

TO: CITY ATTORNEY 2. FROM (ORIGINATING DEPARTMENT): ENGINEERING & CAPITAL PROJECTS 3. DATE: July 28, 2008

4. SUBJECT: EXTENSION OF COOPERATIVE AGREEMENT WITH CALTRANS FOR IMPROVEMENTS TO I-5/SORRENTO VALLEY ROAD INTERCHANGE

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.): Deborah Van Wanseele, 533-3012, MS 608 6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.): Siavash Pazargadi, 533-3757, MS 608 7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	DEPT.	ORGANIZATION	OBJECT ACCOUNT	JOB ORDER	C.I.P. NUMBER	AMOUNT	9. ADDITIONAL INFORMATION / ESTIMATED COST:
							None with this action

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>[Signature]</i>	8/11/08	8	DEPUTY CHIEF	<i>[Signature]</i>	9/10/08
2	EAS	<i>[Signature]</i>	8/12/08	9	COO	- Not required -	
3	EOCP- EXEMPT			10	CITY ATTORNEY	<i>[Signature]</i>	10/14/08
4	COUNCIL LIAISON OFFICE	<i>[Signature]</i>	9/15/08	11	ORIG. DEPT	<i>[Signature]</i>	11/22/08
5	FACILITIES FINANCING	<i>[Signature]</i>	8/18/08		DOCKET COORD:	<i>[Signature]</i>	8/19/08
6	FINANCIAL MANAGEMENT	<i>[Signature]</i>	8/26/08		COUNCIL PRESIDENT	<i>[Signature]</i>	
7	AUDITOR	<i>[Signature]</i>	9/18/08				

SPOB  CONSENT  ADOPTION  
 REFER TO: \_\_\_\_\_ COUNCIL DATE: 11/18/08

11. PREPARATION OF:  RESOLUTIONS  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

Authorizing the Mayor to execute an amendment to a Cooperative Agreement with Caltrans for the preparation of an Environmental Document and Project Report, and for preliminary engineering of improvements to the I-5/Sorrento Valley Road interchange, extending the termination date of the Agreement to December 31, 2011.

11A. STAFF RECOMMENDATIONS:  
Approve the resolution

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)  
 COUNCIL DISTRICT(S): 1  
 COMMUNITY AREA(S): Torrey Pines  
 ENVIRONMENTAL IMPACT: This activity is not a project and is therefore exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(3).  
 HOUSING IMPACT: N/A  
 OTHER ISSUES: None

OFFICE OF THE CITY CLERK  
2008 AUG 28 10:00 AM

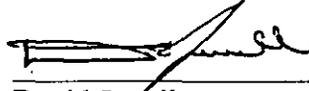
000556

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Caltrans is the key stakeholder in this action.



Patti K Boekamp  
Director,  
Engineering & Capital Projects



David Jarrell  
Deputy Chief of Public Works

000557

EXECUTIVE SUMMARY SHEET

DATE ISSUED: July 28, 2008  
ATTENTION: Council President and City Council  
ORIGINATING DEPARTMENT: Engineering and Capital Projects, Transportation  
Engineering Operations Division  
SUBJECT: Extension of a Cooperative Agreement for Improvements to the  
I-5/Sorrento Valley Road Interchange  
COUNCIL DISTRICT(S): 1  
CONTACT/PHONE NUMBER: Deborah Van Wanseele, 619 533 3012  
Siavash Pazargadi, 619 533 3757

REQUESTED ACTION:

Council authorization for the Mayor to execute an amendment to a Cooperative Agreement with Caltrans for improvements to the Interstate 5/Sorrento Valley Road interchange, extending the termination date of the Agreement from December 31, 2008, to December 31, 2011.

STAFF RECOMMENDATION:

Staff recommends Council approval of the resolution.

EXECUTIVE SUMMARY:

On January 19, 2007, the City and Caltrans entered into an Agreement with Caltrans for improvements to the Interstate 5/Sorrento Valley Road interchange. This agreement allocated \$1.5 million to the City for the preparation of an Environmental Document and a Project Report, and for preliminary engineering on the project. The termination date for this Agreement is December 31, 2008.

The project has been rescoped and will require a joint NEPA/CEQA environmental document. It has been determined that because of the rescoping, the environmental document will not be completed prior to the termination date on the Agreement. Caltrans is requesting that the termination date for the Agreement be extended to December 31, 2011, a 3-year extension.

FISCAL CONSIDERATIONS:

None with this action

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council approved the Cooperative Agreement to fund the preparation of the Environmental Document and the Project Report, and to perform preliminary engineering on January 19, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AUTHORIZING AN AMENDMENT TO A  
COOPERATIVE AGREEMENT WITH CALTRANS FOR  
IMPROVEMENTS TO THE I-5/SORRENTO VALLEY ROAD  
INTERCHANGE.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor is authorized to execute an Amendment to a Cooperative Agreement with Caltrans for the preparation of an Environmental Document and Project Report, and for preliminary engineering of improvements to the I-5/Sorrento Valley Road Interchange, extending the termination of the Agreement by three years to December 31, 2011, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as Document No. OO-\_\_\_\_\_.

Section 2. That this activity is not a "project" and is therefore exempt from California Environmental Quality Act [CEQA] pursuant to CEQA State Guidelines Section 15060(c)(3).

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

000560

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Michael P. Calabrese  
Chief Deputy City Attorney

MPC:sc  
10/17/08  
Aud.Cert.: N/A  
Or.Dept:E&CP  
O-2009-58

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

## RESOLUTION NUMBER R-302289

DATE OF FINAL PASSAGE JANUARY 19, 2007

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Mayor or his designee is authorized to enter into the Cooperative Agreement with the California Department of Transportation (Caltrans) for CIP 52-765.0, Interstate 5/Sorrento Valley Road Interchange, under the terms and conditions set forth in the document on file in the office of the City Clerk as Document No. RR-302289;
2. That the Mayor, or his designee, is authorized to apply for and accept \$1,400,000 in Section 115 Demo funds for CIP 52-765.0 Interstate 5/Sorrento Valley Road Interchange;
3. That the City Auditor and Comptroller is authorized to establish a special interest-bearing fund for the Section 115 Demo grant;
4. That the City Auditor and Comptroller is authorized to appropriate and expend an amount not to exceed \$1,400,000 in Section 115, State Demo funds, from CIP 52-765.0, Interstate 5/Sorrento Valley Road Interchange contingent upon grant funding being secured and upon the City Auditor and Comptroller first certifying that the funds are or will be on deposit in the City Treasury;
5. That the Mayor, or his designee, is authorized to apply for and accept \$600,000 in STP Section 112 funds for CIP 52-765.0, Interstate 5/Sorrento Valley Road Interchange;
6. That the City Auditor and Comptroller is authorized to establish a special interest-bearing fund for the STP Section 112 grant;

7. That the City Auditor and Comptroller is authorized to appropriate and expend an amount not to exceed \$600,000 in STP Section 112 State funds, from CIP 52-765.0, Interstate 5/Sorrento Valley Road Interchange contingent upon grant funding being secured and upon the City Auditor and Comptroller first certifying that the funds are or will be on deposit in the City Treasury;

8. That the Mayor or his representative is authorized to apply for and accept \$1,500,000 in STP Section 117 funds, from CIP 52-765.0, Interstate 5/Sorrento Valley Road;

9. That the City Auditor and Comptroller is authorized to establish a special interest-bearing fund for the STP Section 117 grant;

10. That the City Auditor and Comptroller is authorized to appropriate and expend an amount not to exceed \$1,500,000 in STP Section 117 funds from CIP 52-765.0, Interstate 5/Sorrento Valley Road Interchange contingent upon grant funding being secured and upon the City Auditor and Comptroller first certifying that the funds are or will be on deposit in the City Treasury;

11. That the City Auditor and Comptroller is authorized to increase the FY 2007 Capital Improvements Program budget in CIP No. 52-765.0, Interstate 5/Sorrento Valley Road Interchange by \$3,500,000, contingent upon receipt of fully executed grant agreements;

12. That the City Auditor and Comptroller, upon advice from the administering department, is authorized to transfer excess funds, if any, to the appropriate reserves; and

13. That this activity is not a "project" per State CEQA Guidelines section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By \_\_\_\_\_  
Jeremy A. Jung  
Deputy City Attorney

JAJ:cla  
12/18/06  
Aud. Cert.: N/A  
Or.Dept:E&CP  
R-2007-661

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of January 16, 2007.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

000565

11-SD-5  
 PM 28.4-31.8  
 11-SD-805  
 P.M. 27.8-28.87  
 EA.11- 271500  
 Agreement No. 8289/A1  
 I-5/ Sorrento Valley

**AMENDMENT NO. 1 TO AGREEMENT**

THIS AMENDMENT NO. 1 TO AGREEMENT, ENTERED INTO EFFECTIVE ON \_\_\_\_\_, 2008, is between the **STATE OF CALIFORNIA**, acting by and through its Department of Transportation, referred to herein as "**STATE**",

and the City of San Diego, a body politic and a municipal corporation of the State of California, referred to herein as "**CITY**".

**RECITALS**

1. The parties hereto entered into an Agreement (Document No. 302289, District Agreement Number 11-8289) on January 19, 2007, said Agreement stated STATE and CITY mutually desire to construct improvements to Interstate 5 and the Sorrento Valley Road interchange referred to herein as "PROJECT". STATE and CITY acknowledge that it is mutually beneficial and desirable for CITY to perform preliminary engineering, prepare the environmental document (ED) and Project Report (PR), referred to herein as "STUDY", in order to bring about the earliest possible construction of PROJECT. CITY is willing to fund one hundred percent (100%) of all capital outlay and staffing costs for STUDY from \$1.5 million in Section 115 Demo funds that were part of the 2004 Appropriations Act, except for costs of STATE's quality assurance of environmental activities.
2. It has been determined that the PROJECT will not be completed prior to the termination date of said Agreement

**IT IS THEREFORE MUTUALLY AGREED**

1. The termination date specified in Section III, Article 18 of the original Agreement is now December 31, 2011, instead of December 31, 2008.
2. All other terms and conditions of said Agreement (Document No. 302289) shall remain in full force and effect.

3. This Amendment No. 1 to Agreement No. 11-8289 is hereby deemed to be a part of Document No. 302289.

**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION**

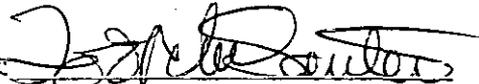
**CITY OF SAN DIEGO**

Will Kempton  
Director of Transportation

By: \_\_\_\_\_  
Deputy District Director

By: \_\_\_\_\_  
Mayor or Designee

Approved as to Form and Procedure:

By:   
Attorney  
Department of Transportation

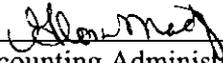
By: \_\_\_\_\_  
City Attorney

Certified as to Funds:

By: \_\_\_\_\_  
District Budget Manager BK\_\_

By: \_\_\_\_\_  
City Clerk

Certified as to Financial Terms and Conditions:

By:   
Accounting Administrator  
Reimbursements Section



DUPLICATE

This copy must be  
returned to City  
Clerk, San Diego

#55  
11/18/08

11-SD-5  
PM 28.4-31.8  
11-SD-805  
P.M. 27.8-28.87  
EA.11- 271500  
Agreement No. 8289  
I-5/ Sorrento Valley

COOPERATIVE AGREEMENT

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON JAN 19 2007, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE", and

CITY OF SAN DIEGO, a  
municipal corporation of the  
State of California, referred to  
herein as "CITY".

RECITALS

1. STATE and CITY, pursuant to Streets and Highways Code sections 130 and 114, are authorized to enter into a Cooperative Agreement for improvements to State highways within CITY's jurisdiction.
2. STATE and CITY mutually desire to construct improvements to Interstate 5 and the Sorrento Valley Road interchange referred to herein as "PROJECT".
3. STATE and CITY acknowledge that it is mutually beneficial and desirable for CITY to perform preliminary engineering, prepare the environmental document (ED) and Project Report (PR), referred to herein as "STUDY", in order to bring about the earliest possible construction of PROJECT.
4. CITY is willing to fund one hundred percent (100%) of all capital outlay and staffing costs for STUDY from \$1.5 million in Section 115 Demo funds that were part of the 2004 Appropriations Act, except for costs of STATE's quality assurance of environmental activities.
5. This Agreement will define the CEQA lead agency, CEQA responsible agency, and the roles and responsibilities of the CEQA lead agency and CEQA responsible agency

DOCUMENT NO. 2302289  
FILED JAN 16 2007  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

regarding environmental documents, studies and reports and compliance with CEQA and NEPA.

6. Design and Construction of PROJECT will be the subject of separate future Agreements.
7. STATE and CITY desire herein to specify the terms and conditions under which that STUDY will be prepared and financed.

## SECTION I

### CITY AGREES:

1. To carry out and prepare STUDY in accordance with all applicable State and Federal laws, rules, regulations, policies, procedures and manuals. That STUDY, including but not limited to the pre-draft, draft, pre-final and final of the ED and PR, will be subject to ongoing review, comment and concurrence by STATE.
2. To have the final study documents and drawings of civil, structural, mechanical, electrical, architectural, or other engineering features of STUDY prepared by or under the direction of engineers or architects registered and licensed in the applicable professional field in the State of California. Any engineering reports, and each engineering map, drawing or plan shall bear the professional seal, certificate number, registration classification, expiration date of certificate, and signature of the professional engineer responsible for their preparation. To have environmental technical studies prepared by staff meeting the minimum professional qualification identified by STATE.
3. To furnish STATE, prior to commencing work on STUDY, a proposed Schedule of Major Deliverables for STUDY, herein referred to as "SCHEDULE". CITY agrees to promptly notify and obtain STATE's Project Manager concurrence for any proposed changes to SCHEDULE. CITY also agrees that the SCHEDULE will be modified as necessary to ensure STATE's obligations for PROJECT are satisfied.
4. To fund one hundred percent (100%) all of the work on STUDY.
5. To identify and locate all utility facilities within PROJECT area as part of CITY's responsibility towards STUDY.
6. 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.
7. To be responsible, at CITY's expense, for the investigation of potential hazardous material sites within and outside of the existing State highway right of way 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 right of way during said investigation, CITY shall immediately notify STATE and responsible control agencies of such discovery.

8. To make written application to STATE for necessary encroachment permits authorizing entry of CITY onto the State highway right of way to perform surveying and other investigative activities required for preparation of the PR or ED.
9. To permit STATE to monitor and participate in the selection of those CITY personnel and consultants who will perform STUDY. CITY agrees to consider any reasonable request by STATE to discontinue the services of any CITY personnel or consultant considered by STATE to be unqualified on the basis of credentials, professional expertise, and failure to perform in accordance with scope of work and/or other pertinent criteria.
10. STATE's quality assurance activities referred to in Section II of this Agreement do not include performance of any engineering services required for STUDY. These services are to be performed by CITY. If CITY requests STATE performs 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.
11. To designate a Project Manager through which all communications between the STATE and CITY shall be channeled. The CITY Coordinator shall be:

Larry Van Wey  
City of San Diego  
1010 Second Ave. Suite 800  
San Diego, CA 92101-4904  
(619) 533-3005

## SECTION II

### STATE AGREES:

1. To assist CITY in ascertaining the scope of PROJECT alternatives to be studied.
2. To issue, at no cost to CITY, upon proper application by CITY, an encroachment permit to CITY authorizing entry onto STATE's right of way. If CITY uses consultants rather than its own staff to perform the work, those consultants will also be required to obtain an encroachment permit. The permits will be issued at no cost upon proper application by the consultants.
3. To provide, at no cost to CITY, quality assurance work on STUDY.

4. To designate a Project Manager through which all communications between STATE and CITY shall be channeled. The STATE Project Manager shall be:

Arturo Jacobo  
Department of Transportation, District 11, MS 27  
P.O. Box 85406  
San Diego, Ca. 92186  
619-688-6816

### SECTION III

#### IT IS MUTUALLY AGREED:

1. All obligations of STATE 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 resources by the California Transportation Commission (CTC).
2. All obligations of City under the terms of this agreement are subject to council approving funding.
3. CITY's Project Manager and STATE's Project Manager shall cooperate, review and concur on the work completed by CITY or CITY's consultant during the performance of STUDY.
4. CITY will furnish STATE with all necessary copies of STUDY, all other development studies, and environmental studies and related documents to complete the review and approval process. Upon completion of all work under this Agreement, ownership and title to all engineering and environmental reports, documents, plans, and estimates produced, as part of STUDY will automatically be vested jointly between STATE and CITY.
5. Any hazardous material or contamination of an HM-1 category found within the existing State Highway right of way 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. As between STATE and CITY only, any hazardous material or contamination of an HM-1 category found outside of the existing State Highway right of way during investigative studies requiring the same defined 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 CITY.
6. STATE shall sign any HM-1 manifest and pay all costs for remedy or remedial action within the existing State Highway right of way, except that if STATE determines that STATE's cost for remedy or remedial action is increased as a result of proceeding with

construction of PROJECT, that additional cost identified by STATE shall be borne by CITY. As between STATE and CITY only, CITY shall sign any HM-1 manifest and pay all costs for required remedy or remedial action outside the State Highway right of way.

7. STATE will exert every effort to fund the remedy or remedial action for which STATE is responsible and in the event STATE is unable to provide funding within the PROJECT schedule, 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 with any subsequent reimbursement by STATE to be sought by CTC Resolution at a future date, if at all. Reimbursement arrangements will be the subject of a separate cooperative agreement.
8. CITY shall perform, or cause to be performed, the cleanup of any hazardous material or contamination of an HM-2 category found within the existing State highway right of way and/or within the local road right of way during investigative studies at CITY's expense if CITY decides to proceed with PROJECT. CITY shall sign any HM-2 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.
9. If hazardous material or contamination of either HM-1 or HM-2 category is found on new right of way 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 right of way is clean prior to transfer of title to STATE in accordance with Article 15 of Section I of this Agreement. 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.
10. 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.
11. 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 right of way shall be pre-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.
12. STATE will be the lead agency for CEQA and CITY will be a responsible agency for CEQA. The Federal Highway Administration (FHWA) will be the Federal Lead Agency for NEPA with STATE providing oversight for the NEPA process. CITY will assess impacts of PROJECT on the environment and, if necessary, will prepare ED, including the necessary associated investigative studies and technical environmental reports, in order to meet the requirements of CEQA and NEPA. CITY will submit to STATE for STATE's review, comment and approval the investigative studies and technical

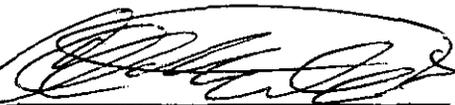
environmental reports. The administrative draft ED, draft ED, administrative final ED, and final ED will require both STATE's and FHWA's review, comment, and approval prior to public availability. STATE will review the technical environmental reports and request approval of the environmental technical reports and ED by FHWA. STATE and FHWA will be responsible for conducting the public hearing process according to STATE guidance. If, during preliminary engineering, preparation of the PS&E, or PROJECT construction, new information is obtained which requires the preparation of an additional NEPA and/or CEQA ED, this Agreement will be amended to include completion of these additional tasks by CITY.

13. All administrative reports, studies, materials, documentation, including, but not limited to, all administrative drafts and administrative finals of the ED and PR, relied upon, produced, created or utilized for STUDY will be held in confidence pursuant to Government Code section 6254.5(e). The parties agree that said material will not be distributed, released or shared with any other organization, person or group other than the parties' employees, agents and their consultants whose work requires that access without the prior written approval of the party with the authority to authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.
14. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
15. 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 or design of State highways and public facilities different from the standard of care imposed by law.
16. 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 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, tortuous, 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.
17. 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 STATE under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, 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.

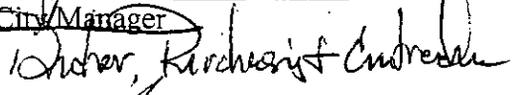
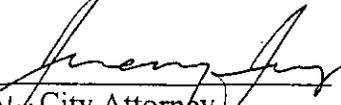
18. Except as otherwise provided in Article 5 of Section III, this Agreement shall terminate upon completion and acceptance of PROJECT construction, or on December 31, 2008, whichever is earlier in time.

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

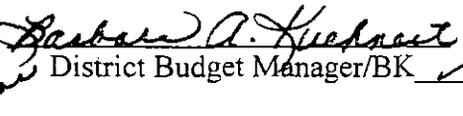
WILL KEMPTON  
Director of Transportation

By:   
Deputy District Director

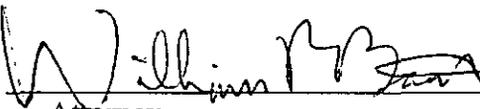
CITY OF SAN DIEGO

By:   
~~City Manager~~  
  
Director, Purchasing & Contracting  
By:   
Deputy City Attorney

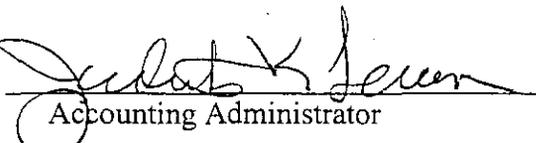
Certified as to funds:

By:   
District Budget Manager/BK

Approved as to form and procedure:

By:   
Attorney

Certified as to procedure:

By:   
Accounting Administrator

R- 302289