

STAFF REPORT

DATE: May 18, 2021

TO: City Council

FROM: Robert A. Clarke, Director of Public Works - Engineering & Transportation
Dianna Jensen, City Engineer
Kevin Fong, Senior Civil Engineer

SUBJECT: Caltrans Cooperative Agreement for the Richards Boulevard Interchange Improvements, CIP No. 8730

Recommendation

Approve the resolution (Attachment 1) approving a Cooperative Agreement with Caltrans to receive \$800,000 in State Highway Operations Protection Program funds for the Richards Boulevard Interchange Improvements project, CIP No. 8730.

Fiscal Impact

There is a positive fiscal impact for entering the Cooperative Agreement and accepting the funds. By entering into the Cooperative Agreement, Caltrans agrees to provide the City with \$800,000 of State Highway Operation and Protection Program (SHOPP) funds towards the Richards Boulevard Interchange Improvements.

In addition to the SHOPP funds, the overall project is funded by a combination of sources, including a UC Davis contribution, Construction Tax, Federal Hwy Grant funds, Downtown Area Capital Revitalization funds (from the former Redevelopment Agency), and Roadway Impact Fee funds. 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.

Funding for the Richards Boulevard Interchange Improvements, CIP No. 8730 is shown below in Table 1.

Table 1 – Project Funding Sources

Fund Source	Amount
UC Davis	\$500,000
Construction Tax	\$25,037
Caltrans SHOPP Funds	\$800,000
SACOG Grant Funds	\$10,412,000
Downtown Area Cap Revitalization Funds	\$3,085,126
Development Impact Fees	\$3,214,229
Total	\$18,511,600

Council Goal(s)

This project supports the Council Goals to Fund, Maintain, and improve Infrastructure. It also supports the objective to Develop plans and funding strategies to address the long term needs of the community in planning for infrastructure and City assets.

Project Analysis

In August 2018, the City and our consultant team submitted Geometric Approval Drawings (GAD) to Caltrans for review to ensure the layout of the Richards Boulevard and I-80 Interchange Improvements were consistent with the future Managed Lanes project. The Caltrans Managed Lanes project had begun the Project Initiation Document and provided the City with preliminary engineering drawings showing typical cross sections and layouts to ensure the environmental footprint reflected the Managed Lane project in the Geometric Approval Drawing.

On March 2020, Caltrans identified that the Managed Lanes project would require a wider inside shoulder of 14.5 feet, exceeding the 10-foot minimum standard. As a result of the revised Managed Lane project design, the westbound on- and off-ramp for the Richards Boulevard Interchange need to be redesigned to accommodate the wider mainline cross section. The adjustment to the ramps introduced several impacts including the following:

1. Additional widening of the Putah Creek undercrossing
2. Extension of a double box culvert with headwalls
3. Retaining walls to avoid right of way acquisition
4. Additional drainage infrastructure

The City agreed to shift the bike loop structure approximately 5 feet north to accommodate the 14.5 feet inside shoulder, and Caltrans proposed contributing SHOPP funds to the Richards Boulevard and I-80 Interchange Improvement Project to cover the costs related to the HOV lane on the westbound I-80 on-ramp.

Staff recommends approving the attached resolution authorizing the City Manager to enter into a cooperative agreement with Caltrans to accept \$800,000 of SHOPP funds for the Richards Boulevard Interchange 80 Improvements project to help offset the construction cost increase due to the Managed Lanes Project.

These changes from Caltrans resulted in an overall project delay of approximately one year. Staff anticipates the Final Plans and Cost Estimate to be complete in approximately April 2022 and construction to begin in the Summer of 2022.

Background

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 Richards Boulevard interchange is a four-quadrant cloverleaf. The interchange 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 and vehicles due to the configuration of the I-80 Westbound ramps.

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



As a result of the community input focusing renewed concern about 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 for the feasibility of a reconstructed “tight diamond” interchange. Over the period of approximately a year, City staff working with our on-call consultant, completed preliminary engineering and environmental documentation for this interchange project. This work was documented in a Caltrans Project Study Report (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) and also final design, 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. 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.

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 will occur in the spring of 2018. 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 Project Study Report, 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. (MTCO.) 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. worked with Fehr & Peers to complete the transportation analysis report of the Richards/ I-80 intersection to determine future forecasts of expected traffic forecasts. Mark Thomas & Co. also worked 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. Once the Caltrans Project Report is approved, the environmental documents will be circulated for public comment.

On February 6, 2018, Council approved a resolution approving a cooperative agreement with Caltrans to review the PA&ED, PS&E, and Right of Way documents 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 Cooperative Agreement started the Caltrans review process of the PA&ED, PS&E, and Right of Way documents. As stated in the agreement, Caltrans is not charging the City for any costs incurred in reviewing the PA&ED, PS&E, and Right of Way documents, and the City is responsible for internal costs incurred for preparing the documents.

Attachments

1. Resolution Approving Cooperative Agreement with Caltrans
2. Cooperative Agreement

RESOLUTION NO. 21-XXX, SERIES 2021

RESOLUTION APPROVING COOPERATIVE AGREEMENT WITH CALTRANS FOR THE 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, on February 6, 2018, the City Council of the City of Davis approved a Cooperative Agreement with Caltrans for its review of Project Approval & Environmental Documentation, Plans, Specifications, and Estimates, and Right of Way documentation for the project; and

WHEREAS, in August 2018, Mark Thomas submitted Geometric Approval Drawings (GAD) to Caltrans for review to ensure the layout of the Richards Boulevard and I-80 Interchange Improvements were consistent with the future Managed Lanes project; and

WHEREAS, on March 2020, Caltrans identified that the Managed Lanes project would require a wider inside shoulder of 14.5 feet, exceeding the 10 foot minimum standard; and

WHEREAS, to fund the inclusion of the additional work to accommodate the Managed Lane project, Caltrans is contributing \$800,000 of State Highway Operation and Protection Program funds towards the Richards Boulevard Interchange Improvements Project, CIP No. 8730; and

WHEREAS, in order to receive the State funding it is necessary to enter into a cooperative agreement with Caltrans.

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 and approved by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Davis on this 18th day of May, 2021 by the following vote:

AYES:

NOES:

ABSENT:

Gloria Partida
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk

Draft 03-0661 HQ Approved 05.06.2021

COOPERATIVE AGREEMENT COVER SHEET

Work Description

I-80 WESTBOUND ON-RAMP METER IMPROVEMENTS AS PART OF THE I-80/RICHARDS BLVD I/C MODIFICATIONS

Contact Information

CALTRANS

Nawid Nessar, Project Manager
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Marysville, CA 95901
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CITY OF DAVIS

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COOPERATIVE AGREEMENT

This AGREEMENT, executed on and effective from _____, 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.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

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, the I-80 westbound on-ramp meter improvements as part of the 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 document.
3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENT will be referred to hereinafter as WORK:

- CONSTRUCTION

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 (Cooperative Agreement No. 03-0578).
 - CITY will be performing Project Approval and Environmental Document (PA&ED, Plans, Specifications & Estimate (PS&E), and Right of Way (R/W) as outlined in Cooperative Agreement No. 03-0642.
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 CONSTRUCTION IMPLEMENTING AGENCY.

CONSTRUCTION includes construction contract administration, surveying/staking, inspection, quality assurance, and assuring regulatory compliance. The CONSTRUCTION component budget identifies the capital costs of the construction contract/furnished materials (CONSTRUCTION CAPITAL) and the cost of the staff work in support of the construction contract administration (CONSTRUCTION SUPPORT).

11. CITY will provide a Quality Management Plan (QMP) for the WORK in every PROJECT COMPONENT that they are the IMPLEMENTING AGENCY of. The QMP describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP 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. Funding sources, PARTIES committing funds, funding amounts, and invoicing/payment details are documented in the Funding Summary section of this AGREEMENT.

PARTIES will amend this AGREEMENT by updating and replacing the Funding Summary, in its entirety, each time the funding details change. Funding Summary replacements will be executed by a legally authorized representative of the respective PARTIES. The most current fully executed Funding Summary supersedes any previous Funding Summary created for this AGREEMENT.

14. PARTIES will not be reimbursed for costs beyond the funds obligated in this AGREEMENT.
15. Unless otherwise documented in the Funding Summary, overall liability for project costs within a PROJECT COMPONENT will be in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
16. Unless otherwise documented in the Funding Summary, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
17. WORK costs, except those that are specifically excluded in this AGREEMENT, are to be paid from the funds obligated in the Funding Summary. Costs that are specifically excluded from the funds obligated in this AGREEMENT are to be paid by the PARTY incurring the costs from funds that are independent of this AGREEMENT.

CALTRANS' Quality Management

18. CALTRANS, as the owner/operator of the State Highway System (SHS), will perform quality management work including Quality Management Assessment (QMA) and owner/operator approvals for the portions of WORK within the existing and proposed SHS right-of-way.
19. CALTRANS' Quality Management Assessment (QMA) 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). QMA does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking WORK.

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

20. 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.

21. CITY will provide WORK-related products and supporting documentation upon CALTRANS' request for the purpose of CALTRANS' quality management work.

CEQA/NEPA Lead Agency

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

Environmental Permits, Approvals and Agreements

25. PARTIES will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTY's responsibilities in this AGREEMENT.
26. 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.
27. The PROJECT requires the following environmental permits/approvals:

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

CONSTRUCTION

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

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

CALTRANS Work Breakdown Structure Identifier (If Applicable)	AGREEMENT Funded Cost
100.20.10.xx Quality Management	No

30. 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.
31. Right-of-way conveyances must be completed prior to WORK completion, unless PARTIES mutually agree to other arrangements in writing.
32. CITY will include a Disadvantaged Business Enterprise (DBE) utilization goal in the PROJECT construction contract(s) in accordance with the Local Assistance Procedures Manual. CITY will award the construction contract to the lowest responsive bidder who makes a Good Faith Effort to meet the DBE goal.
33. CALTRANS will not issue an encroachment permit to CITY for construction work until the following conditions are met:
- CALTRANS accepts the final plans, specifications, and estimate
 - CALTRANS accepts the Right-of-Way Certification
 - Any new or amended maintenance agreements required for the WORK are executed.
34. CITY will require the construction contractor to furnish payment and performance bonds naming CITY as obligee, and CALTRANS as additional obligee, and to carry liability insurance in accordance with CALTRANS Standard Specifications.
35. CITY will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, CITY also accepts responsibility to administer the construction contract.
36. If the lowest responsible construction contract bid is greater than the funding commitment to CONSTRUCTION CAPITAL, PARTIES must agree in writing on a course of action within fifteen (15) working days. If no agreement is reached within fifteen (15) work days the IMPLEMENTING AGENCY will not award the construction contract.

37. CALTRANS will not issue an encroachment permit to CITY's construction contractor until CALTRANS accepts:
 - The payment and performance bonds
 - The CONSTRUCTION Quality Management Plan
38. The CONSTRUCTION Quality Management Plan (QMP) will describe how construction material verification and workmanship inspections will be performed at manufacturing sources and the PROJECT job-site. The construction material and Source Inspection QMP (SIQMP) are subject to review and approval by the State Materials Engineer.
39. The CONSTRUCTION Quality Management Plan will address the radiation safety requirements of the California Code of Regulations 17 CCR § 30346 when the work requires Gamma-Gamma Logging acceptance testing for Cast in Drilled Hole (CIDH) pile or whenever else it is applicable. In accordance with these regulations CITY, as the "well operator", will have a written agreement with any consultant or external entity performing these tests.
40. CITY will provide a Resident Engineer and CONSTRUCTION SUPPORT staff that are independent of the construction contractor. The Resident Engineer will be a Civil Engineer, licensed in the State of California, who is responsible for construction contract administration activities.
41. CITY will implement changes to the construction contract through Change Orders. PARTIES will review and concur on all Change Orders over \$50,000.
42. CALTRANS will review and concur with:
 - Change Orders affecting public safety, public convenience, protected environmental resources, the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS Construction Manual. These Change Orders must receive written concurrence by CALTRANS prior to implementation.
 - The Stormwater Pollution Prevention Plan (SWPPP) or the Water Pollution Control Plan (WPCP).
43. CITY will administer and process all construction contract claims pursuant to the requirements set forth under Public Contract Code, Section 9204. In addition, all public works claims of \$375,000 or less shall be resolved in accordance with Public Contract Code Section 20104, et seq. and other applicable laws.

44. CITY is designated as the Legally Responsible Person pursuant to the Construction General Permit, State Water Resources Control Board (SWRCB) Order Number 2009-0009-DWQ, as defined in Appendix 5, Glossary, and assumes all roles and responsibilities assigned to the Legally Responsible Person as mandated by the Construction General Permit. CITY is required to comply with the CALTRANS MS4 National Pollutant Discharge Elimination System (NPDES) permit for all work within the State Highway System.
45. As the CONSTRUCTION IMPLEMENTING AGENCY, CITY is responsible for maintenance of the State Highway System (SHS) within the PROJECT limits as part of the construction contract until the following conditions are met:
- Any required maintenance agreements are executed for the portions of SHS for which relief of maintenance is to be granted.
 - CALTRANS approves a request from CITY for relief from maintenance of the PROJECT or a portion thereof.

47. Upon WORK completion, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the State Highway System (SHS) within SHS right-of-way as part of WORK become the property of CALTRANS.

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

48. Within one hundred eighty (180) calendar days following the completion and acceptance of the PROJECT construction contract, CITY will furnish CALTRANS with a complete set of “As-Built” plans and Change Orders, including any changes authorized by CALTRANS, on a flash drive and in accordance with CALTRANS’ then current CADD User’s Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineer’s name, contract number, and construction contract acceptance date printed on each plan sheet, and with the Resident Engineer’s signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 7.0 or later. In addition, CITY will provide one set of As-Built plans and addenda in TIFF format.

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

Schedule

49. 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.
50. The IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTIES with a final report of the WORK completed.

Additional Provisions

Standards

51. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; Federal Highway Administration (FHWA) standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:
 - CADD Users' Manual
 - CALTRANS policies and directives
 - Plans Preparation Manual
 - Project Development Procedures Manual (PDPM)
 - Workplan Standards Guide
 - Construction Manual
 - Construction Manual Supplement for Local Agency Resident Engineers
 - Local Agency Structure Representative Guidelines

Noncompliant Work

52. CALTRANS retains the right to reject noncompliant WORK. CITY agrees to suspend WORK upon request by CALTRANS for the purpose of protecting public safety, preserving property rights, and ensuring that all WORK is in the best interest of the State Highway System.

Qualifications

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

Consultant Selection

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

Encroachment Permits

55. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System (SHS) right-of-way. CITY, their contractors, consultants, agents and utility owners will not work within the SHS right-of-way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to CITY, their contractors, consultants, and agents at no cost. CALTRANS will provide encroachment permits to utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.
56. 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

57. 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

58. 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.

59. 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 records.

Hazardous Materials

60. 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.

61. If HM-1 or HM-2 is found the discovering PARTY will immediately notify all other PARTIES.
62. 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 will pay, or cause to be paid, the cost of HM-1 MANAGEMENT for HM-1 found within the existing State Highway System right-of-way with funds that are independent of the funds obligated in this AGREEMENT.

63. 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 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 with funds that are independent of the funds obligated in this AGREEMENT.

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

CITY and CALTRANS will comply with the Soil Management Agreement for Aerially Deposited Lead Contaminated Soils (Soil Management Agreement) executed between CALTRANS and the California Department of Toxic Substances Control (DTSC). Under Section 3.2 of the Soil Management Agreement, CALTRANS and CITY each retain joint and severable liability for noncompliance with the provisions of the Soil Management Agreement. CITY will assume all responsibilities assigned to CALTRANS in the Soil Management Agreement during PROJECT COMPONENTS for which they are the IMPLEMENTING AGENCY except for final placement and burial of soil within the State right-of-way, per Section 4.5 of the Soil Management Agreement, which is subject to CALTRANS concurrence and reporting to DTSC which will be performed by CALTRANS.

65. 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

66. Any PARTY that is responsible for completing WORK may accept, reject, compromise, settle, or litigate claims arising from the WORK without concurrence from the other PARTY.
67. 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.
68. 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.

Accounting and Audits

69. PARTIES will maintain, and will ensure that any consultant hired by PARTIES to participate in WORK will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.

70. PARTIES will maintain and make available to each other all WORK-related documents, including financial data, during the term of this AGREEMENT.

PARTIES will retain all WORK-related records for three (3) years after the final voucher.

PARTIES will require that any consultants hired to participate in the WORK will comply with this Article.

71. PARTIES have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the State Auditor, FHWA (if the PROJECT utilizes federal funds), and CITY will have access to all WORK -related records of each PARTY, and any consultant hired by a PARTY to participate in WORK, for audit, examination, excerpt, or transcription.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation. The auditing PARTY will be permitted to make copies of any WORK-related records needed for the audit.

The audited PARTY will review the draft audit, findings, and recommendations, and provide written comments within thirty (30) calendar days of receipt.

Upon completion of the final audit, PARTIES have forty-five (45) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

Any audit dispute not resolved by PARTIES is subject to mediation. Mediation will follow the process described in the General Conditions section of this AGREEMENT.

72. 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.
73. 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 the Local Assistance Procedures Manual, Chapter 10.

Interruption of Work

74. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right-of-way in a safe and operable condition acceptable to CALTRANS.

75. If WORK stops for any reason, each PARTY will continue with environmental commitments 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

76. The cost of awards, judgements, or settlements generated by the WORK are to be paid from the funds obligated in this AGREEMENT.
77. The cost of legal challenges to the environmental process or documentation may be paid from the funds obligated in this AGREEMENT.
78. Any PARTY whose 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

79. 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.

Environmental Compliance

80. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTIES will amend this AGREEMENT to include completion of those additional tasks.

GENERAL CONDITIONS

81. All portions of this AGREEMENT, including the Recitals Section, are enforceable.

Venue

82. 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

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

Indemnification

84. Neither CALTRANS nor any of its 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.
85. Neither CITY nor any of its 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

86. PARTIES do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights for entities 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.
87. PARTIES will not assign or attempt to assign obligations to entities not signatory to this AGREEMENT without an amendment to this AGREEMENT.

Ambiguity and Performance

88. Neither PARTY will interpret any ambiguity contained in this AGREEMENT against the other PARTY. PARTIES waive 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.

89. 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

90. 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

91. 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.

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

Prevailing Wage

93. 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, 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.

SIGNATURES

PARTIES are empowered by the law 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.

This AGREEMENT may be executed and delivered in counterparts, and by each PARTY in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Greg Wong
Acting Deputy District Director
D3 Program, Project and Asset Management

Verification of funds and authority:

Varinder K. Gurcha
District Project Control Officer

Certified as to financial terms and policies:

Nadine Karavan
HQ Accounting Supervisor

CITY OF DAVIS

Mike Webb
City Manager

Attest:

Zoe S. Mirabile
City Clerk

Approved as to form and procedure:

Inder Khalsa
City Attorney

FUNDING SUMMARY NO. 01

<u>FUNDING TABLE</u>					
<u>IMPLEMENTING AGENCY</u> →			<u>CITY</u>		Totals
Source	Party	Fund Type	CONST. SUPPORT	CONST. CAPITAL	
STATE	CALTRANS	SHOPP	0	800,000	800,000
LOCAL	CITY	Local	1,000,000	5,000,000	6,000,000
Totals			1,000,000	5,800,000	6,800,000

DRAFT

<u>SPENDING SUMMARY</u>				
Fund Type	CONST. SUPPORT		CONST. CAPITAL	Totals
	CALTRANS	<u>CITY</u>	<u>CITY</u>	
SHOPP	0	0	800,000	800,000
Local	0	1,000,000	5,000,000	6,000,000
Totals	0	1,000,000	5,800,000	6,800,000

DRAFT

Funding

1. If there are insufficient funds available in this AGREEMENT to place the PROJECT right-of-way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY will fund these activities until such time as PARTIES amend this AGREEMENT.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

2. If there are insufficient funds in this AGREEMENT to implement the obligations and responsibilities of this AGREEMENT, including the applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, and/or approvals that are in effect at a time that WORK stops, each PARTY accepts responsibility to fund their respective WORK until such time as PARTIES amend this AGREEMENT.

Each PARTY may request reimbursement for these costs during the amendment process.

ICRP Rate

3. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.

In accordance with California Senate Bill 848, the Administration Rate is capped at 10 percent until July 1, 2021, for Self-Help Counties with a countywide sales tax measure dedicated to transportation improvements.

4. If the WORK is funded with state or federal funds, any PARTY seeking CALTRANS reimbursement of indirect costs must submit an indirect cost rate proposal and central service cost allocation plan (if any) in accordance with Local Assistance Procedures Manual, 2 CFR, Part 200 and Chapter 5. These documents are to be submitted annually to CALTRANS' Audits and Investigations for review and acceptance prior to CALTRANS' reimbursement of indirect costs.

5. Travel, per diem, and third-party contract reimbursements for WORK are to be paid from the funds in this AGREEMENT only after the contractor performs the work and incurs said costs.

Payments for travel and per diem will not exceed the rates paid rank and file state employees under current California Department of Human Resources (CalHR) rules current at the effective date of this AGREEMENT.

If CITY invoices for rates in excess of CalHR rates, CITY will fund the cost difference and reimburse CALTRANS for any overpayment.

6. In accordance with the CALTRANS Federal-Aid Project Funding Guidelines, PARTIES must obtain approval from the Federal Highway Administration prior to any PROJECT funding changes that that will change the federal share of funds.

Invoicing and Payment

7. PARTIES will invoice for funds where the SPENDING SUMMARY shows that one PARTY provides funds for use by another PARTY. PARTIES will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, CITY will pay invoices within five (5) calendar days of receipt of invoice.
8. If CITY has received EFT certification from CALTRANS then CITY will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
9. When a PARTY is reimbursed for actual cost, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTIES will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTIES will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.
10. If an executed Program Supplement Agreement (PSA) or STIP Planning, Programming, and Monitoring Program Fund Transfer Agreement (PPM) exists for this PROJECT then CITY will abide by the billing and payment conditions detailed for the fund types identified in the PSA or PPM.
11. If CALTRANS reimburses CITY for any costs later determined to be unallowable, CITY will reimburse those funds.

CONSTRUCTION Support

12. No invoicing or reimbursement will occur for the CONSTRUCTION SUPPORT PROJECT COMPONENT.

CONSTRUCTION Capital

13. CITY will invoice and CALTRANS will reimburse for actual costs incurred and paid.

DRAFT

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 03-0661 and any amendments to the agreement. The final signature date on this document terminates agreement 03-0661 except survival articles. All survival articles in agreement 03-0661 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.

This AGREEMENT may be executed and delivered in counterparts, and by each PARTY in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

CITY OF DAVIS

Acting Deputy District Director D3 Program,
Project and Asset Management

City Manager

Date: _____

Date: _____

**Certified as to all financial
obligations/terms and policies**

District Project Control Officer

Date: _____