



**RESOURCE
MANAGEMENT AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: September 17, 2013

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>

CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010

SUBJECT: Cooperative Agreement with the State of California for the Betty Drive Interchange Project

REQUEST(S):

That the Board of Supervisors:

1. Approve the Cooperative Agreement with the State of California in the amount of \$6,600,000 for improvements to the Betty Drive Interchange;
2. Authorize the Assistant Director—Public Works to sign the Funding Summary, Part III, Signature Page; and
3. Authorize the Chairman of the Board of Supervisors to sign the Cooperative Agreement on behalf of the county of Tulare.

SUMMARY:

The State of California Department of Transportation (Caltrans) is undertaking a project to reconstruct the Betty Drive interchange in the community of Goshen. The proposed project will make Betty Drive a through-road by connecting to the realigned Riggan Avenue (Avenue 312) on the east of the interchange, and to Avenue 308 on the west side of the interchange. Traffic signals will be installed at the ramp intersections of Betty Drive. The ramps at Avenue 304 would be closed to provide acceptable operations between the Betty Drive Interchange and State Route 99/198 Separation. Construction of a new drainage basin will also be necessary.

The purpose of the project is to reduce traffic congestion and improve traffic flow at the Betty Drive interchange. The existing interchange will be completely replaced

SUBJECT: Cooperative Agreement with the State of California for the Betty Drive Interchange Project
DATE: September 17, 2013

with a new interchange designed and constructed to meet current engineering standards to improve traffic operations on Betty Drive, as well as on the mainline of State Route 99 and the local streets in the interchange area.

This Cooperative Agreement defines the responsibilities between Caltrans and the County of Tulare for performance of the work and proportion of the expense for the Project. Specifically, this agreement defines that Caltrans and the County will co-sponsor the right-of-way phase for the Project with an approximate 50%/50% split. The total estimated cost for right of way acquisition and utility relocation is \$13,092,000. Tulare County's share of this cost is estimated at \$6,600,000. This is being funded by the Tulare County Transportation Authority (Measure R) (see companion item on the agenda). Caltrans will perform the work and invoice the County. The County will, then, invoice the TCTA. All excess land parcels acquired for the project and purchased by local funds will revert back to the County.

The funding agreement has two component parts: the Cooperative Agreement and the Funding Summary. Caltrans has requested that the individual authorized to sign and submit invoices also sign the Funding Summary. Therefore staff is recommending that the assistant director-public works be authorized to sign the Funding Summary, Part III, signature page. The assistant director-public works is currently reviewing and signing all invoices to Caltrans and the Transportation Authority for reimbursement on our road projects.

Streets and Highways Code Section 114 and 130 allows Caltrans to enter into an agreement with public agencies, such as the County of Tulare, for the performance of the work and proportion of the expense between the public agency and Caltrans.

Caltrans will be the implementing agency for the right-of-way phase, and is the lead agency for CEQA and NEPA. Caltrans obtained California Environmental Quality Act (CEQA) (State Clearinghouse Number 2011071024) and National Environmental Policy Act (NEPA) clearance on June 28, 2012.

Based on the *Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact* dated June 2012, the Project Approval and Environmental, Plan Specifications and Estimates and Right of Way support phases are currently programmed in the State Transportation Improvement Program, with funding for both design and right-of-way phases to start in the 2013/14 fiscal year. Right-of-way capital is currently programmed as Local Transportation Funds (Measure R). The construction phase is not funded and is currently proposed to be funded with Measure R funds.

FISCAL IMPACT/FINANCING:

There is no net cost to the General Fund associated with the execution of the agreement. Measure R funds in the amount of \$6,600,000 will be used to reimburse Caltrans for right of way acquisition and utility relocation. State funds in the amount of \$6,492,000 will be used to fund utility relocation and Caltrans' right of way


SUBJECT: Cooperative Agreement with the State of California for the Betty Drive Interchange Project
DATE: September 17, 2013

support costs, for total right of way budget of \$13,092,000.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Strategic Initiative 1: Safety and Security includes the goal of improving and maintaining adequate transportation infrastructure. The project meets the requirements of Strategic Initiative 1 by improving the safety of motorists that will use the Betty Drive Interchange.

ADMINISTRATIVE SIGN-OFF:

 Digitally signed by Britt L. Fussel
DN: cn=Britt L. Fussel, o, ou=RMA,
email=bfussel@co.tulare.ca.us, c=US
Date: 2013.08.28 08:47:05 -07'00' 08/28/13

Britt L. Fussel, P.E. Date
Assistant Director—Public Works
County Surveyor

BLF:km:br

Cc: Auditor-Controller
County Counsel
County Administrative Office (2)

Attachment(s) Attachment A – Project Vicinity Map
Attachment B – Cooperative Agreement

BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF COOPERATIVE
AGREEMENT WITH THE STATE OF
CALIFORNIA FOR THE BETTY DRIVE
INTERCHANGE PROJECT

)
) Resolution No. _____
) Agreement No. _____
)

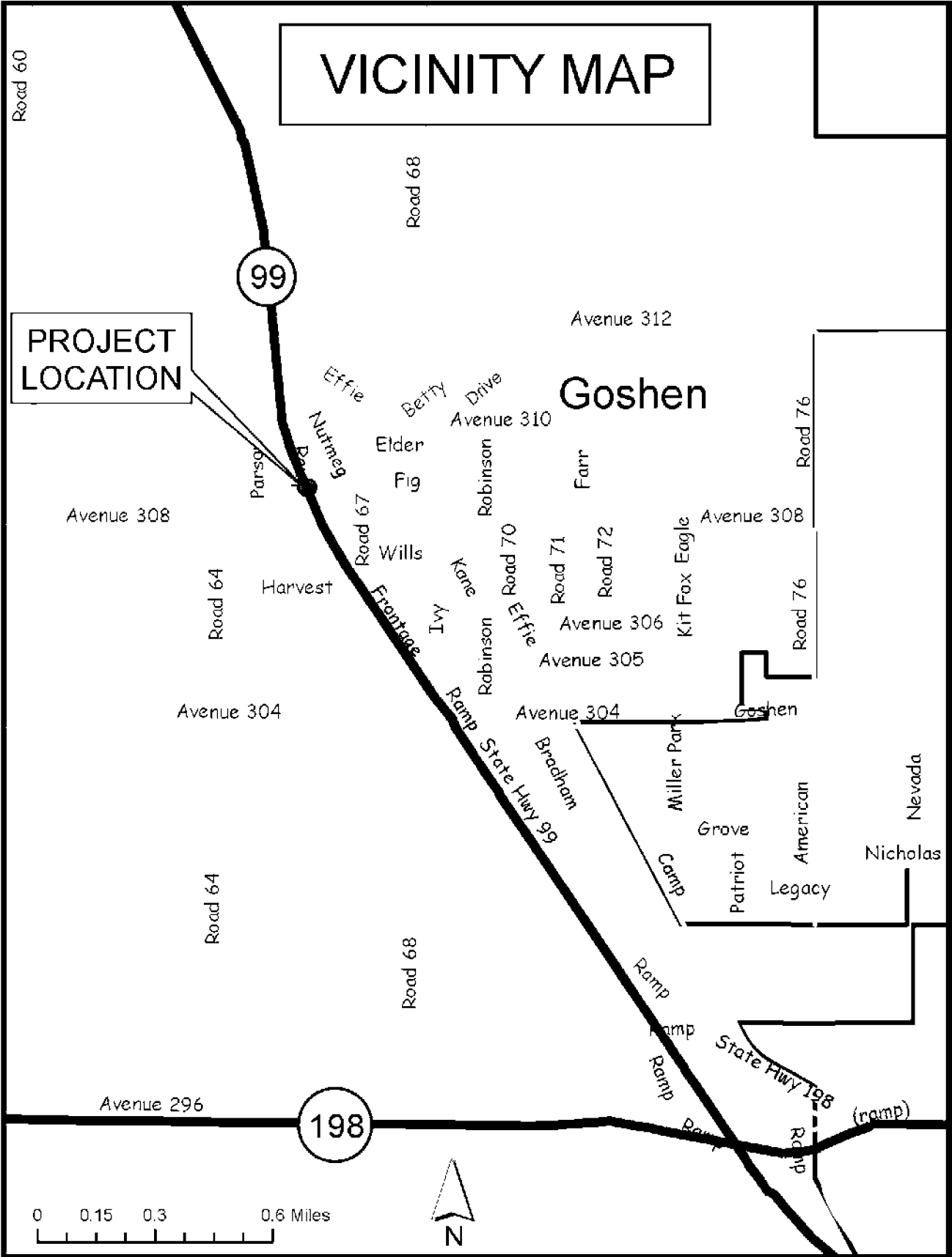
UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE BOARD
OF SUPERVISORS, AT AN OFFICIAL MEETING HELD SEPTEMBER 17, 2013 BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

1. Approved the Cooperative Agreement with the State of California in the amount of \$6,600,000 for improvements to the Betty Drive Interchange;
2. Authorized the Assistant Director—Public Works to sign the Funding Summary, Part III, Signature Page; and
3. Authorized the Chairman of the Board of Supervisors to sign the Cooperative Agreement on behalf of the county of Tulare.



Project Vicinity Map

Attachment B

Cooperative Agreement

COOPERATIVE AGREEMENT

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

County of Tulare, a public corporation/entity, referred to hereinafter as COUNTY.

RECITALS

1. PARTNERS are authorized to enter into a cooperative agreement for improvements to the state highway system (SHS) per the California Streets and Highways Code sections 114 and 130.
2. For the purpose of this Agreement, improvements to the State Route (SR) 99 and Betty Drive interchange at PM 39.8/41.3, in the County of Tulare will be referred to hereinafter as PROJECT.
3. All responsibilities assigned in this Agreement to complete the following PROJECT COMPONENTS will be referred to hereinafter as OBLIGATIONS:
 - Right of Way Support (R/W SUPPORT)
 - Right of Way Capital (R/W CAPITAL)
4. This Agreement is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between PARTNERS regarding the PROJECT.
5. Prior to this Agreement:
 - Caltrans developed the Project Report.
 - Caltrans is developing the Plans, Specifications and Estimate.
6. CALTRANS prepared the environmental documentation for the PROJECT.
7. In this Agreement capitalized words represent defined terms and acronyms.
8. PARTNERS hereby set forth the terms, covenants, and conditions of this Agreement, under which they will accomplish OBLIGATION.

RESPONSIBILITIES

1. CALTRANS and COUNTY will co-sponsor PROJECT.
2. CALTRANS is SPONSOR for 50% of PROJECT RIGHT OF WAY COMPONENT. COUNTY is SPONSOR for 50% of PROJECT RIGHT OF WAY COMPONENT.
3. The FUNDING PARTNER(S) and the details of the funding commitments are documented in the latest FUNDING SUMMARY.
4. CALTRANS is IMPLEMENTING AGENCY for RIGHT OF WAY.
5. CALTRANS is the CEQA lead agency for PROJECT.
6. CALTRANS is the NEPA lead agency for PROJECT.

SCOPE

Scope: General

1. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will provide a Quality Management Plan (QMP) for that component as part of the PROJECT MANAGEMENT PLAN.
2. PARTNERS will perform all OBLIGATIONS in accordance with federal and California laws, regulations, and standards; FHWA STANDARDS; and CALTRANS STANDARDS
3. Any PARTNER may, at its own expense, have representatives observe any OBLIGATIONS performed by another PARTNER. Observation does not constitute authority over those OBLIGATIONS.
4. Each PARTNER will ensure that personnel participating in OBLIGATIONS are appropriately qualified or licensed to perform the tasks assigned to them.
5. PARTNERS will invite each other to participate in the selection of any consultants who participate in OBLIGATIONS.
6. If WORK is done under contract (not completed by a PARTNER's own employees) and is governed by the California Labor Code's definition of "public works" (section 1720(a)), that PARTNER will conform to sections 1720 – 1815 of the California Labor Code and all applicable regulations and coverage determinations issued by the Director of Industrial Relations.

7. IMPLEMENTING AGENCY for each PROJECT COMPONENT included in this Agreement will be available to help resolve WORK related problems generated by that component for the entire duration of PROJECT.
8. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within SHS right of way. Contractors and/or agents, and utility owners will not perform activities within the SHS right of way without an encroachment permit issued in their name.
9. If any PARTNER discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTNER will notify all PARTNERS within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and a plan is approved for its removal or protection.
10. PARTNERS will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for PROJECT in confidence to the extent permitted by law and where applicable, the provisions of California Government Code section 6254.5(e) shall protect the confidentiality of such documents in the event that said documents are shared between PARTNERS.

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

11. If a PARTNER receives a public records request pertaining to OBLIGATIONS, that PARTNER will notify PARTNERS within five (5) working days of receipt and make PARTNERS aware of any disclosed public documents. PARTNERS will consult with each other prior to the release of any public documents related to the PROJECT.
12. If HM-1 or HM-2 is found during a PROJECT COMPONENT, IMPLEMENTING AGENCY for that PROJECT COMPONENT will immediately notify PARTNERS.
13. CALTRANS, independent of PROJECT, is responsible for any HM-1 found within the existing SHS right of way. CALTRANS will undertake HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to PROJECT schedule.
14. If HM-1 is found within PROJECT limits and outside the existing SHS right of way, responsibility for such HM-1 rests with the owner(s) of the parcel(s) on which the HM-1 is found. COUNTY, in concert with the local agency having land use jurisdiction over the parcel(s), will ensure that HM MANAGEMENT ACTIVITIES related to HM-1 are undertaken with minimum impact to PROJECT schedule.

15. 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.
16. 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.
17. PARTNERS will comply with all of the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTNER's responsibilities in this Agreement.
18. IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTNERS with written quarterly progress reports during the implementation of OBLIGATIONS in that component.
19. Upon OBLIGATION COMPLETION, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the SHS within SHS right of way as part of WORK become the property of CALTRANS.

CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside SHS right of way.
20. IMPLEMENTING AGENCY for a PROJECT COMPONENT will accept, reject, compromise, settle, or litigate claims of any non-Agreement parties hired to do WORK in that component.
21. PARTNERS will confer on any claim that may affect OBLIGATIONS or PARTNERS' liability or responsibility under this Agreement in order to retain resolution possibilities for potential future claims. No PARTNER will prejudice the rights of another PARTNER until after PARTNERS confer on claim.
22. PARTNERS will maintain, and will ensure that any party hired by PARTNERS to participate in OBLIGATIONS 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.
23. If FUNDING PARTNERS fund any part of OBLIGATIONS with state or federal funds, each PARTNER will comply, and will ensure that any party hired to participate in OBLIGATIONS will comply with the federal cost principles of 2 CFR, Part 225, and administrative requirements outlined in 49 CFR, Part 18. These principles and requirements apply to all funding types included in this Agreement.
24. PARTNERS will maintain and make available to each other all OBLIGATIONS-related documents, including financial data, during the term of this Agreement.

25. PARTNERS will retain all OBLIGATIONS-related records for three (3) years after the final voucher.
26. PARTNERS have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the state auditor, FHWA (if PROJECT utilizes federal funds), and COUNTY will have access to all OBLIGATIONS-related records of each PARTNER, and any party hired by a PARTNER to participate in OBLIGATIONS, 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 PARTNER will be permitted to make copies of any OBLIGATIONS-related records needed for the audit.

The audited PARTNER 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, PARTNERS have thirty (30) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

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

27. If FUNDING PARTNERS fund any part of PROJECT with state or federal funds, each FUNDING PARTNER will undergo an annual audit in accordance with the Single Audit Act of OMB Circular A-133.
28. If FUNDING PARTNERS fund any part of PROJECT with federal funds, any PARTNER that hires another party to participate in OBLIGATIONS will conduct a pre-award audit of that party in accordance with the *Local Assistance Procedures Manual*.
29. PARTNERS will not incur costs beyond the funding commitments in this Agreement. If IMPLEMENTING AGENCY anticipates that funding for WORK will be insufficient to complete WORK, IMPLEMENTING AGENCY will promptly notify SPONSOR.
30. If WORK stops for any reason, IMPLEMENTING AGENCY will place PROJECT right of way in a safe and operable condition acceptable to CALTRANS.
31. If WORK stops for any reason, each PARTNER will continue to implement all of its applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, as they apply to each PARTNER's responsibilities in this Agreement, in order to keep PROJECT in environmental compliance until WORK resumes.

32. The disposal of all excess land will be administered in accordance with all state and federal guidelines, policies, practices and procedures, including Chapter 16 of the CALTRANS R/W Manual.
33. Each PARTNER accepts responsibility to complete the activities that it selected on the SCOPE SUMMARY. Activities marked with "N/A" on the SCOPE SUMMARY are not included in the scope of this Agreement.
34. This Agreement includes the R/W SUPPORT PROJECT COMPONENT but does not include the PS&E PROJECT COMPONENT. Completion of R/W SUPPORT is dependent upon completion of some activities in PS&E. PARTNERS acknowledge that the WORK will not result in a product that can be used to advertise and award a contract for the CONSTRUCTION SUPPORT/CAPITAL PROJECT COMPONENTS without completing some activities outside of this agreement, under a separate agreement, or by later amending this Agreement.

Scope: Environmental Permits, Approvals and Agreements

35. Each PARTNER identified in the Environmental Permits table below accepts the responsibility to complete the assigned activities. If PARTNERS later determine that an environmental permit, approval or agreement is necessary PARTNERS will amend this Agreement to ensure completion and implementation of all environmental permits, approvals, and agreements.

ENVIRONMENTAL PERMITS						
Permit	Coordinate	Prepare	Obtain	Implement	Renew	Amend
401 RWQCB	CALTRANS	CALTRANS	CALTRANS	CALTRANS	CALTRANS	CALTRANS
NPDES SWRCB	CALTRANS	CALTRANS	CALTRANS	CALTRANS	CALTRANS	CALTRANS
2081 DFG	CALTRANS	CALTRANS	CALTRANS	CALTRANS	CALTRANS	CALTRANS

Scope: Right of Way (R/W)

36. CALTRANS is the IMPLEMENTING AGENCY for the PS&E PROJECT COMPONENT.
37. CALTRANS will provide a land surveyor licensed in the State of California to be responsible for surveying and right of way engineering. All survey and right of way engineering documents will bear the professional seal, certificate number, registration classification, expiration date of certificate, and signature of the responsible surveyor.
38. CALTRANS will make all necessary arrangements with utility owners for the timely accommodation, protection, relocation, or removal of any existing utility facilities that conflict with construction of PROJECT or that violate CALTRANS' encroachment policy.

39. CALTRANS will provide a Right of Way Certificate prior to PROJECT advertisement.
40. Legal and physical possession of all right of way must be completed prior to construction advertisement, unless PARTNERS mutually agree to other arrangements in writing.
41. The California Transportation Commission will hear and may adopt Resolutions of Necessity.

COST

Cost: General

42. PARTNERS will document specific funding, billing, and payment details in a FUNDING SUMMARY. The FUNDING SUMMARY is incorporated and made an express part of this agreement.

A valid FUNDING SUMMARY must be in place at all times until OBLIGATION COMPLETION.

PARTNERS will create a new FUNDING SUMMARY each time the funding, billing and payment details of PROJECT change. The FUNDING SUMMARY is only valid after each FUNDING PARTNER signs and dates the FUNDING SUMMARY. The most current fully executed FUNDING SUMMARY supersedes any previous FUNDING SUMMARY created for this Agreement.

Replacement of the FUNDING SUMMARY will not require an amendment to the body of this Agreement unless the rules of the new funds require it.

Each PARTNER will designate a legally authorized representative to sign the FUNDING SUMMARY on its behalf.

43. PARTNERS may invoice the appropriate FUNDING PARTNER according to the terms documented in the FUNDING SUMMARY.
44. If COUNTY has received Electronic Funds Transfer (EFT) certification from CALTRANS then COUNTY will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
45. Unless otherwise documented in the FUNDING SUMMARY, all fund types contributed to a PROJECT COMPONENT will be spent proportionately within that PROJECT COMPONENT.

46. 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.
47. After PARTNERS agree that all WORK is complete for a PROJECT COMPONENT, PARTNER(S) will submit a final accounting for all OBLIGATIONS costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the financial commitments of this Agreement.
48. If FUNDING PARTNERS fund OBLIGATIONS with American Recovery and Reinvestment Act (ARRA) funds, PARTNERS will adopt the terms, conditions, requirements, and constraints of the American Recovery and Reinvestment Act of 2009.
49. If FUNDING PARTNERS fund OBLIGATIONS with Proposition 1B Bond funds, PARTNERS will meet the requirements of Government Code Section 8879.20 et al. (Proposition 1 legislation), the governor's Executive Order 2007-S-02-07, and the California Transportation Commission (CTC) program guidelines for the applicable account.

Right of way purchased using Proposition 1B Bond funds will become the property of CALTRANS, and any revenue from the sale of excess lands originally purchased with bond funds will revert to CALTRANS.
50. The cost of any awards, judgments, or settlements generated by OBLIGATIONS is an OBLIGATIONS cost.
51. CALTRANS, independent of PROJECT, will pay, or cause to be paid, all costs for HM MANAGEMENT ACTIVITIES related to HM-1 found within the existing SHS right of way.
52. Independent of PROJECT, all costs for HM MANAGEMENT ACTIVITIES related to HM-1 found within PROJECT limits and outside the existing SHS right of way will be the responsibility of the owner(s) of the parcel(s) where the HM-1 is located.
53. HM MANAGEMENT ACTIVITIES costs related to HM-2 are CONSTRUCTION SUPPORT and CONSTRUCTION CAPITAL costs.
54. The cost to comply with and implement the commitments set forth in the environmental documentation is an OBLIGATIONS cost.
55. The cost of any legal challenges to the CEQA or NEPA environmental process or documentation is an OBLIGATIONS cost.
56. CALTRANS will provide encroachment permits to PARTNERS, their contractors, consultants and agents, at no cost.

57. Fines, interest, or penalties levied against a PARTNER will be paid, independent of OBLIGATIONS cost, by the PARTNER whose actions or lack of action caused the levy.
58. If federal funds are used on PROJECT while this Agreement is active CALTRANS will administer all federal subvention funds documented on the FUNDING SUMMARY.
59. Travel, per diem, and third-party contract reimbursements are an OBLIGATIONS cost only after those hired by PARTNERS to participate in OBLIGATIONS incur and pay those costs.

Payments for travel and per diem will not exceed the rates paid rank and file state employees under current California Department of Personnel Administration (DPA) rules current at the effective date of this Agreement.

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

60. 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 are subject to the current Program Functional Rate. Local funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.
61. If CALTRANS reimburses COUNTY for any costs later determined to be unallowable, COUNTY will reimburse those funds.
62. The cost to place PROJECT right of way in a safe and operable condition and meet all environmental commitments is an OBLIGATIONS cost.
63. Because IMPLEMENTING AGENCY is responsible for managing the scope, cost, and schedule of a project component, if there are insufficient funds available in this Agreement to place PROJECT right of way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY accepts responsibility to fund these activities until such time as PARTNERS amend this Agreement.

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

64. If there are insufficient funds in this Agreement to implement 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 PARTNER implementing commitments or conditions accepts responsibility to fund these activities, as they apply to each PARTNER's responsibilities, until such time as PARTNERS amend this Agreement.

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

65. Except as otherwise provided in this Agreement, PARTNERS will pay invoices within thirty (30) calendar days of receipt of invoice.

Cost: Environmental Permits, Approvals and Agreements

66. The cost of coordinating, obtaining, complying with, implementing, including renewing and amending resource agency permits, agreements, and approvals is an OBLIGATIONS cost.

Cost: Right of Way (R/W) Capital

67. PARTNERS agree that proceeds for the disposal of excess lands acquired from local funds shall may be credited or refunded to COUNTY in accordance with all state and federal guidelines, practices and procedures, including Chapter 16 of the CALTRANS R/W Manual.

SCHEDULE

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

GENERAL CONDITIONS

69. PARTNERS understand that this Agreement is in accordance with and governed by the Constitution and laws of the State of California. This Agreement will be enforceable in the State of California. Any PARTNER initiating legal action arising from this Agreement will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this Agreement resides, or in the Superior Court of the county in which PROJECT is physically located.
70. All OBLIGATIONS of CALTRANS under the terms of this Agreement are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
71. Neither COUNTY 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 under this Agreement. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless COUNTY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse

condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS and/or its agents under this Agreement.

72. 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 COUNTY and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon COUNTY under this Agreement. It is understood and agreed that COUNTY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by COUNTY and/or its agents under this Agreement.
73. 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.
74. PARTNERS will not assign or attempt to assign OBLIGATIONS to parties not signatory to this Agreement.
75. PARTNERS will not interpret any ambiguity contained in this Agreement against each other. PARTNERS waive the provisions of California Civil Code section 1654.
76. A waiver of a PARTNER's performance under this Agreement will not constitute a continuous waiver of any other provision. An amendment made to any article or section of this Agreement does not constitute an amendment to or negate all other articles or sections of this Agreement.
77. 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.
78. If any PARTNER defaults in its OBLIGATIONS, a non-defaulting PARTNER will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTNER fails to do so, the non-defaulting PARTNER may initiate dispute resolution.

79. PARTNERS will first attempt to resolve Agreement disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of COUNTY will attempt to negotiate a resolution. If PARTNERS do not reach a resolution, PARTNERS' legal counsel will initiate mediation. PARTNERS agree to participate in mediation in good faith and will share equally in its costs.

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

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

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

80. PARTNERS maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
81. 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.
82. PARTNERS intend this Agreement to be their final expression and supersedes any oral understanding or writings pertaining to OBLIGATIONS.
83. If during performance of WORK additional activities or environmental documentation is necessary to keep PROJECT in environmental compliance, PARTNERS will amend this Agreement to include completion of those additional tasks.
84. Except as otherwise provided in the Agreement, PARTNERS will execute a formal written amendment if there are any changes to OBLIGATIONS.
85. Partners agree to sign a COOPERATIVE AGREEMENT 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.

06-TUL-99-(39.8/41.3)
Project No.:0600000464
EA: 06-47150
DAN: 06-1549

86. The following documents are attached to, and made an express part of this Agreement:
SCOPE SUMMARY, Right of Way Spending Summary.

DEFINITIONS

ARRA – American Recovery and Reinvestment Act of 2009

CALTRANS STANDARDS – CALTRANS policies and procedures, including, but not limited to, the guidance provided in the *Guide to Capital Project Delivery Workplan Standards* (previously known as WBS Guide) available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

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

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

CONSTRUCTION CAPITAL – See PROJECT COMPONENT.

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

FHWA – Federal Highway Administration

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

FUNDING PARTNER – A PARTNER, designated in the FUNDING SUMMARY, that commits a defined dollar amount to fulfill OBLIGATIONS. Each FUNDING PARTNER accepts responsibility to provide the funds it commits in this Agreement.

FUNDING SUMMARY – An executed document that lists the funding, billing, and payment commitments. Commitments include, but are not limited to, FUNDING PARTNER(S), fund source, fund type, payment method, invoice frequency, deposit amounts, and PROJECT COMPONENT(S) in which funds are to be spent. Funds listed on the FUNDING SUMMARY are “not-to-exceed” amounts for each FUNDING PARTNER.

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

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

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

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

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

NEPA (National Environmental Policy Act of 1969) – This federal act establishes a national policy for the environment and a process to disclose the adverse impacts of projects with a federal nexus.

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

OBLIGATIONS – All responsibilities included in this Agreement.

OMB (Office of Management and Budget) – This federal office oversees the preparation of the federal budget and supervises its administration in Executive Branch agencies.

PARTNER – Any individual signatory party to this Agreement.

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

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

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

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

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

QC/QAP (QUALITY CONTROL/QUALITY ASSURANCE PROGRAM) - CALTRANS quality control and quality assurance procedures for all environmental documents as described in the Jay Norvell Memos dated July 2, 2007 (available at http://www.dot.ca.gov/ser/memos.htm#LinkTarget_705). This also includes the independent judgment analysis and determination under CEQA that the environmental documentation meets CEQA Guideline requirements.

R/W (Right of Way) CAPITAL – See PROJECT COMPONENT.

R/W (Right of Way) SUPPORT – See PROJECT COMPONENT.

SCOPE SUMMARY – The attachment in which each PARTNER designates its commitment to specific scope activities within each PROJECT COMPONENT as outlined by the *Workplan Standards Guide for the Delivery of Capital Projects* available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

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

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

SFM (State Furnished Material) – Any materials or equipment supplied by CALTRANS.

WORK – All scope activities included in this Agreement.

CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTNER to this Agreement. PARTNERS will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this Agreement.

The primary Agreement contact person for CALTRANS is:
Steven Milton, Project Manager
2015 East Shields, Suite 100
Fresno, California 93726
Office Phone: (559) 243-3451

The primary Agreement contact person for COUNTY is:
Jake Raper, Jr., AICP
Director, Tulare County Resource Management Agency
5961 S. Mooney Blvd
Visalia, CA 93277
Office Phone: (559) 624-7000

SIGNATURES

PARTNERS declare that:

1. Each PARTNER is an authorized legal entity under California state law.
2. Each PARTNER 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

By: _____
SHARRI BENDER EHLERT
District Director

CERTIFIED AS TO FUNDS:

By: _____
WILLIAM ETHERTON
District Budget Manager

COUNTY OF TULARE

By: _____
Pete Vander Poel
Chairman

ATTEST: Jean M. Rosseau
County Administrative
Officer/Clerk, Board of Supervisors

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
PROCEDURE:

By: Pete O. Alf 8-12-13
Deputy County Counsel
matter ID 20131240

SCOPE SUMMARY

4	5	6	7	8	Description	CALTRANS	COUNTY		N/A
4	195				Right of Way Property Management and Excess Land	X			
		40			Property Management	X			
			05		Fair Market Rent Determinations (Residential)	X			
			10		Fair Market Rent Determinations (Non-Residential)	X			
			15		Regular Property Management	X			
			20		Property Maintenance and Rehabilitation (Rentable Property)	X			
			25		Property Maintenance and Rehabilitation (Non-Rentable Property)	X			
			30		Hazardous Waste and Hazardous Materials	X			
			35		Transfer of Property to Clearance Status	X			
			99		Other Property Management Products	X			
		45			Excess Land	X			
			05		Excess Lands Inventory	X			
			10		Excess Land Appraisal and Public Sale Estimate	X			
			15		Government Code Section 54235 Administration	X			
			20		Property Disposal of Units Up to \$15,000	X			
			25		Property Disposal of Units Between \$15,001 and \$500,000	X			
			30		Property Disposal of Units Over \$500,000	X			
			35		CTC and AAC Coordination	X			
			99		Other Excess Land Products	X			
4	200				Utility Relocation	X			
		15			Approved Utility Relocation Plan	X			
		20			Utility Relocation Package	X			
		25			Utility Relocation Management	X			
		30			Utility Close Out	X			
		99			Other Utility Relocation Products	X			
4	220				Right of Way Engineering	X			
		05			Existing Land Net	X			
			05		Existing Records	X			
			10		Land Net Survey	X			
			25		Monumentation Perpetuation Record of Survey	X			
		10			Land Net Map	X			
		15			Right of Way Maps	X			
			05		Appraisal Map	X			
			95		Other Maps	X			
		20			Acquisition Documents	X			
			05		Deeds	X			
			15		Resolution of Necessity Package	X			
		25			Documents to Convey Property Rights	X			

		05	Director's Deed Package	X			
		95	Other Deeds and Documents	X			
	35		Field Located Right of Way	X			
		05	Flagged Right of Way	X			
		10	Staked Right of Way	X			
4	225		Obtain Right of Way Interests for Project Right of Way Certification	X			
	50		Parcel and Project Documentation	X			
	60		Right of Way Appraisals	X			
	65		Right of Way Acquisition	X			
	70		Right of Way Relocation Assistance	X			
	75		Right of Way Clearance	X			
	80		Right of Way Condemnation	X			
4	245		Post Right of Way Certification Work	X			
	50		Parcel and Project Documentation	X			
	60		Right of Way Appraisals	X			
	65		Right of Way Aquisition	X			
	70		Right of Way Relocation Assistance	X			
	75		Right of Way Clearance	X			
	80		Right of Way Condemnation	X			

PART I Funding Summary

Funding Source	Funding Partner	Fund Type	R/W Capital Utilities	* R/W Capital Acquisition	R/W Support	Subtotal Support	Subtotal Capital	Subtotal Funds Type
STATE	COUNTY	STIP/RIP	\$6,000,000	\$0	\$492,000	\$492,000	\$6,000,000	\$6,492,000
LOCAL	COUNTY	Measure	\$2,300,000	\$4,300,000	\$0	\$0	\$6,600,000	\$6,600,000
		Subtotals by Component	\$8,300,000	\$4,300,000	\$492,000	\$492,000	\$12,600,000	\$13,092,000

* R/W Capital Acquisition includes Acquisition of Properties, Mitigation, Relocation Assistance, Title & Escrow, and Demolition & Clearance.

Non-inventory excess land parcels acquired for this project and purchased by local funds shall revert back to the local agency.

Part II – Billing and Payment Details

Cost: RIGHT OF WAY SUPPORT

1. CALTRANS is the IMPLEMENTING AGENCY for RIGHT OF SUPPORT as described in RESPONSIBILITES section of the AGREEMENT.

Cost: RIGHT OF WAY CAPITAL

2. CALTRANS is the IMPLEMENTING AGENCY for RIGHT OF CAPITAL as described in RESPONSIBILITES section of the AGREEMENT.
 - Therefore, based on the funding types displayed in the FUNDING SUMMARY table for this PROJECT COMPONENT:

CALTRANS may invoice COUNTY

CALTRANS will invoice COUNTY for a \$20,000 initial deposit after execution of this Agreement and thirty (30) working days prior to the commencement of Right of Way expenditures. This deposit represents one (1) months' estimated capital costs.

Thereafter will submit to COUNTY monthly invoices for estimated monthly costs based on the prior month's expenditures.

After PARTNERS agree that all WORK is complete, CALTRANS will submit a final accounting for all costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the financial commitments of this Agreement.

FUNDING SUMMARY

Project Number: 0600000464
Agreement: 06-1549

Part III – Signature Page

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

COUNTY OF TULARE

APPROVED:

By: _____
STEVEN MILTON
Project Manager

By: _____
ASSISTANT DIRECTOR-PUBLIC WORKS

Date: _____

Date: _____

CERTIFIED AS TO FUNDS AND PROCEDURE:

By: _____
HEADQUARTERS ACCOUNTING

By: _____
District Budget Manager
WILLIAM ETHERTON

Date: _____