	\$ 775.20	\$ 203.10			\$ 1,124.04		\$ 2,102.34
	Gary Witzel	\$ 44.03	40	\$ 1,761.20	\$ 461.43			\$ 2,553.74		\$ 4,776.37
	Jeff Beck	\$ 32.63	40	\$ 1,305.20	\$ 341.96			\$ 1,892.54		\$ 3,539.70
2.2B	P.W. and Public Utilities Staff	\$ 44.03	50	\$ 2,201.50	\$ 576.79			\$ 3,192.18		\$ 5,970.47
	Scott Mozier	\$ 55.42	8	\$ 443.36	\$ 116.16			\$ 642.87		\$ 1,202.39
	Scott Tyler	\$ 48.45	16	\$ 775.20	\$ 203.10			\$ 1,124.04		\$ 2,102.34
	Robert Andersen	\$ 55.42	40	\$ 2,216.80	\$ 580.80			\$ 3,214.36		\$ 6,011.96
2.2C	Robert Andersen	\$ 55.42	30	\$ 1,662.60	\$ 435.60			\$ 2,410.77		\$ 4,508.97
	Scott Mozier	\$ 55.42	30	\$ 1,662.60	\$ 435.60			\$ 2,410.77		\$ 4,508.97
	Scott Tyler	\$ 48.45	30	\$ 1,453.50	\$ 380.82			\$ 2,107.58		\$ 3,941.89
	Sub-total Task 2.2								\$ 40,469.01	

BUDGET/COSTS

Any invoice submitted by contractor will identify line item costs and corresponding task number

Task #	Personal Services				Fringe Benefits	Operating Expenses	Travel Expenses	Overhead	Sub-Total By Task	Total by Task
	Name/Position	\$/Hr	Hrs	Total \$						
	Estimated # of hours needed for contract services multiplied by individual or position rates per hr. Do not include travel or overhead. Include name/position title and hours.				Identify fringe benefit costs citing actual benefits or as a percentage of personal service costs.	Operating expenses related to the services provided including rent and supplies.	Include travel expense and per diem. Rates are set at the rate specified by DPA.	This information must be provided.		
3	PROJECT CONFLICTS									
3.1	Conflict Review									
3.1A	Robert Andersen	\$ 55.42	30	\$ 1,662.60	\$ 435.60			\$ 2,410.77		\$ 4,508.97
	Doug Hecker	\$ 44.03	50	\$ 2,201.50	\$ 576.79			\$ 3,192.18		\$ 5,970.47
	Mike Carbajal	\$ 44.03	50	\$ 2,201.50	\$ 576.79			\$ 3,192.18		\$ 5,970.47
3.1B	Scott Tyler	\$ 48.45	36	\$ 1,744.20	\$ 456.98			\$ 2,529.09		\$ 4,730.27
	Randy Schrey	\$ 44.03	50	\$ 2,201.50	\$ 576.79			\$ 3,192.18		\$ 5,970.47
	Sub-total Task 3.1								\$ 27,150.65	
4	CONSULTANT									
4.1	Consultant Selection									
4.1A	Scott Mozier	\$ 55.42	24	\$ 1,330.08	\$ 348.48			\$ 1,928.62		\$ 3,607.18
	Scott Tyler	\$ 48.45	16	\$ 775.20	\$ 203.10			\$ 1,124.04		\$ 2,102.34
	Robert Andersen	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	David Cisneros	\$ 48.45	32	\$ 1,550.40	\$ 406.20			\$ 2,248.08		\$ 4,204.68
	Carl Kassabian	\$ 50.00	16	\$ 800.00	\$ 209.60			\$ 1,160.00		\$ 2,169.60
4.1B	David Cisneros	\$ 48.45	30	\$ 1,453.50	\$ 380.82			\$ 2,107.58		\$ 3,941.89
	Carl Kassabian	\$ 50.00	20	\$ 1,000.00	\$ 262.00			\$ 1,450.00		\$ 2,712.00

BUDGET/COSTS

Any invoice submitted by contractor will identify line item costs and corresponding task number

Task #	Personal Services				Fringe Benefits	Operating Expenses	Travel Expenses	Overhead	Sub-Total By Task	Total by Task
	Name/Position	\$/Hr	Hrs	Total \$						
	Estimated # of hours needed for contract services multiplied by individual or position rates per hr. Do not include travel or overhead. Include name/position title and hours.				Identify fringe benefit costs citing actual benefits or as a percentage of personal service costs.	Operating expenses related to the services provided including rent and supplies.	Include travel expense and per diem. Rates are set at the rate specified by DPA.	This information must be provided.		
4.1C	Scott Mozier	\$ 55.42	16	\$ 886.72	\$ 232.32			\$ 1,285.74		\$ 2,404.78
	Scott Tyler	\$ 48.45	20	\$ 969.00	\$ 253.88			\$ 1,405.05		\$ 2,627.93
	David Cisneros	\$ 48.45	32	\$ 1,550.40	\$ 406.20			\$ 2,248.08		\$ 4,204.68
	Carl Kassabian	\$ 50.00	16	\$ 800.00	\$ 209.60			\$ 1,160.00		\$ 2,169.60
	Sub-total Task 4.1								\$ 32,549.48	
Total by line item			2240	\$ 108,856.20	\$ 28,520.32	\$ -	\$ -	\$ 157,841.49	\$ 295,218.01	GRAND TOTAL \$ 295,218.01

Overhead costs are those general expenses incurred during normal course of operating a business. At times these costs may be called General & Administrative, Fringe Benefits Costs, Overhead, or Payroll burden.

CCC-307

CERTIFICATION

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

<i>Contractor/Bidder Firm Name (Printed)</i> City of Fresno		<i>Federal ID Number</i> 94-6000338
<i>By (Authorized Signature)</i> 		
<i>Printed Name and Title of Person Signing</i> Scott Mozier City Engineer/Assistant Director		
<i>Date Executed</i> 5/7/2012	<i>Executed in the County of</i> Fresno	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

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

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

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

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

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

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

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

6. SWEATFREE CODE OF CONDUCT:

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

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

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

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

May 18, 2012

TO: MAYOR ASHLEY SWEARENGIN

FROM: YVONNE SPENCE, CMC
City Clerk

Council Adoption:
Mayor Approval:
Mayor Veto:
Override Request:



SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 5/17/12, Council adopted the attached Resolution No. 2012-88⁸⁷ entitled 67th amendment to the Annual Appropriation Resolution (AAR) No. 2011-133 appropriating \$295,000 in Proposition 1A funds for engineering and plan review for the High Speed Rail Project, Item 10:30a.m. Item B1, by the following vote:

Ayes : Baines, Brand, Quintero, Westerlund, Xiong
Noes : Borgeas, Olivier
Absent : None
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before May 29, 2012. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED ~~(NO RETURN)~~ _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearengin, Mayor

Date: _____

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes :
Noes :
Absent :
Abstain :

On motion of Councilmember Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled CONSENT CALENDAR hereby adopted, by the following vote:

Ayes : Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes : None
Absent : Baines

(10:00 A.M.) PRESENTATION/REPORT BY CLOVIS UNIFIED SCHOOL DISTRICT ON THEIR 50th ANNIVERSARY AND UPCOMING CHANGES TO THEIR PROGRAMS AND THE DISTRICT – COUNCILMEMBER WESTERLUND

Councilmember Westerlund introduced the item and stated Clovis Unified celebrated their 50th anniversary this past year and congratulated them, advised 40% of the district's students were Fresno residents, stated the district was an outstanding one with many awards and accolades and was a shining star in the Central Valley's educational world, and introduced Janet Young, Superintendent of the Clovis Unified School District. Ms. Young introduced district officials in attendance, submitted a packet of written materials to Council which contained information on how the district serves its students, student achievement, where students reside, and types of programs/events/activities/facilities that serve the students and the greater Fresno area, and shared information and numbers on the district and students, displaying a map to illustrate. Upon the request of Councilmember Westerlund Ms. Young expanded on Measure 'A' which will be on the June ballot, and Councilmembers Westerlund, Brand, Xiong and President Olivier spoke in support of Measure 'A' and the district, thanked the Board of Trustees for the open relationship/partnership, and thanked Ms. Young for her presentation. There was no further discussion.

CONTESTED CONSENT CALENDAR:

(1-F) ACTIONS RELATING TO THE GETTYSBURG AVENUE BIKE LANE PROJECT FROM FRESNO STREET TO WINERY AVENUE

#1 ADOPT FINDING OF CATEGORICAL EXEMPTION PURSUANT TO CEQA (MINOR ALTERATION TO LAND)

#2 AWARD A CONSTRUCTION CONTRACT FOR THE PROJECT TO INTERMOUNTAIN SLURRY SEAL, INC., OF WATSONVILLE, CA IN THE AMOUNT OF \$328,000

Councilmember Westerlund thanked staff for their work on the project and efforts to address issues, **(3 – 0)** and spoke to a district meeting where some concerns were still expressed, to modifications that were made to the plan, and to his desire to get back to his constituents to inform them of the changes and made a motion to continue this item to May 24th stating the bids were good until May 25th.

On motion of Councilmember Westerlund, seconded by President Olivier, duly carried, RESOLVED, Item 1-F continued to May 24, 2012, by the following vote:

Ayes : Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes : None
Absent : Baines

(10:30 a.m. "A") ACTIONS RELATING TO THE HIGH SPEED RAIL (HSR) PROJECT

#1 RESOLUTION – 67TH AMENDMENT TO AAR 2011-133 APPROPRIATING \$295,000 IN PROPOSITION 1A FUNDS FOR ENGINEERING AND PLAN REVIEW FOR THE HSR PROJECT UNDER THE MASTER COOPERATIVE AGREEMENT
(Failed adoption due to the need for five (5) affirmative votes)

#2 APPROVE A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CALIFORNIA HSR AUTHORITY PROVIDING FOR PAYMENT OF \$295,000 TO THE CITY OF FRESNO FOR COSTS INCURRED IN PERFORMING THE TASKS NEEDED TO DEVELOP A MASTER COOPERATIVE AGREEMENT FOR THE HSR PROJECT *(Approved)*

City Engineer Mozier reviewed the issue as contained in the staff report as submitted, and stated time was of the essence from the HSR Authority's perspective in the bid process and recommended approval.

May 3, 2012

AGENDA ITEM NO.
COUNCIL MEETING <u>05/03/12</u>
APPROVED BY

DEPARTMENT DIRECTOR
CITY MANAGER 

FROM: PATRICK N. WIEMILLER, Director
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
Public Works Department, Traffic and Engineering Services Division 

SUBJECT: RESOLUTION – ADOPTING THE 67TH AMENDMENT TO THE ANNUAL APPROPRIATIONS RESOLUTION NO. 2011-133 APPROPRIATING \$295,000 IN PROPOSITION 1A FUNDS FOR ENGINEERING AND PLAN REVIEW FOR THE HIGH-SPEED RAIL (HSR) PROJECT UNDER THE MASTER COOPERATIVE AGREEMENT

APPROVE A MEMORANDUM OF UNDERSTANDING WITH THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY PROVIDING FOR PAYMENT OF \$295,000 TO THE CITY FOR COSTS INCURRED IN PERFORMING THE TASKS NEEDED TO DEVELOP A MASTER COOPERATIVE AGREEMENT FOR THE HIGH-SPEED RAIL PROJECT

RECOMMENDATIONS

Staff recommends that the Council take the following actions:

1. Adopt a resolution adopting the 67th Amendment to the Annual Appropriations Resolution No. 2011-133 appropriating \$295,000 in Proposition 1A funds for engineering and plan review for the High-Speed Rail (HSR) project under the Master Cooperative Agreement.
2. Approve a Memorandum of Understanding (MOU) with the California High-Speed Rail Authority (CHSRA) in substantially the form attached, providing for payment of \$295,000 to the City for costs incurred in performing the tasks needed to develop a Master Cooperative Agreement for the HSR project; and authorize the Public Works Director or his designee to sign the MOU on behalf of the City, subject to City Attorney approval as to form.

EXECUTIVE SUMMARY

Staff has been working with representatives of the California High-Speed Rail Authority (CHSRA) to develop a Master Cooperative Agreement between the CHSRA and the City of Fresno that will set forth the design, construction and maintenance responsibilities for facilities to be constructed, modified or relocated as part of the HSR project. The CHSRA has agreed to compensate the City for costs to be incurred in developing the agreement up to \$295,000 and has prepared a Memorandum of Understanding to cover this work. Tasks include verification of existing rights-of-way, review of proposed designs for conformance to City standards, analysis of utility-HSR conflicts, analysis and verification of utility easements and pre-plan check activities along the HSR corridor. Therefore staff recommends the Council adopt a resolution amending the Annual Appropriations Resolution (AAR) to appropriate the

CHSRA funding. Staff is also recommending the Council approve the attached MOU between the CHSRA and the City which will allow the City to recover its costs in developing the agreement.

BACKGROUND

The CHSRA is proposing to begin construction in Fresno within the next year. The alignment as depicted in the project's Environmental Impact Report is generally on the west side of the Union Pacific Railroad (UPRR) tracks from north of Herndon Avenue through downtown and south to Jensen Avenue, then curving toward an alignment on the west side of the Burlington Northern Santa Fe (BNSF) tracks from the Highway 99 crossing to the southerly sphere of influence boundary at American Avenue. In order to construct the HSR corridor on the proposed track alignment, numerous City facilities will have to be relocated or modified. These facilities include the protection, modification or relocation of numerous sewer and water pipelines, the relocation of Golden State Boulevard between the Herndon Avenue/SR-99 interchange and Ashlan Avenue, extensive modification of streets such as Parkway Drive west of SR-99 as a result of shifting SR-99 to the west, street closures, grade separations (such as Shaw Avenue, McKinley Avenue, Olive Avenue, Belmont Avenue, Fresno Street underpass extension, Tulare Street, Ventura Street, Church Avenue, Central Avenue) and associated work such as signing, striping, traffic signal modifications, street lighting, drainage facilities, curbs, gutters and sidewalks.

Staff has been contacted by Parsons Brinckerhoff, the engineering consultants for the CHSRA in order to develop a Master Cooperative Agreement that will assign design, construction, and maintenance responsibilities for the project. An interagency cooperative agreement would typically be required for a project of this magnitude. For example, each of the previous freeway extension projects has involved a cooperative agreement between Caltrans and the City of Fresno. High-speed rail will need to follow a similar process and as such the proposed MOU will provide the City with the necessary funding to partner with the CHSRA in the development of a cooperative agreement.

The Public Works Department and the Department of Public Utilities have estimated the cost to perform the needed tasks identified in the attached Scope of Work at \$295,000. This estimate of cost was transmitted to Parsons Brinckerhoff by letter, a copy of which is attached. The MOU will obligate the CHSRA to reimburse the City, up to \$295,000, for costs incurred in performing the items listed in the Scope of Work. Upon successful negotiation of a detailed Master Cooperative Agreement, staff will return to Council for approval of the proposed agreement.

The proposed MOU language is under final review by the CHSRA but has been approved as to form by the City Attorney's Office. Staff recommends that the Public Works Director or designee be authorized to sign the MOU in substantially the form attached, subject to approval as to form by the City Attorney's Office, due to the compressed time frames associated with the High-Speed Rail project.

FISCAL IMPACT

No General Fund dollars will be required for the proposed work. The City's costs for services provided under the proposed MOU will be paid for by CHSRA project funding.

Attachments:

1. Project Area Map
2. 67th Amendment to the Annual Appropriations Resolution
3. MOU with California High-Speed Rail Authority
4. City Letter to Parsons Brinckerhoff



RESOLUTION NO. 2012-87

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ADOPTING THE 67th AMENDMENT TO THE ANNUAL APPROPRIATION RESOLUTION NO. 2011-133 APPROPRIATING \$295,000 IN PROPOSITION 1A FUNDS FOR ENGINEERING AND PLAN REVIEW FOR THE HIGH SPEED RAIL (HSR) PROJECT UNDER THE MASTER COOPERATIVE AGREEMENT

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FRESNO:

THAT PART III of the Annual Appropriation Resolution No. 2011-133 be and is hereby amended as follows:

	<u>Increase/(Decrease)</u>
TO: PUBLIC WORKS DEPARTMENT	
High Speed Rail Projects	\$ 295,000

THAT account titles and numbers requiring adjustment by this Resolution are as follows:

High Speed Rail Projects

Revenues:

Account: 33529 Proposition 1A Revenue	\$ 295,000
Fund: 26001	
Org Unit: 189901	

Total Revenues \$ 295,000

Appropriations:

Account: 51101 Permanent Salaries	\$ 82,500
51104 Perm Fringe-Health&Welfare	19,000
53302 Prof Svcs/Consulting - Outside	90,000
55501 Printing & Binding—O/S Vendor	4,500
59102 City Attorney Charges	10,000
59105 Purchasing - Variable Charge	2,400
59117 Overhead	<u>86,600</u>
Fund: 26001	
Org Unit: 189901	
Project: PW00663	

Total Appropriations \$ 295,000

THAT the purpose is to appropriate \$295,000 in Prop 1A funds for engineering and plan review to be performed by the City for the High Speed Rail (HSR) project under the Master Cooperative Agreement.

Adopted 5-17-12
Approved 5-29-12
Effective 5-29-12



CLERK'S CERTIFICATION

STATE OF CALIFORNIA }
COUNTY OF FRESNO } ss.
CITY OF FRESNO }

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 17th Day of May, 2012

AYES: Baines, Brand, Quintero, Westerlund, Xiong
NOES: Borgeas, Olivier
ABSENT: None
ABSTAIN: None

Mayor Approval: _____, N/A, 2012
Mayor Approval/No Return: _____, May 29, 2012
Mayor Veto: _____, N/A, 2012
Council Override Veto: _____, N/A, 2012


YVONNE SPENCE, CMC
City Clerk

memo: Public Works

AGENDA ITEM NO.	10:30am B
COUNCIL MEETING	05/17/12
APPROVED BY	
<i>[Signature]</i>	
DEPARTMENT DIRECTOR	
CITY MANAGER <i>[Signature]</i>	

May 17, 2012

FROM: PATRICK N. WIEMILLER, Director
Public Works Department

Presented to City Council
 Date 5/17/12
 Disposition Approved
Rev. 2012-87 adopted

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
Public Works Department, Traffic and Engineering Services Division *[Signature]*

SUBJECT: RESOLUTION – ADOPTING THE 67TH AMENDMENT TO THE ANNUAL APPROPRIATIONS RESOLUTION NO. 2011-133 APPROPRIATING \$295,000 IN PROPOSITION 1A FUNDS FOR ENGINEERING AND PLAN REVIEW FOR THE HIGH-SPEED RAIL (HSR) PROJECT UNDER THE MASTER COOPERATIVE AGREEMENT

RECOMMENDATION

Staff recommends that the Council adopt a resolution adopting the 67th Amendment to the Annual Appropriations Resolution No. 2011-133 appropriating \$295,000 in Proposition 1A funds for engineering and plan review for the High-Speed Rail (HSR) project under the Master Cooperative Agreement.

EXECUTIVE SUMMARY

Staff has been working with representatives of the California High-Speed Rail Authority (CHSRA) to develop a Master Cooperative Agreement between the CHSRA and the City of Fresno that will set forth the design, construction and maintenance responsibilities for facilities to be constructed, modified or relocated as part of the HSR project. On May 3, 2012, the Council approved a Memorandum of Understanding (MOU) for this work and authorized the Public Works Director or designee to sign the MOU. The CHSRA has agreed to compensate the City for costs related to developing the agreement up to \$295,000.

In order for the interests of the community to be adequately addressed, such as streets, traffic signals, water and sewer systems, it is critical for City staff to be engaged in the review of the proposed designs and modifications, particularly in locations where grade separations will be constructed to carry traffic under or over the High-Speed Rail/Union Pacific Railroad corridor. It should be noted that the design and engineering work provided for through this agreement can also be used to support future grade separation projects as outlined in Regional Measure C/Rail Consolidation Program.

Therefore, staff recommends that Council adopt a resolution amending the Annual Appropriations Resolution (AAR) to appropriate the CHSRA funding needed to perform this critical design and engineering work.

BACKGROUND

The CHSRA is proposing to begin construction in Fresno within the next year and on May 3, 2012, certified the Final Environmental Impact Report for the Merced to Fresno segment. The alignment as depicted in the project's Environmental Impact Report is generally on the west side of the Union Pacific Railroad (UPRR) tracks from north of Herndon Avenue through downtown and south to Jensen Avenue,

then curving toward an alignment on the west side of the Burlington Northern Santa Fe (BNSF) tracks from the Highway 99 crossing to the southerly sphere of influence boundary at American Avenue. In order to construct the HSR corridor on the proposed track alignment, numerous City facilities will have to be relocated or modified. These facilities include the protection, modification or relocation of numerous sewer and water pipelines, the relocation of Golden State Boulevard between the Herndon Avenue/SR-99 interchange and Ashlan Avenue, extensive modification of streets such as Parkway Drive west of SR-99 as a result of shifting SR-99 to the west, street closures, grade separations (such as Shaw Avenue, McKinley Avenue, Olive Avenue, Belmont Avenue, Fresno Street underpass extension, Tulare Street, Ventura Street, Church Avenue, Central Avenue) and associated work such as signing, striping, traffic signal modifications, street lighting, drainage facilities, curbs, gutters and sidewalks. Much of this work would also be applicable if and when a decision was made to begin grade separating a number of these corridors pursuant to the Measure C Rail Consolidation Program.

Staff has been contacted by Parsons Brinckerhoff, the engineering consultants for the CHSRA in order to develop a Master Cooperative Agreement that will assign design, construction, and maintenance responsibilities for the project. An interagency cooperative agreement would typically be required for a project of this magnitude. For example, each of the previous freeway extension projects has involved a cooperative agreement between Caltrans and the City of Fresno. High-speed rail will need to follow a similar process and as such the proposed MOU will provide the City with the necessary funding to partner with the CHSRA in the development of a cooperative agreement.

The Public Works Department and the Department of Public Utilities have estimated the cost to perform the needed tasks identified in the attached Scope of Work at \$295,000, as described in the MOU which was approved by the Council on May 3, 2012. This estimate of cost was transmitted to Parsons Brinckerhoff by letter, a copy of which is attached. The MOU will obligate the CHSRA to reimburse the City, up to \$295,000, for costs incurred in performing the items listed in the Scope of Work. Upon successful negotiation of a detailed Master Cooperative Agreement, staff will return to Council for approval of the proposed agreement.

FISCAL IMPACT

No General Fund dollars will be required for the proposed work. The City's costs for services provided under the proposed MOU will be paid for by CHSRA project funding. Council approval will allow the City to receive CHSRA funding for this very critical engineering work and result in a significant savings of City dollars.

Attachments:

1. Project Area Map
2. 67th Amendment to the Annual Appropriations Resolution
3. MOU with California High-Speed Rail Authority
4. City Letter to Parsons Brinckerhoff

