

STAFF REPORT

DATE: February 6, 2018

TO: City Council

FROM: Dianna Jensen, City Engineer
Kevin Fong, Senior Civil Engineer

SUBJECT: Richards Boulevard Interchange Improvements, CIP No. 8730

Recommendation

Approve the attached resolution approving a Cooperative Agreement with Caltrans for Richards Boulevard Improvements (Attachment 1).

Fiscal Impact

There is no fiscal impact for entering the Cooperative Agreement (Attachment 2). Caltrans is not charging the City for any costs incurred in reviewing the Project Approval and Environmental Documentation (PA&ED), Plans Specifications and Estimates (PS&E), and Right of Way documents as part of the Cooperative Agreement.

Council Goal(s)

While this project does not support a specific Council goal, it does support the City Council's goal of improving infrastructure under the Goal to Fund, Maintain and Improve Infrastructure.

Background and Analysis

The Richards Boulevard corridor is a major entry to the City of Davis as well as a key connector between South Davis and the downtown. Parts of the corridor were upgraded in the 1990s, but other areas are sub-optimal for all types of travelers. Approximately 400 bicyclists and 200 pedestrians cross the Richards Boulevard interchange every day. North of I-80, between the freeway and the Richards underpass, the Westbound I-80 ramp intersection with Richards Boulevard is part of a cloverleaf ramp configuration. The intersection configuration, in which all vehicle movements are uncontrolled, results in high vehicle speeds onto and off from the freeway ramps. These high-speed movements create a safety concern for all modes on Richards Boulevard, particularly bicyclists and pedestrians. There are currently four uncontrolled conflict points between bicyclists, pedestrians, and vehicles due to the configuration of the I-80 Westbound ramp intersection and the weaving movements it creates.

Richards Blvd / I-80 Interchange Conflict Points (4)



The most severe of these weave movements occurs on Northbound Richards Boulevard at the I-80 Westbound off-ramp. Vehicles from the off-ramps that merge with Richards Boulevard traffic must look over their shoulders, at a tight angle, to judge gaps in traffic, all while paying attention to the signal at Richards Boulevard/Olive Drive and avoiding bicyclists on Richards Boulevard. Between 2003 and 2012, 15 collisions at the Richards Boulevard Interchange north of I-80 resulted in an injury. Five of these collisions involved bicyclists.

Over the past decades, the City has evaluated possible improvements to the Richards Boulevard Interchange that would eliminate the free right turns, reduce the “weave” movements, and improve comfort and safety for users of various modes. One option is a “tight diamond” with on/off ramps similar to those on the north side of the Mace Boulevard Interchange. Improvements to the Richards Boulevard Interchange are included in the Sacramento Area Council of Governments (SACOG) Metropolitan Transportation Plan, but unfunded and with a current schedule date of 2020 (planning) and 2022 (construction).

In recent years, as the City had public discussions related to the proposed Nishi Gateway Development and local traffic – particularly Richards Boulevard – was identified as a key issue of public concern. It was also recognized that, even without new development, the existing westbound interchange configuration did not provide the best traffic operations, and expected regional and UC Davis growth, would generate increased trips to and from Davis that would further exacerbate the operational concerns.

As a result of the community input, focusing renewed concern on the interchange design impact on Richards Blvd., in February 2015, the City entered into a cooperative agreement with Caltrans to perform a Project Study Report (PSR) for the feasibility of a reconstructed “tight diamond” interchange for the westbound I-80 ramps. City staff working with our on-call consultant, Mark Thomas & Co., completed evaluation of the safety and operational functions of the existing interchange at Richard Boulevard and I-80. This work was documented in a Caltrans PSR. In April 2017, Caltrans approved the PSR, certifying that the project can move into the next phases, Project Approval and Environmental Documentation (PA&ED), final design, and Plans, Specifications, and Estimates (PS&E).

The development of a PA&ED includes the completion of Final Environmental Document and the Project Report, documenting any project alternative selection. The PS&E includes the development of plans, specifications, and estimate, including any resource agency permits, and the advertisement/award of the construction contract.

On March 10, 2017, Staff met with SACOG Executive Staff to discuss this project. There was an agreement between City and SACOG Staff that the project was a strong candidate for the Regional/Local grant funding cycle which is estimated to be between May and July 2018 for construction in 2020 depending on the availability of the funding. To competitively position the project, Staff proposed to advance the project into the design phase to:

1. Make the project nearly shovel-ready upon application submittal; and
2. Demonstrate local commitment to delivering the project.

Based upon feedback from SACOG Staff and upon having a completed PSR, Staff sought proposals from three of our On-Call Consulting firms for the PA&ED and PS&E of this project. Staff received two proposals and based upon a thorough review and negotiation process, selected Mark Thomas & Co. (MT&Co.) to proceed with this phase of the project.

On June 6, 2017, City Council approved a resolution to approve Mark Thomas & Co. Task Order No. 10, and Scope of Work, increasing the maximum not-to-exceed limit from \$1,000,000 to \$2,000,000, and a budget adjustment allocating \$1,554,763 in Roadway Impact Fee funds to cover the estimated costs to prepare PA&ED, PS&E, and Right of Way documents for construction of the project.

Mark Thomas & Co. is working with Fehr & Peers to complete the transportation analysis report of the Richards/I-80 Intersection to determine future forecasts of expected traffic forecasts, and expects the final report to be complete in March 2018. Mark Thomas & Co. is also working with Environmental Science Associates (ESA) to complete a noise analysis along the I-80 Corridor to determine if sound walls will be required as a result of the improvements, and with Crawford & Associates, Inc. on geotechnical reports, and environmental studies.

Caltrans Process

The proposed Caltrans Cooperative Agreement is similar to the 2015 Cooperative agreement with Caltrans to review the PSR, which provided a key opportunity for Caltrans and involved regional and local agencies to achieve consensus on the purpose and need, scope, and schedule

of a project. The proposed Caltrans Cooperative Agreement to review the PA&ED, PS&E, and Right of Way documents provides Caltrans with an opportunity to perform quality assurance to ensure the project, and plans are in accordance with the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), and Caltrans policies.

The City Attorney has reviewed and approved, proceeding with the Caltrans Cooperative Agreement. The Cooperative Agreement begins the Caltrans review process of the PA&ED, PS&E, and Right of Way documents. Caltrans will not be charging the City for any costs incurred in reviewing the PA&ED, PS&E, and Right of Way documents, and the City will be responsible for internal costs incurred for preparing the documents.

Next Steps/Timeline

Upon initiation of the process, Staff anticipates the effort to prepare the initial draft of the Project Approval and Environmental Determination will require approximately 2 months. Caltrans will review, and make any modification if necessary, and approval would then be completed in approximately October 2018.

The initial draft of the 65% Plans is expected to be in June 2018, with the 65% Cost Estimate to be complete in September 2018. Caltrans review, modification, and approval process would then be completed in approximately September 2018. The 95% Plans and Cost Estimate are expected to be complete in approximately December 2018.

Attachments

1. Resolution
2. Caltrans Cooperative Agreement

RESOLUTION NO. 18-XXX, SERIES 2018

RESOLUTION APPROVING COOPERATIVE AGREEMENT WITH CALTRANS FOR RICHARDS BOULEVARD INTERCHANGE IMPROVEMENTS, CIP NO. 8730

WHEREAS, the General Plan Transportation Element sets a policy to provide complete Streets to meet the needs of drivers, public transportation vehicles, as well as riders, bicyclists, and pedestrians of all ages, and abilities in all transportation planning, programming, design, construction, reconstruction retrofit, operations, and maintenance activities and products; and

WHEREAS, the Transportation Element identifies Richards Boulevard from First Street to I-80 as a street which warrants special treatment because of existing impact problems or operational issues, and calls for a “Corridor Plan” to result in a street that is both functional and aesthetic; and

WHEREAS, the City is in contract with Mark Thomas & Co. to prepare a Project Study Report, Project Approval & Environmental Documentation, Plans, Specifications, and Estimates, and Right of Way documentation for potential improvements to the Richards Boulevard I-80 interchange; and

WHEREAS, Caltrans requires a Cooperative Agreement for its review of Project Approval & Environmental Documentation, Plans, Specifications, and Estimates, and Right of Way documentation for a project affecting a Caltrans facility.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Davis that it hereby approves the Cooperative Agreement with Caltrans; and

BE IT FURTHER RESOLVED, that the City Manager is directed and authorized to execute the agreement, including any minor technical or clarifying changes as necessary.

PASSED AND ADOPTED by the City Council of the City of Davis on this 6th day of February, 2018 by the following vote:

AYES:

NOES:

ABSENT:

Robb Davis
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk

COOPERATIVE AGREEMENT COVER SHEET

Work Description

I-80/RICHARDS BLVD I/C MODIFICATIONS

Contact Information

CALTRANS

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CITY OF DAVIS

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COOPERATIVE AGREEMENT

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

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

RECITALS

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System per the California Streets and Highways Code sections 114 and 130.
2. For the purpose of this AGREEMENT, *I-80/Richards Blvd I/C Modifications* will be referred to hereinafter as PROJECT. The PROJECT scope of work is defined in the project initiation and approval documents (e.g. Project Study Report, Permit Engineering Evaluation Report, or Project Report).
3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENTS will be referred to hereinafter as WORK:
 - PROJECT APPROVAL AND ENVIRONMENTAL DOCUMENT (PA&ED)
 - PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E)
 - RIGHT-OF-WAY

Each PROJECT COMPONENT is defined in the CALTRANS Workplan Standards Guide as a distinct group of activities/products in the project planning and development process.

4. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.

This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between the PARTIES regarding the PROJECT.

PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the WORK. The requirements of this AGREEMENT will preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.

PARTIES agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.

5. The following work associated with this PROJECT has been completed or is in progress:
 - CITY completed the Project Initiation Document on April 5, 2017.
6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
7. PARTIES hereby set forth the terms, covenants, and conditions of this AGREEMENT.

RESPONSIBILITIES

Sponsorship

8. A SPONSOR is responsible for establishing the scope of the PROJECT and securing the financial resources to fund the WORK. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the WORK can be completed with the funds obligated in this AGREEMENT.

PROJECT changes, as described in the CALTRANS Project Development Procedures Manual, will be approved by CALTRANS as the owner/operator of the State Highway System.

9. CITY is the SPONSOR for the WORK in this AGREEMENT.

Implementing Agency

10. The IMPLEMENTING AGENCY is the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT COMPONENT.

- CITY is the Project Approval and Environmental Document (PA&ED) IMPLEMENTING AGENCY.

PA&ED includes the completion of the Final Environmental Document and the Project Report (documenting the project alternative selection).

- CITY is the Plans, Specifications, and Estimate (PS&E) IMPLEMENTING AGENCY.

PS&E includes the development of the plans, specifications, and estimate; obtaining any resource agency permits; and the advertisement/award of the construction contract.

- CITY is the RIGHT OF WAY IMPLEMENTING AGENCY

RIGHT OF WAY includes coordination with utility owners for the protection, removal, or relocation of utilities; the acquisition of right-of-way interests; and post-construction work such as right-of-way monumentation/recordation, relinquishments/vacations, and excess land transactions. The RIGHT OF WAY component budget identifies the cost of the capital costs of right-of-way acquisition (RIGHT OF WAY Capital) and the cost of the staff work in support of the acquisition (RIGHT OF WAY Support).

11. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will provide a Quality Management Plan (QMP) for the WORK in that component. The Quality Management Plan describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The Quality Management Plan will include a process for resolving disputes between the PARTIES at the team level. The Quality Management Plan is subject to CALTRANS review and approval.

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

Funding

13. The WORK does not use funds administered by CALTRANS. PARTIES will amend this AGREEMENT should this condition change.
14. Each PARTY is responsible for the costs they incur in performing the WORK unless otherwise stated in this AGREEMENT.

CALTRANS' Quality Management

15. CALTRANS, as the owner/operator of the State Highway System, will perform quality management work including independent quality assurance (IQA) and owner/operator approvals for the portions of WORK within the existing and proposed State Highway System right-of-way.
16. CALTRANS' independent quality assurance (IQA) efforts are to ensure that CITY's quality assurance results in WORK that is in accordance with the applicable standards and the PROJECT's quality management plan (QMP). An IQA does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking WORK.

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

17. CALTRANS, as the owner/operator of the State Highway System, will approve WORK products in accordance with CALTRANS policies and guidance and as indicated in this AGREEMENT.
18. Per National Environmental Policy Act (NEPA) assignment and California Environmental Quality Act (CEQA) statutes, CALTRANS will perform environmental document quality control and NEPA assignment review procedures for environmental documentation. CALTRANS quality control and quality assurance procedures for all environmental documents are described in the Jay Norvell Memos dated October 1, 2012 (available at http://www.dot.ca.gov/ser/memos.htm#LinkTarget_705). This also includes the independent judgment analysis and determination under CEQA that the environmental documentation meets CEQA requirements.
19. CITY will provide WORK-related products and supporting documentation upon CALTRANS' request for the purpose of CALTRANS' quality management work.
20. The cost of CALTRANS' quality management work is to be borne by CALTRANS.

CEQA/NEPA Lead Agency

- 21. CITY is the CEQA Lead Agency for the PROJECT.
- 22. CALTRANS is a CEQA Responsible Agency for the PROJECT.
- 23. CALTRANS is the NEPA Lead Agency for the PROJECT.

Environmental Permits, Approvals and Agreements

- 24. CITY will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to CITY's responsibilities in this AGREEMENT.
- 25. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.
- 26. It is expected that the PROJECT requires the following environmental permits/approvals:

ENVIRONMENTAL PERMITS/REQUIREMENTS
National Pollutant Discharge Elimination System (NPDES), State Water Resources Control Board

Project Approval and Environmental Document (PA&ED)

- 27. As the PA&ED IMPLEMENTING AGENCY, CITY is responsible for all PA&ED WORK except those activities and responsibilities that are assigned to another PARTY and those activities that are excluded under this AGREEMENT.

28. CALTRANS will be responsible for completing the following PA&ED activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)
100.10.10.xx Quality Management
165.15.15.xx Essential Fish Habitat Consultation
165.15.15.xx Section 7 Consultation
165.25.25 Approval to Circulate Resolution
180.10.05.45 Section 7 Consultation
180.15.05 Record of Decision (NEPA)

29. Any PARTY preparing environmental documentation, including studies and reports, will ensure that qualified personnel remain available to help resolve environmental issues and perform any necessary work to ensure that the PROJECT remains in environmental compliance.
30. CITY will provide written notice of the initiation of environmental studies to the NEPA Lead Agency prior to completing any other PA&ED phase work.

California Environmental Quality Act (CEQA)

31. The CEQA Lead Agency will determine the type of CEQA documentation and will cause that documentation to be prepared in accordance with CEQA requirements.
32. Any PARTY involved in the preparation of CEQA documentation will prepare the documentation to meet CEQA requirements and follow the CEQA Lead Agency's standards that apply to the CEQA process.
33. CALTRANS is a CEQA Responsible Agency for the PROJECT and will review, comment, and concur on all environmental documentation (including, but not limited to, studies, reports, public notices, and public meeting materials, determinations, administrative drafts, and final environmental documents) at appropriate stages of development prior to approval and public availability.
34. Any PARTY preparing any portion of the CEQA documentation, including any studies and reports, will submit that portion of the documentation to the CEQA Lead Agency for review, comment, and approval at appropriate stages of development prior to public availability.

35. If the CEQA Lead Agency makes any changes to the CEQA documentation, the CEQA Lead Agency will allow CALTRANS to review, comment, and concur on those changes prior to the CEQA Lead Agency's approval at appropriate stages of development prior to public availability.
36. If the CEQA Lead Agency makes any changes to CEQA-related public notices, then the CEQA Lead Agency will allow CALTRANS to review, comment, and concur on those changes prior to publication and circulation.
37. The CEQA Lead Agency will attend all CEQA-related public meetings.
38. If a PARTY who is not the CEQA Lead Agency holds a public meeting about the PROJECT, that PARTY must clearly state its role in the PROJECT and the identity of the CEQA Lead Agency on all meeting publications. All meeting publications must also inform the attendees that public comments collected at the meetings are not part of the CEQA public review process.

That PARTY will submit all meeting advertisements, agendas, exhibits, handouts, and materials to the CEQA Lead Agency for review, comment, and approval at least ten (10) working days prior to publication or use. If that PARTY makes any changes to the materials, it will allow the CEQA Lead Agency to review, comment on, and approve those changes at least three (3) working days prior to the public meeting date.

The CEQA Lead Agency maintains final editorial control with respect to text or graphics that could lead to public confusion over CEQA-related roles and responsibilities.

National Environmental Policy Act (NEPA)

39. Pursuant to Chapter 3 of Title 23, United States Code (23 U.S.C. 326) and 23 U.S.C. 327, CALTRANS is the NEPA Lead Agency for the PROJECT. CALTRANS is responsible for NEPA compliance, will determine the type of NEPA documentation, and will cause that documentation to be prepared in accordance with NEPA requirements.

The NEPA Lead Agency will review, comment, and approve all environmental documentation (including, but not limited to, studies, reports, public notices, and public meeting materials, determinations, administrative drafts, and final environmental documents) at appropriate stages of development prior to approval and public availability.

When required, the NEPA Lead Agency will conduct consultation and coordination and obtain, renew, or amend approvals pursuant to the Federal Endangered Species Act, and Essential Fish Habitat.

When required, the NEPA Lead Agency will conduct consultation and coordination approvals pursuant to Section 106 of the National Historic Preservation Act.

40. Any PARTY involved in the preparation of NEPA documentation will follow FHWA and CALTRANS standards that apply to the NEPA process including, but not limited to, the guidance provided in the FHWA Environmental Guidebook (available at www.fhwa.dot.gov/hep/index.htm) and the CALTRANS Standard Environmental Reference.
41. Any PARTY preparing any portion of the NEPA documentation (including, but not limited to, studies, reports, public notices, and public meeting materials, determinations, administrative drafts, and final environmental documents) will submit that portion of the documentation to CALTRANS for CALTRANS' review, comment, and approval prior to public availability.
42. CITY will prepare, publicize, and circulate all NEPA-related public notices, except Federal Register notices. CITY will submit all notices to the NEPA Lead Agency for review, comment, and approval prior to publication and circulation.

The NEPA Lead Agency will work with the appropriate federal agency to publish notices in the Federal Register.

43. The NEPA Lead Agency will attend all NEPA-related public meetings.
44. CITY will submit all NEPA-related public meeting materials to the NEPA Lead Agency for review, comment, and approval at least ten (10) working days prior to the public meeting date.

45. If a PARTY who is not the NEPA Lead Agency holds a public meeting about the PROJECT, that PARTY must clearly state its role in the PROJECT and the identity of the NEPA Lead Agency on all meeting publications. All meeting publications must also inform the attendees that public comments collected at the meetings are not part of the NEPA public review process.

That PARTY will submit all meeting advertisements, agendas, exhibits, handouts, and materials to the NEPA Lead Agency for review, comment, and approval at least ten (10) working days prior to publication or use. If that PARTY makes any changes to the materials, it will allow the NEPA Lead Agency to review, comment on, and approve those changes at least three (3) working days prior to the public meeting date.

The NEPA Lead Agency has final approval authority with respect to text or graphics that could lead to public confusion over NEPA-related roles and responsibilities.

46. CITY will ensure that the PROJECT is included in the approved Federal Statewide Transportation Improvement Program (FSTIP) prior to the NEPA Lead Agency's approval of the environmental document.

Plans, Specifications, and Estimate (PS&E)

47. As the PS&E IMPLEMENTING AGENCY, CITY is responsible for all PS&E WORK except those activities and responsibilities that are assigned to another PARTY and those activities that are excluded under this AGREEMENT.

48. CALTRANS will be responsible for completing the following PS&E activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)
100.15.10.xx Quality Management

49. CITY will prepare Utility Conflict Maps identifying the accommodation, protection, relocation, or removal of any existing utility facilities that conflict with construction of the PROJECT or that violate CALTRANS' encroachment policy.

CITY will provide CALTRANS a copy of Utility Conflict Maps for CALTRANS' concurrence prior to issuing the Notices to Owner and executing the Utility Agreement. All utility conflicts will be addressed in the PROJECT plans, specifications, and estimate.

50. CITY will determine the cost to positively identify and locate, accommodate, protect, relocate, or remove any utility facilities whether inside or outside the State Highway System right-of-way in accordance with federal and California laws and regulations, and CALTRANS' policies, procedures, standards, practices, and applicable agreements including but not limited to Freeway Master Contracts.

RIGHT-OF-WAY

51. As the RIGHT-OF-WAY IMPLEMENTING AGENCY, CITY is responsible for all RIGHT-OF-WAY WORK except those activities and responsibilities that are assigned to another PARTY and those activities that are excluded under this AGREEMENT.
52. CALTRANS will be responsible for completing the following RIGHT-OF-WAY activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)
100.25.10.xx Quality Management

53. The selection of personnel performing RIGHT-OF-WAY WORK will be in accordance with federal and California laws and regulations, and CALTRANS' policies, procedures, standards, practices, and applicable agreements.
54. CITY will make all necessary arrangements with utility owners for the timely accommodation, protection, relocation, or removal of any existing utility facilities that conflict with construction of the PROJECT or that violate CALTRANS' encroachment policy.
55. CITY will provide CALTRANS a copy of conflict maps, relocation plans, proposed notices to owner, reports of investigation, and utility agreements (if applicable) for CALTRANS' concurrence prior to issuing the notices to owner and executing the utility agreement. All utility conflicts will be fully addressed prior to Right-of-Way Certification and all arrangements for the protection, relocation, or removal of all conflicting facilities will be completed prior to construction contract award and included in the PROJECT plans, specifications, and estimate.
56. CITY will provide a land surveyor licensed in the State of California to be responsible for surveying and right-of-way engineering. All survey and right-of-way engineering documents will bear the professional seal, certificate number, registration classification, expiration date of certificate, and signature of the responsible surveyor.

57. CITY will hear and adopt Resolutions of Necessity when authorized to do so by law or will work with local agencies having jurisdiction and authorized under the law to hear and adopt Resolutions of Necessity.

CITY will conduct and document Condemnation Evaluation and Condemnation Panel Review meetings as required in accordance with CALTRANS policy and guidance. CALTRANS will be notified in advance of any Condemnation Panel Review meetings.

58. If CITY acquires any right-of-way to be incorporated into the State Highway System, CITY will first acquire in its own name.

If CALTRANS acquires any right-of-way, CALTRANS will first acquire in CITY's name.

Title to the State Highway System right-of-way will ultimately be vested in the State. CALTRANS' acceptance of title will occur after the Right of Way Closeout activities are complete.

59. CITY will utilize a public agency currently qualified by CALTRANS or a properly licensed consultant for all right-of-way activities. A qualified right-of-way agent will administer all right-of-way consultant contracts.

CITY will submit a draft Right-of-Way Certification to CALTRANS six weeks prior to the scheduled Right-of-Way Certification milestone date for review.

CITY will submit a final Right-of-Way Certification to CALTRANS for approval prior to the advertising the construction contract.

60. Physical and legal possession of the right-of-way must be completed prior to advertising the construction contract, unless PARTIES mutually agree to other arrangements in writing.

61. CALTRANS' acceptance of right-of-way title is subject to review of an Updated Preliminary Title Report provided by CITY verifying that the title is free of all encumbrances and liens. Upon acceptance, CITY will provide CALTRANS with a Policy of Title Insurance in CALTRANS' name.

62. Right-of-way conveyances must be completed prior to WORK completion unless PARTIES mutually agree to other arrangements in writing.

Schedule

63. PARTIES will manage the WORK schedule to ensure the timely use of obligated funds and to ensure compliance with any environmental permits, right-of-way agreements, construction contracts, and any other commitments. PARTIES will communicate schedule risks or changes as soon as they are identified and will actively manage and mitigate schedule risks.

Additional Provisions

Standards

64. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; FHWA standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:
- CALTRANS policies and directives
 - Project Development Procedures Manual (PDPM)
 - Workplan Standards Guide
 - Standard Environmental Reference
 - Highway Design Manual
 - Right of Way Manual

Qualifications

65. Each PARTY will ensure that personnel participating in WORK are appropriately qualified or licensed to perform the tasks assigned to them.

Consultant Selection

66. CITY will invite CALTRANS to participate in the selection of any consultants that participate in the WORK.

Encroachment Permits

67. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System right-of-way. Contractors and/or agents, and utility owners will not work within the State Highway System right-of-way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to PARTIES, their contractors, consultants and agents at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.
68. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the WORK.

Protected Resources

69. If any PARTY discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTY will notify all PARTIES within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and CALTRANS approves a plan for its removal or protection.

Disclosures

70. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the WORK in confidence to the extent permitted by law and where applicable, the provisions of California Government Code section 6254.5(e) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES.

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

71. If a PARTY receives a public records request pertaining to the WORK, that PARTY will notify PARTIES within five (5) working days of receipt and make PARTIES aware of any disclosed public documents. PARTIES will consult with each other prior to the release of any public documents related to the WORK.

Hazardous Materials

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

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

The management activities related to HM-1 and HM-2, including and without limitation, any necessary manifest requirements and disposal facility designations are referred to herein as HM-1 MANAGEMENT and HM-2 MANAGEMENT respectively.

73. If HM-1 or HM-2 is found the discovering PARTY will immediately notify all other PARTIES.

74. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing State Highway System right-of-way. CALTRANS will undertake, or cause to be undertaken, HM-1 MANAGEMENT with minimum impact to the PROJECT schedule.

CALTRANS, independent of the PROJECT will pay, or cause to be paid, the cost of HM-1 MANAGEMENT related to HM-1 found within the existing State Highway System right-of-way.

75. CITY, independent of the PROJECT, is responsible for any HM-1 found within the PROJECT limits and outside the existing State Highway System right-of-way. CITY will undertake, or cause to be undertaken, HM-1 MANAGEMENT with minimum impact to the PROJECT schedule.

CITY, independent of the PROJECT, will pay, or cause to be paid, the cost of HM-1 MANAGEMENT for HM-1 found within the PROJECT limits and outside of the existing State Highway System right-of-way.

76. The CONSTRUCTION IMPLEMENTING AGENCY is responsible for HM-2 MANAGEMENT within the PROJECT limits.

77. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.

Claims

78. CITY may accept, reject, compromise, settle, or litigate claims of any consultants or contractors hired to complete WORK without concurrence from the other PARTY.

79. PARTIES will confer on any claim that may affect the WORK or PARTIES' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTY will prejudice the rights of another PARTY until after PARTIES confer on the claim.
80. If the WORK expends state or federal funds, each PARTY will comply with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTIES will ensure that any for-profit consultant hired to participate in the WORK will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the WORK these principles and requirements apply to all funding types included in this AGREEMENT.
81. If the WORK expends state or federal funds, each PARTY will undergo an annual audit in accordance with the Single Audit Act in the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as defined in 2 CFR, Part 200.
82. When a PARTY reimburses a consultant for WORK with state or federal funds, the procurement of the consultant and the consultant overhead costs will be in accordance with Chapter 10 of the Local Assistance Procedures Manual.

Interruption of Work

83. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right-of-way in a safe and operable condition acceptable to CALTRANS.
84. If WORK stops for any reason, each PARTY will continue to implement the obligations of this AGREEMENT, including the commitments and conditions included in the environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, and will keep the PROJECT in environmental compliance until WORK resumes.

Penalties, Judgements and Settlements

85. Any PARTY who action or lack of action causes the levy of fines, interest, or penalties will indemnify and hold all other PARTIES harmless per the terms of this AGREEMENT.

Project Files

86. CITY will furnish CALTRANS with the Project History Files related to the PROJECT facilities on State Highway System within sixty (60) days following the completion of each PROJECT COMPONENT. CITY will prepare the Project History File in accordance with the Project Development Procedures Manual, Chapter 7. All material will be submitted neatly in a three-ring binder and on a CD ROM in PDF format.

GENERAL CONDITIONS

Venue

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

Exemptions

88. All CALTRANS' obligations under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.

Indemnification

89. Neither CALTRANS nor any of their officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CITY under this AGREEMENT. It is understood and agreed that CITY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
90. Neither CITY nor any of their officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

Non-parties

91. PARTIES do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights in PARTIES not signatory to this AGREEMENT. PARTIES do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling the WORK different from the standards imposed by law.
92. PARTIES will not assign or attempt to assign obligations to PARTIES not signatory to this AGREEMENT without an amendment to this AGREEMENT.

Ambiguity and Performance

93. CITY will not interpret any ambiguity contained in this AGREEMENT against CALTRANS. CITY waives the provisions of California Civil Code section 1654.

A waiver of a PARTY's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

94. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

Defaults

95. If any PARTY defaults in its performance of the WORK, a non-defaulting PARTY will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTY fails to do so, the non-defaulting PARTY may initiate dispute resolution.

Dispute Resolution

96. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level as described in the Quality Management Plan. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of CITY will attempt to negotiate a resolution. If PARTIES do not reach a resolution, PARTIES' legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the WORK in accordance with the terms of this AGREEMENT. However, if any PARTY stops fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the WORK continues.

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

PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS district office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

97. PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

Prevailing Wage

98. When WORK falls within the Labor Code § 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code § 1771, PARTIES will conform to the provisions of Labor Code §§ 1720-1815, and all applicable provisions of California Code of Regulations found in Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTIES will include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts.

Work performed by a PARTY's own employees is exempt from the Labor Code's Prevailing Wage requirements.

If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTIES will conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. §§ 3141-3148.

When applicable, PARTIES will include federal prevailing wage requirements in contracts for public works. WORK performed by a PARTY's employees is exempt from federal prevailing wage requirements.

DEFINITIONS

PARTY – Any individual signatory party to this AGREEMENT.

PARTIES – The term that collectively references all of the signatory agencies to this AGREEMENT.

WORK BREAKDOWN STRUCTURE (WBS) – A WBS is a standardized hierarchical listing of project work activities/products in increasing levels of detail. The CALTRANS WBS defines each PROJECT COMPONENT as a group of work activities/products. The CALTRANS Work Breakdown Structure is defined in the CALTRANS Workplan Standards Guide.

SIGNATURES

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

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

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

Thomas L. Brannon
Deputy District Director
District 3 Program / Project Management

**VERIFICATION OF FUNDS AND
AUTHORITY:**

Stacey Salazar
District Project Control Officer

CITY OF DAVIS

Mike Webb
City Manager

Attest:

Zoe S. Mirabile
City Clerk

Approved as to form and procedure:

Harriet Steiner
City Attorney

CLOSURE STATEMENT INSTRUCTIONS

1. Did PARTIES complete all scope, cost and schedule commitments included in this AGREEMENT and any amendments to this AGREEMENT?

YES / NO

2. Did CALTRANS accept and approve all final deliverables submitted by other PARTIES?

YES / NO

3. Did the CALTRANS HQ Office of Accounting verify that all final accounting for this AGREEMENT and any amendments to this AGREEMENT were completed?

YES / NO

4. If construction is involved, did the CALTRANS District Project Manager verify that all claims and third party billings (utilities, etc.) have been settled before termination of the AGREEMENT?

YES / NO

5. Did PARTIES complete and transmit the As-Built Plans, Project History File, and all other required contract documents?

YES / NO

If ALL answers are “YES”, this form may be used to TERMINATE this AGREEMENT.

CLOSURE STATEMENT

PARTIES agree that they have completed all scope, cost, and schedule commitments included in Agreement 03-0642 and any amendments to the agreement. The final signature date on this document terminates agreement 03-0642 except survival articles. All survival articles in agreement 03-0642 will remain in effect until expired by law, terminated or modified in writing by the PARTIES' mutual agreement, whichever occurs earlier.

The people signing this agreement have the authority to do so on behalf of their public agencies.

CALTRANS

_____	_____
Deputy District Director District 3 Program / Project Management	Date

CITY OF DAVIS

_____	_____
City Manager	Date