

10-SJ-5 KP35.6/38.1 (PM22.1/23.6))

Reconstruct Interchange at Interstate 5/French Camp/Sperry Road

EA: 10-0E4900

District Agreement No. 10-426 A-1

RESTATEMENT AND AFFIRMATION AGREEMENT
(Amendment agreement)

This RESTATEMENT AND AFFIRMATION AGREEMENT (RESTATEMENT) is entered into and is effective on _____, 20__ between the STATE OF CALIFORNIA, acting by and through its Department of Transportation referred to herein as CALTRANS, and

City of Stockton, a body politic and a municipal corporation of the State of California, referred to herein as CITY.

10-SJ-5 KP35.6/38.1 (PM22.1/23.6))
Reconstruct Interchange at Interstate 5/French Camp/Sperry Road
EA: 10-0E4900
District Agreement No. 10-426 A-1

RECITALS

1. The parties hereto (PARTIES) entered into a Cooperative Agreement No.10-426 on December 16, 2013 defining the terms, covenants and conditions of a project to Right of Way (R/W) for the project was acquired by Caltrans to help the City complete the project. There were six R/W parcels remnants that were deemed "excess to requirements" for the project, and so this R/W needs to be disposed of as excess parcels. It is proposed to sell these excess parcels for the City and so the City will reimburse Caltrans for the required R/W staff work. Proceeds from the sale of the parcels will be returned proportionally to the City and to the State Highway Account, at Interstate 5, in San Joaquin County referred to herein as PROJECT.
2. The Cooperative Agreement No. 426 A-1 as amended is referred to hereinafter as AGREEMENT.
3. The amount shall be no more than \$200,000 for the R/W support activity and Caltrans will invoice City for the actual work performed.
4. PROJECT was not completed prior to the termination date as stated in AGREEMENT.

IT IS THEREFORE MUTUALLY AGREED:

1. Except as provided below, the terms, covenants and conditions of the AGREEMENT are hereby restated, affirmed and agreed upon by the PARTIES.
2. A copy of the AGREEMENT (as presently amended) is attached as Exhibit A and incorporated as a part of the RESTATEMENT by this reference
3. The termination date specified in Section III, "It Is Mutually Agreed", Article 15 of the AGREEMENT is replaced in its entirety to read as follows:

"This Agreement will terminate upon completion of PROJECT that all parties have met all scope, cost, and schedule commitments included in this Agreement and have signed a Cooperative Agreement Closure Statement, which is a document signed by parties that verifies the completion of PROJECT.

However, all indemnification, document, retention, audit, claims, environmental commitment, legal challenge, hazardous material, operation, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement."

4. PARTIES also ratify and affirm their respective actions from (expired date) to the date of execution of this RESTATEMENT.
5. PARTIES empowered by Street and Highways Code Section 114 & 130 to enter into AGREEMENT have delegated to their undersigned authority on behalf of the respective agencies and covenants and have followed all the necessary legal requirements to validly execute this RESTATEMENT.

SIGNATURES

PARTIES declare that:

1. Each PARTY is an authorized legal entity under California state law.
2. Each PARTY has the authority to enter into this agreement.
3. The people signing this agreement have the authority to do so on behalf of their public agencies.

STATE OF CALIFORNIA

DEPARTMENT OF TRANSPORTATION

CITY OF STOCKTON

By: _____

Dennis T. Agar
District 10 Director

By: _____

Kurt Wilson
City Manager

CERTIFIED AS TO FUNDS:

Attest:

By: _____

Bret Hunter
Interim City Clerk

By: _____

Diana Guerra
District 10 Budget Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM AND
PROCEDURE:

By: _____

Deputy City Attorney

By: _____

Meera Danday
Deputy Attorney

CERTIFIED AS TO FINANCIAL
TERMS AND POLICIES:

By: _____

Darwin Salmos
Accounting Supervisor

District Agreement No. 10-426

EXHIBIT A

10-SJ-5 KP35.6/38.1 (PM22.1/23.6))
Reconstruct Interchange at Interstate 5/French Camp/Sperry Road
In Stockton
EA: 10-0E4900
District Agreement No. 10-426

This RESTATEMENT AND AFFIRMATION AGREEMENT (RESTATEMENT) is entered into and is effective on DECEMBER 16, 2013 between the STATE OF CALIFORNIA, acting by and through its Department of Transportation referred to herein as CALTRANS, and

CITY OF STOCKTON, a body politic and a municipal corporation of the State of California, referred to herein as "CITY".

EXHIBIT ARECITALS

1. The parties hereto (PARTIES) entered into an Cooperative Agreement No. 10-241 on July 9, 2007, defining the terms, covenants and conditions of a project to reconstruct and modify the Interchange on Interstate 5, at French Camp Road, referred to herein as "PROJECT".
2. PARTIES hereto also entered into an Amendment No.1 to Agreement on June 18, 2008, to Cooperative Agreement No. 10-241 to adjust the funding for PS&E, R/W Support and R/W Capital activities to now include Federal SAFETEA-LU/HPP funds and Federal Omnibus Spending Bill funds in addition to Local funds.
3. PARTIES hereto also entered into an Amendment No.2 to Agreement on July 30, 2010, to increase the R/W Support Funds by \$150,000 and establish a new termination date of June 30, 2011.
4. PARTIES hereto also entered into an Amendment No.3 to Agreement on June 27, 2011, to increase the R/W Capital Funds by \$1,750,000 and establish a new termination date of June 30, 2013.
5. The Cooperative Agreement No. 241 as amended is referred to hereinafter as AGREEMENT and is attached to this RESTATEMENT AGREEMENT.
6. PROJECT was not completed prior to the termination date as stated in AGREEMENT.
7. AGREEMENT expired on June 30, 2013, and the PARTIES wish to restate, reinstate and affirm the terms, covenants and conditions of AGREEMENT.

IT IS THEREFORE MUTUALLY AGREED:**EXHIBIT A**

1. Except as provided below, the terms, covenants and conditions of the AGREEMENT are hereby restated, reinstated, affirmed and agreed upon by the PARTIES.
2. A copy of the AGREEMENT is attached as Exhibit A and incorporated as a part of the RESTATEMENT by this reference.
3. The termination date specified in Section III, IT IS MUTUALLY AGREED, Article 15 of the AGREEMENT is replaced in its entirety to read as follows:

This Agreement will terminate upon completion of PROJECT that all parties have met all scope, cost, and schedule commitments included in this Agreement and have signed a cooperative agreement closure statement, which is a document signed by parties that verifies the completion of PROJECT.

However, all indemnification, document, retention, audit, claims, environmental commitment, legal challenge, hazardous material, operation, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement

4. Article 2 under Section RECITALS of AGREEMENT is replaced in its entirety to read as follows:

CITY desires to reconstruct and modify the interchange on Interstate 5 (I-5) at French Camp Road, referred to herein as "PROJECT", and is willing to fund one hundred percent (100%) of all PROJECT costs, except for costs of STATE's quality assurance oversight review of Plans, Specifications, and Estimates (PS&E), and CITY's Right of Way (R/W) mapping and appraisal activities as shown on Exhibit A, attached to and made a part of this Agreement.

PROJECT includes both a roadway construction element and a landscape and mitigation planting element that will be performed by separate construction contracts.

EXHIBIT A

5. Articles 4, 5, 6, 7, and 8 in Section III, IT IS MUTUALLY AGREED are replaced in entirety to read as follows:

If HM-1 or HM-2 is found during a PROJECT COMPONENT, IMPLEMENTING AGENCY for that PROJECT COMPONENT will immediately notify PARTNERS.

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

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

If HM-2 is found within PROJECT limits, the public agency responsible for the advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM MANAGEMENT ACTIVITIES related to HM-2.

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.

6. Article 11 under Section III: IT IS MUTUALLY AGREED is replaced in its entirety to read as follows:

PARTNERS do not intend this Agreement to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this Agreement. PARTNERS do not intend this Agreement to affect their legal liability by imposing any standard of care for fulfilling OBLIGATIONS different from the standards imposed by law.

EXHIBIT A

7. Article 12 under Section III: IT IS MUTUALLY AGREED, as modified in Amendment No. 1 of June 8, 2008, is replaced in its entirety to read as follows:

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

8. Article 13 under Section III: IT IS MUTUALLY AGREED, as modified in Amendment No. 1 of June 8, 2008, is replaced in its entirety to read as follows:

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

9. PARTIES also ratify and affirm their respective actions from June 30, 2013, to the date of execution of this RESTATEMENT.
10. PARTIES empowered by Street and Highways Code section 114 & 130 to enter into AGREEMENT have delegated to their undersigned authority on behalf of the respective agencies and covenants and have followed all the necessary legal requirements to validly execute this RESTATEMENT.

District Agreement No. 10-426

SIGNATURESEXHIBIT A

PARTIES declare that:

1. Each PARTY is an authorized legal entity under California state law.
2. Each PARTY has the authority to enter into this agreement.
3. The people signing this agreement have the authority to do so on behalf of their public agencies.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

CITY OF STOCKTON

APPROVED

APPROVED

By: Amarjeet S. Benipal
Amarjeet S. Benipal
Acting District 10 Director

By: Kurt Wilson
Interim City Manager

CERTIFIED AS TO FUNDS:

By: Kristen Eddings
for Kristen Eddings
District 10 Budget Manager

By: _____
Bonnie Paige
City Clerk



ATTEST:
CLERK OF THE CITY OF STOCKTON
By: Bonnie Paige

APPROVED AS TO FORM:

APPROVED AS TO FORM AND PROCEDURE

By: [Signature]
Attorney
Department of Transportation

By: John Luebberke
John Luebberke
City Attorney

CERTIFIED AS TO FINANCIAL TERMS AND
CONDITIONS:

By: [Signature]
Accounting Administrator

EXHIBIT A

District Agreement # 10-241

10-SJ-5 KP35.6/38.1 (PM22.1/23.6))
Reconstruct Interchange at Interstate 5/French Camp/Sperry Road
In Stockton
EA: 10-0E4900
District Agreement No. 10-241

COOPERATIVE AGREEMENT

THIS AGREEMENT, entered into effective on July 9, 2007, is
between the STATE OF CALIFORNIA, acting by and through its Department of
Transportation, referred to herein as STATE, and the

CITY OF STOCKTON, a body politic
and a municipal corporation of the State
of California, referred to herein as CITY.

EXHIBIT A

District Agreement # 10-241

RECITALS

1. STATE and CITY, pursuant to Streets and Highways Code section 130, are authorized to enter into a Cooperative Agreement for improvements to State Highways within the City of Stockton in the County of San Joaquin.
2. CITY desires to reconstruct and modify the interchange on Interstate 5 (I-5) at French Camp Road, referred to herein as "PROJECT", and is willing to fund one hundred percent (100%) of all PROJECT costs, except for costs of STATE's quality assurance oversight review of Plans, Specifications, and Estimates (PS&E), and CITY's Right of Way (R/W) mapping and appraisal activities as shown on Exhibit A, attached to and made a part of this Agreement.
3. STATE and CITY agree that, at CITY expense, STATE will acquire the R/W parcels for PROJECT.
4. STATE and CITY agree that STATE will perform eminent domain activities, at CITY's expense, if required.
5. This Agreement supersedes any prior Memorandum of Understanding (MOU) relating to PROJECT.
6. Construction of PROJECT will be the subject of a separate future Agreement.
7. The parties hereto intend to define herein the terms and conditions under which PROJECT is to be designed and financed.

SECTION I

CITY AGREES:

1. To pay one hundred percent (100%) of the total actual PS&E R/W support, capital, legal and staff costs related to eminent domain activities (eminent domain activities) for PROJECT, up to a maximum amount mentioned in Exhibit A. If it becomes apparent that the total maximum cost for R/W for PROJECT will exceed the maximum amount programmed for expenditure, CITY shall work promptly and in cooperation with STATE to determine necessary additional costs and the source of the additional funds.
2. To deposit with STATE within twenty (20) working days of receipt of billing therefore (which billing will be forwarded fifteen (15) days prior to STATE starting

EXHIBIT A

District Agreement # 10-241

R/W acquisition activities), the amounts of \$60,000. Said amount represents the estimated two month cost for R/W support.

3. Thereafter, to pay STATE no later than ten (10) working days preceding the beginning of each successive month and upon receipt of billing from STATE, CITY'S share of the actual expenditure for right of support for that month and to continue making such deposits of the actual expenditures on a monthly basis until completion of PROJECT R/W activities.
4. To pay the property owners whose property(s) STATE is to condemn for PROJECT, under this Agreement, within ten (10) working days from the date of STATE's notice to the CITY to do so. CITY shall continue making such payments until a maximum amount of \$14,500,000.
5. STATE has no obligation to perform any further R/W activities should the funds to perform right of way activities remain unavailable at any point of time during the life of this Agreement. In the event that STATE terminates any participation in R/W acquisition activities, CITY or CITY's consultant has the option of performing these activities, at CITY expense.
6. To deposit with STATE within twenty (20) days of receipt of billing from STATE (which billing will be forwarded fifteen (15) days prior to STATE starting eminent domain activities, the amount of \$50,000, which figure represents an estimated one month's equivalent of STATE's expenses for legal and staff costs related to eminent domain activities, if necessary, as stated in Article 6, Section II, of this Agreement. Thereafter, to deposit with STATE no later than ten (10) working days preceding the beginning of each month, CITY's share for one month of the estimated expenditures for eminent domain activities and to continue making such deposits of estimated expenditures on a monthly basis until the completion of eminent domain activities. STATE has no obligations to perform eminent domain activities should the costs of all of those activities be anticipated to exceed, at any time, the funds obligated as payable by CITY to STATE herein. In the event that STATE terminates any participation in eminent domain activities, CITY or CITY's consultant has the option of performing these activities at CITY expense.
7. To pay STATE after completion of all work and within twenty-five (25) working days after receipt of a detailed statement made upon final accounting of costs for R/W acquisition and eminent domain activities, any amount over and above the aforementioned payments required to complete CITY's financial obligation assumed pursuant to this Agreement.
8. Upon receipt of STATE's final accounting of costs for R/W acquisition and/or eminent domain activities, CITY will notify STATE, in writing within seven (7) working days of those charges with which CITY disagrees. The project managers for both parties shall meet to attempt to resolve the dispute. If the project managers are

EXHIBIT A

District Agreement # 10-241

unable to resolve the dispute, the issue shall be referred to the Director of District 10 and the CITY representative.

9. To prepare including but not limited to detailed PS&E and R/W mapping, appraisals, relocation assistance, utility relocations, design representation at condemnation review meetings and clearance and demo of improvements at no cost to STATE, according to STATE policies and procedures and to submit appropriate documents, plans and mapping to STATE for STATE's review and concurrence at appropriate stages of development.
10. CITY's R/W mapping and appraisal activities and PS&E, include, but not limited to, costs incurred for the preparation of contract documents, advertising for bids, and for awarding the construction contract. The final PS&E for PROJECT shall be signed on behalf of CITY by a Civil Engineer registered in the State of California.
11. To permit STATE to monitor and participate in the selection of personnel who will prepare the PS&E, and provide the R/W engineering services, and to permit STATE to oversee the performance of R/W activities. CITY agrees to consider any request by STATE to discontinue the services of any personnel considered by STATE to be unqualified on the basis of credentials, professional expertise, failure to perform in accordance with the scope of work and/or other pertinent criteria.
12. To make available to STATE, personnel who prepare the PS&E and R/W mapping/appraisals, at no cost to STATE, through completion of construction of PROJECT to discuss problems that may arise during construction and/or to make design revisions for contract change orders.
13. To provide an approval Appraisal Package to STATE complete with a:
 - a. Signed memorandum stating that a qualified R/W person, employed or retained by CITY, has reviewed it.
 - b. Signed Notice of Decision to Appraise letter from the appraiser to the property owner.
 - c. Signed Appraisal Report and Valuation Summary Statement.
 - d. Signed Independent Appraiser Review Certificate.
14. To not use funds from STATE for any capital and support costs for PROJECT.
15. To make written application to STATE for necessary encroachment permits authorizing entry of CITY onto the State Highway R/W to perform surveying and other investigative activities required for preparation of the PS&E.
16. To prepare and submit to STATE for review and concurrence all R/W Engineering Hard Copies and R/W Appraisal Maps, Records of Survey, and R/W Record Maps in accordance with STATE's R/W Manual Chapter 6, R/W Engineering, STATE's

EXHIBIT A

District Agreement # 10-241

Drafting and Plans Manual, STATE's Surveys Manual Chapter 10, applicable State laws, and other pertinent reference material and examples as provided by STATE.

17. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
18. To identify and locate all high and low risk underground facilities within the area of PROJECT and to protect or otherwise provide for such facilities, all in accordance with STATE's "Manual on High and Low Risk Underground Facilities Within Highway Rights of Way". CITY hereby acknowledges receipt of STATE's "Manual on High and Low Risk Underground Facilities Within Highway Rights of Way".
19. If any existing public and/or private utility facilities conflict with the construction of PROJECT or violate STATE's encroachment policy, CITY shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or removal in accordance with STATE's policy and procedure for those facilities located within the limits of work included in the improvement to the State highway and in accordance with CITY's policy for those facilities which are or will be located outside of the limits of the State Highway. The total costs to PROJECT of such protection, relocation, or removal within the present or future State highway R/W shall be determined in accordance with STATE's policies and procedures.
20. To furnish evidence to STATE, in a form acceptable to STATE, that arrangements have been made for the protection, relocation, or removal of all conflicting facilities within the State Highway R/W and that such work will be completed prior to the award of the contract to construct PROJECT or as covered in the PS&E for said contract. This evidence shall include a reference to all required State highway encroachment permits.
21. To require any utility owner and/or its contractor performing the protection or relocation work within the State Highway R/W to obtain an encroachment permit from STATE prior to the performance of said work.
22. To furnish all R/W appraisals and mapping outside of the existing State highway R/W and to perform all R/W appraisals and mapping at no cost to STATE, and in accordance with procedures acceptable to STATE. These activities shall comply with all applicable State and Federal laws and regulations, subject to STATE's quality assurance to insure that the completed work is acceptable for incorporation into the State highway R/W.
23. To utilize the services of a qualified public agency or a qualified consultant, as determined by STATE's District Division Chief of R/W, in all matters related to the mapping and appraisals of R/W in accordance with STATE's procedures as published in STATE's current R/W Manual. Whenever personnel other than personnel of a

EXHIBIT A

District Agreement # 10-241

qualified public agency are utilized, administration of the personnel contract shall be performed by a qualified R/W person employed or retained by CITY.

24. To be responsible, at CITY's expense, for the investigation of potential hazardous material sites within and outside of the existing State Highway R/W that would impact PROJECT as part of the responsibility for the ED for PROJECT. If CITY encounters hazardous material or contamination within the existing State Highway R/W during said investigation, CITY shall immediately notify STATE and responsible control agencies of such discovery.
25. To provide, at no cost to STATE, survey and mapping services necessary to perpetuate existing land net and alignment monumentation in accordance with sections 8771 and 8765 of the Business and Professions Code; and to permanently monument the location of all State Highway roadway alignments, realignments, and R/W acquisitions. All the above are to be shown on a Record of Survey filed with the County Surveyor. CITY shall deliver one copy of any field notes, filed Corner Records, and the Record of Survey required for execution of the above obligation, to STATE's District Division of R/W and Land Surveys.
26. To prepare, R/W Appraisal Maps, Record of Surveys, R/W Record Maps, legal descriptions and deeds in accordance with State of California R/W Manual, chapter 6 R/W engineering, the State of California Drafting and Plans Manual, the State of California Surveys Manual Chapter 10, applicable State laws, and other pertinent reference material and examples as provided by STATE.
27. To prepare all aerial photography and photogrammetric mapping shall conform to STATE's standards and practices current as of the date of performance.
28. To have all necessary R/W Maps and Documents used to acquire R/W by STATE, prepared by or under the direction of a person authorized to practice land surveying in the State of California. Each R/W Map and Document shall bear the appropriate professional seal, certificate number, expiration date of registration certification and signature of the licensed person in "Responsible Charge of Work".
29. To submit to STATE for review and acceptance all R/W Appraisal Maps with appurtenant back-up and reference data prior to preparation of legal descriptions and acquisition documents.
30. Personnel who prepare R/W maps, documents, and related materials shall be made available to STATE, at no cost to STATE, during and after construction of PROJECT until completion and acceptance by STATE of R/W Record maps and Record of Surveys.
31. A copy of all original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustments calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become

EXHIBIT A

District Agreement # 10-241

property of STATE. For aerial mapping, survey documents to be furnished are three sets of contract prints, with one set showing control, a complete photo index – two prints and a copy of the negative, and the original aerial photography negative.

32. To obtain, at CITY's expense, all necessary permits and/or agreements from appropriate regulatory agencies. All mitigation, monitoring, and/or remedial action required by said permits shall constitute parts of the cost of PROJECT. A Notice of Construction shall be completed by the CITY's consultant during permit application and shall be submitted to the STATE.
33. STATE's quality assurance activities referred to in Section II, Article 1 of this Agreement does not include performance of any engineering services required for PROJECT. These services are to be performed by CITY. If CITY requests STATE to perform any of these services, CITY shall reimburse STATE for such services. An Amendment to this Agreement authorizing STATE's performance of such services will be required prior to performance of any engineering work by STATE.
34. If CITY desires to have STATE advertise, award and administer the construction contract for PROJECT, CITY shall provide all plans prepared by CITY or CITY's consultant on a compact disk prepared in Micro Station format, including the engineer's electronic signature and seal, shall be provided to STATE upon completion of the final PS&E for PROJECT. STATE reserves the right to modify the magnetic tape requirements and STATE shall provide CITY advance notice of any modifications.
35. To provide a hard copy of the bid package and final bid summary to the STATE.
36. Boilerplate contract documents shall be used in the Special Provisions as specified in the Local Assistance Procedure Manual.

SECTION II

STATE AGREES:

1. At no cost to CITY, to provide quality assurance activities of all PS&E and R/W mapping and appraisal activities on PROJECT done by CITY or its designee, to provide prompt reviews and approvals, as appropriate, of submittals by CITY, and to cooperate in timely processing of PROJECT.
2. Upon proper application by CITY, to issue, at no cost to CITY, an encroachment permit to CITY authorizing entry onto the State highway R/W to perform survey and other investigative activities required for preparation of the PS&E. If CITY uses consultants rather than its own staff to perform required work, the consultants will also be required to obtain a separate encroachment permit. These permits will be issued at no cost upon proper application by the consultants.

EXHIBIT A

District Agreement # 10-241

3. To perform R/W support activities including preparation of offer packages, making formal offers, negotiations, obtaining signatures on agreements, obtaining CTC approvals if necessary, closing packages and finalizing the acquisitions, after receipt of initial deposit as referred to in Section I, Article 2.
4. To submit to CITY, a billing invoice for a deposit in the amount of \$60,000, fifteen (15) days prior to STATE's beginning of R/W acquisition activities for PROJECT. Said amount represents the estimated initial two month deposit for R/W support cost to be paid by CITY. Thereafter, STATE shall prepare and submit to CITY no later than ten (10) working days preceding the beginning of each successive month, a monthly billing statement of CITY'S share of the actual expenditure for right of support for that month and to continue submitting to CITY billing statements of CITY'S share of actual R/W (support and eminent domain) expenditures on a monthly basis until completion of PROJECT R/W activities.
5. To submit to CITY a notice directing CITY to pay right of way capital funds to property owners whose property is to be condemned by STATE for PROJECT under this Agreement. The notice shall contain the names, address of such property owners and amount of condemnation award to be paid. Such notice shall give CITY ten (10) days time to make such payments.
6. To perform eminent domain activities, if necessary, after receiving the fifty thousand (\$50,000) deposit for STATE's expenses for legal and staff costs related to eminent domain activities from CITY as referred to in Section I, Article 6.
7. To submit to CITY, a billing invoice for a deposit in the amount of fifty thousand (\$50,000) fifteen (15) days prior to STATE beginning eminent domain activities for PROJECT.
8. To utilize data, mapping, and appraisals, and other support as needed from CITY and/or CITY'S consultants provided the information meets all applicable STATE standards.
9. To consult with CITY prior to making offers exceeding appraised value by more than ten percent (10%).
10. Upon completion and acceptance of the PROJECT R/W Certification and all work incidental thereof, to furnish CITY with a detailed statement of the costs to be borne by CITY. STATE thereafter shall refund to CITY, promptly after completion of STATE's final accounting of activities acquisition costs, any amount of CITY's deposit required in Section I, Article 2 remaining after actual costs to be borne by CITY have been deducted, or shall bill CITY for any additional amount required to complete CITY's financial obligations pursuant to this Agreement.
11. Upon completion of eminent domain activities and all work incidental thereto, to furnish CITY with a detailed statement of the costs to be borne by CITY. STATE

EXHIBIT A

District Agreement # 10-241

thereafter shall refund to CITY, promptly after completion of STATE's final accounting of eminent domain activities costs, any amount of CITY's deposit required in Section I remaining after actual costs to be borne by CITY have been deducted, or shall bill CITY for any additional amount required to complete CITY's financial obligations pursuant to this Agreement.

12. If CITY disputes all or part of the charges of final accounting of costs for acquisition or eminent domain Activities STATE shall meet with the CITY representatives as referred to in Section I, Article 8, to resolve the dispute.
13. To certify legal and physical control of R/W ready for construction and that all R/W parcels were acquired in accordance with applicable State and Federal law and regulations, at CITY's expense.

SECTION III

IT IS MUTUALLY AGREED:

1. STATE's contractual obligations are subject to the annual State Budget Act authority, the appropriation of adequate resources by the Legislature, and the allocation of funds by the California Transportation Commission.
2. STATE will furnish escrow-closing packages to CITY and CITY will disburse purchase amount.
3. The design and R/W activities acquisition for PROJECT shall be performed in accordance with STATE's standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be approved by STATE via the processes outlined in STATE's Highway Design Manual and appropriate memorandums and design bulletins published by STATE. In the event that STATE proposes and /or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual Section 82.5, "Effective Date for Implementing Revisions to Design Standards". STATE shall consult with CITY in a timely manner regarding effect of proposed and/or required changes on PROJECT.
4. Any hazardous material or contamination of an HM-1 category found within the existing State Highway R/W during investigative studies requiring remedy or remedial action, as defined in Division 20, Chapter 6.8 et seq. of the Health and Safety Code, shall be the responsibility of STATE. Any hazardous material or contamination of an HM-1 category found within the local road R/W during investigative studies requiring the same defined remedy or remedial action shall be the responsibility of CITY. For the purpose of this Agreement, hazardous material or contamination of HM-1 category is defined as that level or type of contamination

EXHIBIT A

District Agreement # 10-241

which State or Federal regulatory control agencies having jurisdiction have determined must be remediated by reason of its mere discovery, regardless of whether it is disturbed by PROJECT or not. If CITY decides to not proceed with PROJECT, STATE shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the existing State Highway R/W and CITY shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the local road R/W. If CITY and STATE decide to proceed with PROJECT, STATE shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the existing State Highway R/W, except that if STATE determines, in its sole judgment, that STATE's cost for remedy or remedial action is increased as a result of CITY's decision to proceed with PROJECT, that additional cost identified by STATE shall be deemed a part of the costs of PROJECT. CITY shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the local road R/W. STATE will exert every effort to fund the remedy or remedial action for which STATE is responsible. In the event STATE is unable to provide funding, CITY will have the option to either delay PROJECT until STATE is able to provide funding or CITY may proceed with the remedy or remedial action at CITY's expense without any subsequent reimbursement by STATE.

5. The remedy or remedial action with respect to any hazardous material or contamination of an HM-2 category found within the existing State Highway R/W during investigative studies shall be the responsibility of CITY, at CITY's expense, if CITY decides to proceed with PROJECT. For the purposes of this Agreement, hazardous material or contamination of HM-2 category is defined as that level or type of contamination which said regulatory control agencies would have allowed to remain in place if undisturbed or otherwise protected in place should PROJECT not proceed. CITY shall sign any HM-2 storage manifest if PROJECT proceeds and HM-2 material must be removed in lieu of being treated in place. If CITY decides to not proceed with PROJECT, there will be no obligation to either CITY or STATE other than CITY's duty to cover and protect HM-2 material left in place.
6. If hazardous material or contamination of either HM-1 or HM-2 category is found on new R/W to be acquired by CITY for PROJECT, CITY, as between CITY and STATE only, shall be responsible, at CITY's expense, for all required remedy or remedial action and/or protection and shall guarantee STATE that said new R/W is clean prior to transfer of title to STATE. The generator of the hazardous material or, if none can be identified or found, the present property owner, whether a private entity or a local public agency, or CITY, as a last resort, shall sign the manifest.
7. Locations subject to remedy or remedial action and/or protection include utility relocation work required for PROJECT. Costs for remedy and remedial action and/or protection shall include, but not be limited to, the identification, treatment, protection, removal, packaging, transportation, storage, and disposal of such material.
8. The party responsible for funding any hazardous material cleanup shall be responsible for the development of the necessary remedy and/or remedial action plans and designs. Remedial actions proposed by CITY on the State Highway R/W shall be pre-

EXHIBIT A

District Agreement # 10-241

approved by STATE and shall be performed in accordance with STATE's standards and practices and those standards mandated by the Federal and State regulatory agencies.

9. STATE will maintain and operate the traffic control signals and safety lighting as installed and pay an amount equal to fifty percent (50%) of the total maintenance and operational costs, including electrical energy costs. CITY shall reimburse STATE for CITY's proportionate share of said maintenance and operational costs, such share to be an amount equal to fifty percent (50%) of the total maintenance and operational costs, including electrical energy costs.
10. A separate Cooperative Agreement will be required to cover responsibilities and funding for construction phases of PROJECT.
11. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation or maintenance of State Highways and public facilities different from the standard of care imposed by law.
12. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction conferred upon CITY and arising under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.
13. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done, under or in connection with any work, authority or jurisdiction conferred upon STATE and arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the CITY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
14. This Agreement may be terminated or provisions contained herein may be altered, changed, or amended by mutual consent of the parties hereto.
15. Except as otherwise provided in Article 13 above, this Agreement shall terminate upon completion and acceptance of the construction contract for PROJECT, or on June 30, 2010, whichever is earlier in time.

EXHIBIT A

District Agreement # 10-241

STATE OF CALIFORNIA
Department of Transportation

CITY OF STOCKTON
425 N. El Dorado Street
Stockton, CA 95202

WILL KEMPTON
Director

By: Kome Ajise
KOME AJISE
District Director
District 10

By: J. Gordon Palmer, Jr.
J. GORDON PALMER, JR.
City Manager
City of Stockton

Attest: Bonnie Paige, Assistant
KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

Approved as to Form and Procedure

Approved as to Form & Content

William B. Bonds
Attorney
Department of Transportation

RICHARD E. NOSKY, JR.
City Attorney
By: Assistant
Deputy City Attorney
City of Stockton

Certified as to State Funds
Anne Wells
ANNE WELLS
District 10 Budget Manager

Certified as to Financial Terms and Conditions
Frederick K. Jones
Accounting Administrator

EXHIBIT A

District Agreement # 10-241

Exhibit A

	State	City	
PS&E		\$ 3,200,000	
R/W Support	0	\$ 308,476	
R/W Capital	0	\$14,500,000	
Eminent Domain	0	\$ 50,000 per month	
TOTAL	0	\$18,058,476	

EXHIBIT A

10-SJ-5 KP35.6/38.1 (PM22.1/23.6))
Reconstruct Interchange at Interstate
5/French Camp/Sperry Road in Stockton
EA: 10-0E4900
District Agreement No. 10-241 A-1

AMENDMENT NO. 1 TO AGREEMENT

This AMENDMENT NO. 1 to AGREEMENT, entered into effective on
June 18, 2008, is between the STATE OF CALIFORNIA, acting by
and through its Department of Transportation, referred to herein as "STATE," and the

CITY OF STOCKTON, a body
politic and a municipal corporation
of the State of California, referred to
herein as CITY.

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-1

RECITALS

1. The parties hereto entered into Agreement No. 10-241, on July 9, 2007. Said Agreement defined the terms and conditions for Plans, Specifications, and Estimates (PS&E) and Right of Way (R/W) work towards a project to reconstruct and modify Interstate 5 at French Camp Road, referred to herein as PROJECT.
2. Exhibit A of the original Agreement set PS&E, R/W support and R/W capital funding as 100% Local funds.
3. It has now been determined that funding for PS&E, R/W support and R/W capital activities include Federal SAFETEA-LU/HPP funds and Federal Omnibus Spending Bill Funds in addition to Local funds.
4. A Revised Exhibit A is attached, and made part of this Amendment to Agreement to show a reallocation of PS&E, R/W support and capital funds.

IT IS THEREFORE MUTUALLY AGREED:

1. That the existing Exhibit A to Agreement (District Agreement No. 10-241) will be replaced with the revised Exhibit A-1, dated May 9, 2008, attached to and made a part of this Amendment to Agreement. The Revised Exhibit A-1 supersedes the Exhibit A.
2. Article 2a of Section I, City Agrees, is hereby added to the original Agreement to read as follows:

CITY's obligation towards PROJECT PS&E, R/W Support, and R/W Capital cost will be funded by Local funds, Federal SAFETEA-LU/HPP funds, and Federal Omnibus Federal funds.
3. Article 2b of Section I, City Agrees, is hereby added to the original Agreement to read as follows:

To allow Caltrans to administer federal subvention funds shown in the Revised Exhibit A.
4. Article 1b of Section II, State Agrees, is hereby added to the original Agreements to read as follows:

To administer federal subvention funds shown in the Revised Exhibit A.
5. Article 12 of Section III of the original Agreement No. 10-241 is replaced in its entirety to read as follows:

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-1

Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction conferred upon CITY or arising under this Agreement. It is understood and agreed that CITY will fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

6. Article 13 of Section III of the original Agreement No. 10-241 is replaced in its entirety to read as follows:

Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done, under or in connection with any work, authority or jurisdiction conferred upon STATE or arising under this Agreement. It is understood and agreed that STATE will fully defend, indemnify and save harmless the CITY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.

7. All other terms and conditions of said Agreement (District Agreement No. 10-241) shall remain in full force and effect.
8. Any reference to Exhibit A in the original Agreement is deemed to refer to the Revised Exhibit A-1, dated May 9, 2008, 2008.

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-1

STATE OF CALIFORNIA
Department of Transportation

WILL KEMPTON
Director

By: Kome Ajise
KOME AJISE
District Director
District 10

CITY OF STOCKTON
425 N. El Dorado Street
Stockton, CA 95202

By: J. Gordon Palmer, Jr.
J. GORDON PALMER, JR.
City Manager
City of Stockton

Attest: Katherine Cony-Meade
KATHERINE CONY-MEADE
City Clerk of the City of Stockton



Approved as to Form and Procedure

Approved as to Form & Content

[Signature]
Attorney
Department of Transportation

RICHARD E. NOSKY, JR.
City Attorney

By: G.D. Petzold
Deputy City Attorney
City of Stockton

Certified as to State Funds

Anne Wells
ANNE WELLS
District 10 Budget Manager

Certified as to Financial Terms and Conditions

Shelly Guzman
Accounting Administrator

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-1

REVISED EXHIBIT A-1
Estimated Costs
(May 9, 2008)

	State	City	Federal SAFETEA- LU/HPP	Federal Omnibus Spending Bill Funds	TOTAL
PS&E	0	\$ 964,895	\$ 2,235,105	0	\$ 3,200,000
R/W Support	0	\$ 308,476	0	0	\$ 308,476
R/W Capital	0	\$ 8,000,000	\$ 5,500,000	\$1,000,000	\$14,500,000
Eminent Domain	0	\$ 50,000 *	0	0	\$ 50,000 *
TOTAL	0	\$ 9,323,371	\$ 7,735,105	\$1,000,000	\$18,058,476

* If Eminent Domain exceeds one month, \$50,000 per month will be shifted from
R/W Capital (ref. Section I, Article 6 and Section II, Article 6 of this Cooperative Agreement).

EXHIBIT A

10-SJ-5 KP35.6/38.1 (PM22.1/23.6)
Reconstruct Interchange at Interstate
5/French Camp/Sperry Road in Stockton
EA: 10-0E490
District Agreement No. 10-241 A-2

AMENDMENT NO. 2 TO AGREEMENT

This AMENDMENT NO. 2 to AGREEMENT, entered into effective on
July 30, 2010, 2010, is between the STATE OF CALIFORNIA, acting by
and through its Department of Transportation, referred to herein as "STATE," and the

CITY OF STOCKTON, a body
politic and a municipal corporation
of the State of California, referred to
herein as CITY.

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-2

RECITALS

1. The parties hereto entered into Agreement No. 10-241, on July 9, 2007. Said Agreement defined the terms and conditions for Plans, Specifications, and Estimates (PS&E) and Right of Way (R/W) work towards a project to reconstruct and modify Interstate 5 at French Camp Road, referred to herein as PROJECT.
2. The parties hereto also entered into Amendment No. 10-241 A-1, on June 18, 2008. Said Amendment reallocated PS&E, R/W support and capital funds.
3. Exhibit A of the Amendment 10-241 A-1 set R/W support funding at \$308,476.
4. It has now been determined that funding for R/W support needs to be increased.
5. A Revised Exhibit A is attached, and made part of this Amendment to Agreement to show an increase of R/W support funds by \$150,000.
6. It has also been determined that PROJECT will not be completed prior to the termination date of said Agreement.

IT IS THEREFORE MUTUALLY AGREED:


1. That the existing Exhibit A-1 to Agreement (District Agreement No. 10-241) will be replaced with the revised Exhibit A-2, dated February 9, 2010, attached to and made a part of this Amendment to Agreement. The Revised Exhibit A-2 supersedes the Exhibit A-1.
2. The termination date specified in Article 15 of Section 3 of said Agreement shall now be June 30, 2011 instead of June 30, 2010.
3. All other terms and conditions of said Agreement (District Agreement No. 10-241) shall remain in full force and effect.
4. Any reference to Exhibit A in the original Agreement, or Exhibit A-1 in Amendment is deemed to refer to the Revised Exhibit A-2, dated February 9, 2010.

EXHIBIT A

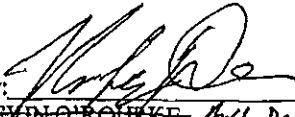
District Cooperative Agreement
No. 10-241 A-2


STATE OF CALIFORNIA
Department of Transportation

RANDELL IWASAKI
Director

By: 
ROSS A. CHITTENDEN
District Director
District 10

CITY OF STOCKTON
425 N. El Dorado Street
Stockton, CA 95202


By: 
~~KEVIN O'ROURKE~~ *Bob Dein*
~~Interim City Manager~~ *City Manager*
City of Stockton

Attest: 
KATHERINE GONG
City Clerk of the City of Stockton




Approved as to Form and Procedure


Approved as to Form & Content


Attorney
Department of Transportation

City Attorney

By: 
Deputy City Attorney
City of Stockton

Certified as to State Funds


THOMAS L. HARBOUR
District 10 Budget Manager

Certified as to Financial Terms and Conditions


Accounting Administrator

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-2

**REVISED EXHIBIT A-2
Estimated Costs
(March 22, 2010)**

	State	City	Federal SAFETEA- LU/HPP	Federal Omnibus Spending Bill Funds	TOTAL
PS&E	0	\$ 964,895	\$ 2,235,105	0	\$ 3,200,000
R/W Support	0	\$ 458,476	0	0	\$ 458,476
R/W Capital	0	\$ 6,685,404	\$ 3,599,596	\$4,215,000	\$14,500,000
Eminent Domain	0	\$ 50,000 *	0	0	\$ 50,000 *
TOTAL	0	\$ 8,158,775	\$ 5,834,701	\$4,215,000	\$18,208,476

* If Eminent Domain exceeds one month, \$50,000 per month will be shifted from R/W Capital (ref. Section 1, Article 6 and Section II, Article 6 of this Cooperative Agreement).

EXHIBIT A

10-SJ-5 KP35.6/38.1 (PM22.1/23.6)
Reconstruct Interchange at Interstate
5/French Camp/Sperry Road in Stockton
EA: 10-0E490
District Agreement No. 10-241 A-3

AMENDMENT NO. 3 TO AGREEMENT

This AMENDMENT NO. 3 to AGREEMENT, entered into effective on
June 27, 2011, is between the STATE OF CALIFORNIA, acting by
and through its Department of Transportation, referred to herein as "STATE," and the

CITY OF STOCKTON, a body
politic and a municipal corporation
of the State of California, referred to
herein as CITY.

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-3

RECITALS

1. The parties hereto entered into Agreement No. 10-241, on July 9, 2007. Said Agreement defined the terms and conditions for Plans, Specifications, and Estimates (PS&E) and Right of Way (R/W) work towards a project to reconstruct and modify Interstate 5 at French Camp Road, referred to herein as PROJECT.
2. The parties hereto also entered into Amendment No. 10-241 A-1, on June 18, 2008. Said Amendment reallocated PS&E, R/W support and capital funds.
3. The parties hereto also entered into Amendment No. 10-241 A-2, on July 30, 2010. Said Amendment increased funding for R/W support.
4. It has now been determined that funding for R/W capital needs to be increased.
5. A Revised Exhibit A-3 is attached, and made part of this Amendment to Agreement to show an increase of R/W capital funds by \$1,750,000.
6. It has also been determined that PROJECT will not be completed prior to the termination date of said Agreement.

IT IS THEREFORE MUTUALLY AGREED:

1. That Article 4 of Section I of said Agreement shall now read:

To pay the property owners whose property(s) STATE is to condemn for PROJECT, under this Agreement, within ten (10) working days from the date of STATE's notice to the CITY to do so. CITY shall continue making such payments until a maximum amount of \$16,250,000.

2. That the existing Exhibit A-2 to Agreement (District Agreement No. 10-241) will be replaced with the revised Exhibit A-3, attached to and made a part of this Amendment to Agreement. The Revised Exhibit A-3 supersedes the Exhibit A-2.
3. The termination date specified in Article 15 of Section III of said Agreement shall now be June 30, 2013 instead of June 30, 2011.
4. All other terms and conditions of said Agreement (District Agreement No. 10-241), as amended, shall remain in full force and effect.
5. Any reference to Exhibit A, and said amendments to said exhibit, is deemed to refer to the Revised Exhibit A-3.

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-3

STATE OF CALIFORNIA
Department of Transportation

CINDY McKIM
Director

By: Carrie L. Bowen
CARRIE L. BOWEN
District 10 Director

CITY OF STOCKTON
425 N. El Dorado Street
Stockton, CA 95202

By: [Signature]
BOB DEIS
City Manager

Attest: [Signature]
KATHERINE GONG MEISSNER
City Clerk of the City of Stockton



Approved as to Form and Procedure

Approved as to Form & Content

[Signature]
Attorney
Department of Transportation

City Attorney

By: [Signature]
John Luebberke
City Attorney

Certified as to State Funds

[Signature]
ELIZABETH BERG
Acting District 10 Budget Manager

Certified as to Financial Terms and Conditions

[Signature]
Accounting Administrator

EXHIBIT A

District Cooperative Agreement
No. 10-241 A-3

REVISED EXHIBIT A-3
Estimated Costs

	State	City	Federal SAFETEA- LU/HPP	Federal Omnibus Spending Bill Funds	TOTAL
PS&E	0	\$ 964,895	\$ 2,235,105	0	\$ 3,200,000
R/W Support	0	\$ 458,476	0	0	\$ 458,476
R/W Capital	0	\$ 8,435,404	\$ 3,599,596	\$4,215,000	\$16,250,000
Eminent Domain *	0	\$ 50,000	0	0	\$ 50,000
TOTAL	0	\$ 9,908,775	\$ 5,834,701	\$4,215,000	\$19,958,476

* If Eminent Domain exceeds one month, \$50,000 per month will be shifted from R/W Capital to Eminent Domain (ref. Section 1, Article 6 and Section II, Article 6 of this Cooperative Agreement).