

STANDARD AGREEMENT

STD. 213 (NEW 06/03)

AGREEMENT NUMBER

HSR14-##

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

California High-Speed Rail Authority

CONTRACTOR'S NAME

City of Fresno

2. The term of this Agreement is: September 1, 2013 Through December 31, 2015

3. The maximum amount of this Agreement is: **\$ 180,000.00**
One Hundred Fifty Thousand Dollars and zero/cents.

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work	10	Pages
Exhibit B – Budget Detail and Payment Provisions	4	Pages
Exhibit C* – GTC 610 General Terms and Conditions	1	Page
Exhibit D – Special Terms and Conditions	4	Page
Attachment 1 – City Council of Fresno Resolution	X	Pages

Attachment 2 – Budget

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		<i>California Department of General Services Use Only</i>
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) City of Fresno		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Scott Mozier, Public Works Director		
ADDRESS 2660 Fresno Street, 4th Floor, Fresno, CA 93721		
STATE OF CALIFORNIA		
AGENCY NAME California High-Speed Rail Authority		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Jeff Morales, Chief Executive Officer		
ADDRESS 770 L Street, Suite 620 MS 1, Sacramento, CA 95814		
<input type="checkbox"/> Exempt per:		

EXHIBIT A – SCOPE OF WORK

1 BACKGROUND AND PURPOSE

- 1.1 THIS AGREEMENT is between the California High-Speed Rail Authority (Authority), a legislatively-created agency of the State of California, and the City of Fresno (City), a California Municipal Corporation, whose principal mailing address for purposes of this Agreement is 2600 Fresno Street, 4th Floor, Fresno, CA 93721.
- 1.2 The City's governing body, under the authority of local ordinances, if applicable, is authorized to provide services pursuant to the City of Fresno's resolution, attached as Attachment 1.
- 1.3 The Authority is responsible for the planning, design, construction and operation of the first high-speed rail system in the nation. The Authority is currently engaged in a program that has various projects under current provisions of Section 2704 et seq. of the Streets and Highways Code and Sections 185000 et seq. of the Public Utilities Code throughout the State identified as the High-Speed Rail Project (HSR Project).
- 1.4 In 2011, City approved a Roeding Regional Park Facility Master Plan (the Master Plan) to allow for expansion of the Fresno Chaffee Zoo and other improvements within the Park boundaries. The approved Master Plan called for a new entrance into Roeding Park along Golden State Boulevard, new parking on Golden State Boulevard, and other improvements inside the Park boundaries.
- 1.5 In 2012, the Authority approved the Merced to Fresno Project Section of the HSR Project. The high-speed rail alignment will be placed on Golden State Boulevard adjacent to Roeding Park. This alignment choice required the City to engage in additional planning and environmental evaluation to implement the parking and entrance adjustments to the Roeding Park Facility Master Plan in light of the HSR Project. The Authority and the City agree that the HSR Project is the direct cause of the City undertaking additional planning, and the direct cause of the City having to adjust its adopted 2011 Roeding Park Facility Master Plan to eliminate the Golden State Boulevard entrance and the Golden State Boulevard parking.
- 1.6 The Authority and the City mutually recognize and affirm that the Authority has no jurisdiction or control over Roeding Park, the existing approved Master Plans, or any adjustments the City may choose to make to its Master Plans. The Master Plans are the City's project and all decisions about the Master Plans are within the City's sole discretion. The City's process for how it will utilize the additional planning work and environmental analysis supported by this Agreement is within the City's sole discretion.
- 1.7 In 2013, the Authority completed the environmental analysis which concluded that the preparation of an Addendum to Final Environmental Impact Report (FEIR), SCH No. 2008031002, for the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans (Addendum) was appropriate under CEQA Guidelines, sections 15164 and 15162; and, on November 7, 2013, the Fresno City Council approved the Addendum and approved the necessary amendments to the Roeding Regional Park Facility Master Plan.

EXHIBIT A – SCOPE OF WORK

- 1.8 Due to the changes, the Authority and the City have agreed to additional traffic mitigations, including traffic signal improvements, which had been incorporated into the Authority's Construction Package 01 contract (HSR#13-06), to accommodate the parking and entrance adjustments to the Roeding Park Facility Master Plan and alterations to the Fresno Chaffee Zoo Facility Master Plan. The additional traffic mitigation referred to herein include, but is not limited to, all activities related to the design, engineering, construction, and installation of the following:
- Installation of traffic signals at Belmont Avenue and SR 99 southbound ramp.
 - Installation of traffic signals at Belmont Avenue and SR99 northbound ramp.
 - Modification of traffic signals for eastbound and westbound protected left turn phasing at the Belmont Avenue entrance to Roeding Park and the Fresno Chaffee Zoo.
 - Installation of a traffic signal at the Olive Avenue entrance to Roeding Park and the Fresno Chaffee Zoo.
- 1.9 All inquiries during the term of this Agreement will be directed to the project representatives identified below:

AUTHORITY	CONTRACTOR
Contract Manager (ACM): Terry Ogle, PE	Project Manager: Scott Mozier, PE, TE
Address: 1401 Fulton Ave, Suite 200 Fresno, CA 93721	Address: 2600 Fresno Street, 4th Floor Fresno, CA 93721
Phone: 559-708-0744	Phone: 559-621-8811
e-mail: terry.ogle@hsr.ca.gov	e-mail: scott.mozier@fresno.gov

The Contract Manager may be changed without amendment (as specified in Exhibit D, Section 1.2).

2 SCOPE OF WORK

- 2.1 **Responsibilities:** City is responsible for the planning and environmental review steps necessary to make adjustments to its adopted Roeding Regional Park Facility Master Plan and the Fresno Chaffee Zoo Facility Master Plan in light of the HSR Project. The Authority is responsible for the planning and environmental review steps to make any adjustments to its adopted HSR Project.
- 2.2 **Cost Allocation:** The City and Authority agree to the following allocation of cost responsibilities for each of the anticipated planning and environmental review processes:
- 2.2.1 The Authority will reimburse the City for the actual costs incurred by the City for its fulfillment of its obligations in Section 2.1 above. Costs may include design engineer, architect, planner, consultant, legal counsel and City staff time and expenses as described in Attachment 2, Budget including legal fees and costs related to the legal action challenging the modifications to the Roeding Regional Park Facility Master Plan or the Fresno Chaffee Zoo Facility Master Plan, Friends of Roeding Park v. City of Fresno, et al. (Case Nos. 13CECG03869 and F072124).
- 2.2.2 Authority is responsible for the additional mitigation measures as provided in Section 1.8 above.
- 2.2.2.1 The City has provided to the Authority a narrative description, map, and other materials

EXHIBIT A – SCOPE OF WORK

supporting the draft Roeding Park Facility Master Plan adjustments that City staff proposed to City Council to make this Master Plan compatible with the HSR Project, as approved by the Authority in 2012.

- 2.2.2.2 The Authority prepared an analysis of the City's proposed Roeding Park Facility Master Plan adjustments as compared to the City's 2011 certified Environmental Impact Report (EIR) and prepared, in consultation with City staff and consultants, the appropriate level of environmental documentation for the City's use and provide to the City in draft form. The Authority prepared the analysis in sufficient detail to allow the City to use that analysis to support the necessary City Council action to modify the Roeding Park Facility Master Plan.
- 2.2.2.3 The Authority completed the needed environmental analysis in a timely manner and in a manner that meets the requirements of the applicable provisions of the CEQA Guidelines. The Authority does not guarantee that the environmental analysis performed by the Authority will be sufficient, on its own, for any required environmental clearance or analysis required for the City's Master Plans modifications.
- 2.2.2.4 The City prepared and processed the Roeding Park Facility Master Plan modifications it, within its sole discretion, determined were required, due to impacts directly caused by the HSR Project.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1 BUDGET CONTINGENCY CLAUSE

- 1.1 This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.
- 1.2 It is mutually agreed that this Agreement shall be of no further force and effect if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Attachment 2. In this event, the Authority shall have no liability to pay any funds whatsoever to the City or to furnish any other considerations under this Agreement and the City shall not be obligated to perform any provision of this Agreement.

2 INVOICING AND PAYMENT

- 2.1 For services satisfactorily rendered in accordance with the terms of this Agreement, and upon receipt and approval of the invoices by the Authority Contract Manager, the Authority agrees to compensate the City.
- 2.1.1 The following certification shall be included on each invoice and signed by the authorized official of the City:
- "I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, included but not limited to a Government Entity contract, subcontract, or other procurement method."*
- 2.1.2 The total amount payable by the Authority for this agreement shall not exceed the amount listed in Section 3 of the STD 213. It is understood and agreed that this total is an estimate and the actual amount of work required may be less.
- 2.1.3 Provide one original and two copies of the Invoice for Payment. Invoices shall be submitted no more frequently than monthly to:

Financial Operations Section
California High-Speed Rail Authority
770 L Street, Suite 620 MS3
Sacramento, CA 95814
accounting@hsr.ca.gov

(1 original and 1 copy)

AND

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

Terry Ogle, PE
California High-Speed Rail Authority
1401 Fulton Ave, Suite 200
Fresno, CA 93721

(1 additional copy, may be electronically submitted)

3 PAYMENT REQUEST FORMAT

- 3.1 The Authority will accept computer generated or electronically transmitted invoices. The date of “invoice receipt” shall be the date the Authority receives the paper copy.
- 3.2 A request for payment shall reference the Agreement number and shall consist of, but not be limited to, the following:
 - 3.2.1 Agreement number, date prepared, and billing period.
 - 3.2.2 The City’s loaded hourly labor rates by individual, inclusive of fees (fringe, direct and indirect overheads, general and administrative, fee, etc.). Each invoice shall include actual hours incurred, cumulative hours incurred to date and budgeted hours.
 - 3.2.3 Other direct costs, including special equipment if requested by the Authority.
 - 3.2.4 Backup documentation for audit purposes, and the City shall retain back-up documentation for audit purposes available to the Authority upon request. The City shall include appropriate provisions in each of its subcontracts to secure adequate backup documentation to verify all subcontractor services and expenses invoiced for payment under this Agreement.

4 TRAVEL AND PER DIEM RATES

- 4.1 No travel is approved under this Agreement.

5 EXCISE TAX

- 5.1 The State of California is exempt from federal excise taxes, and no payment will be made for any federal excise taxes levied on the City. The Authority will only pay for any state or local sales or use taxes on the services rendered to the Authority pursuant to this Agreement. For clarification on excise tax exemptions, refer to the State Administrative Manual section 3585.

6 INVOICE DISPUTES

- 6.1 Payments shall be made to the City for undisputed invoices. An undisputed invoice is an invoice submitted by the City for services rendered and for which additional evidence is not required to determine its validity. The invoice will be disputed if all deliverables due for the billing period have not been received and approved, if the invoice is inaccurate, or if it does not comply with the

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

terms of the Agreement. If the invoice is disputed, the City will be notified via a Dispute Notification Form, or with other written notification within 15 working days of receipt of the invoice; the City will be paid the undisputed portion of the invoice.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

GTC 610

GTC 610 Section 5, which pertains to indemnification, shall not apply to this agreement.

Under the California High-Speed Rail Authority's standardized agreement process, a hardcopy of Exhibit C, GTC 610, is not included in the standard agreement package. As indicated on the STD 213, a copy of Exhibit C can be found at the internet site:

<http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>

If you do not have internet access, or otherwise cannot access the GTC 610, please contact the Office of Procurement and Contracts below to receive a copy:

OPAC
(916) 324-1541
770 L Street, Suite 620 MS3
Sacramento, California 95814

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EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1 CONTRACT MANAGEMENT

- 1.1 The City's Project Manager is responsible for the day-to-day project status, decisions and communications with the Authority's Contract Manager. The City may change its Project Manager by giving written notice to the Authority, but the Authority reserves the right to approve any substitution of the Project Manager. This approval shall not be unreasonably withheld.
- 1.2 The Authority may change its Contract Manager at any time by giving written notice to the City.

2 INDEMNIFICATION

This section regarding indemnification supersedes Section 5 of GTC 610.

The Authority will indemnify, defend and hold harmless, the City and the Zoo Corporation, as well as their respective directors, officials, officers, employees, and agents, with counsel selected by the City and Zoo Corporation respectively, for any challenges, whether in law or in equity, based upon actions arising out of the Authority's HSR Project, and for any planning, environmental review, and related costs and services thereto, arising from or due to the Authority's HSR Project necessitating elimination of an entrance and parking on or accessible from a Golden State Boulevard Entrance on the Roeding Regional Park Facility Master Plan or related modification to the Fresno Chaffee Zoo Facility Master Plan.

Any obligation of Authority created by or arising from this Agreement shall not impose a debt upon the State of California, but shall be payable solely out of funds duly authorized and appropriated by the California State Legislature.

3 SUBCONTRACTS

- 3.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Authority and any subcontractors, and no subcontract shall relieve the Contractor of his or her responsibilities and obligations under this Agreement. The Contractor agrees to be as fully responsible to the Authority for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by the Contractor. The Contractor's obligation to pay its subcontractor is an independent obligation from the Authority's obligation to make payment to the Contractor. As a result, the Authority shall have no obligation to pay or enforce the payment of any moneys to any subcontract.
- 3.2 The Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be contracted without written authorization by the Authority's Contract Manager, except that which is expressly identified in Attachment 3, Budget.
- 3.3 The Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the State.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

4 CONFIDENTIALITY OF DATA

- 4.1 All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the City in order to carry out this Agreement, shall be protected by the City from unauthorized use and disclosure.
- 4.2 Permission to disclose information on one occasion or public hearing held by the Authority relating to this Agreement shall not authorize the City further disclose such information or disseminate the same on any other occasion.
- 4.3 The City shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, City's own personnel, including subcontractors, affiliates, and vendors, involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative Committee.
- 4.4 The City shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.
- 4.5 Any subagreement entered into as a result of this Agreement shall contain all of the provisions of the Confidentiality of Data clause.

5 SETTLEMENT OF DISPUTES

- 5.1 The parties agree to use their best efforts to resolve disputes concerning a question of fact arising under this Agreement in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.
- 5.2 To the extent not inconsistent with law, rules, and regulations, any dispute that is not disposed of by mutual agreement in section 4.1 above will be elevated to the City Manager or his or her designee for the City and the Regional Director or his or her designee for the Authority to resolve.

6 TERMINATION

- 6.1 This Agreement can be terminated at any time by mutual agreement of the Parties.
- 6.2 Termination for Cause: In accordance with section 7 of the GTC 610, the Authority reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the City.
- 6.3 Termination for Convenience: The Authority reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to the City if terminated for convenience of the Authority.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

- 6.4 Termination Issues for Subcontractors, Suppliers, and Service Providers: The Contractor shall notify any subcontractor and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any subcontractor and service or supply vendor shall result in the Contractor being liable for the termination costs incurred by any subcontractor and service or supply vendor for work performed under this Agreement, except those specifically agreed to by the Authority in writing.

7 NON-WAIVER

- 7.1 No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. No remedy available in this Agreement is intended to be exclusive of any other remedy, and every remedy shall be cumulative and shall be in addition to every other remedy provided therein or available at law or in equity. The failure of the Authority to enforce any provision of this Agreement or require performance by the City of any provision shall in no way be construed to be a waiver of those provisions, affect the validity of this Agreement in whole or in part, or the right of the Authority to subsequently enforce any such provision.

8 CAPTIONS

- 8.1 The clause headings appearing in this contract have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

9 STOP WORK

- 9.1 The Authority's Contract Manager may, at any time, by written notice to the City, require the City to stop all or any part of the work in this Agreement.
- 9.2 Upon receipt of such stop work order, the City shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- 9.3 The City shall resume the stopped work only upon receipt of written instruction from the Authority Contract Officer canceling the stop work order.
- 9.4 An equitable adjustment shall be made by the Authority based upon a written request by the City for an equitable adjustment. Such adjustment request must be made by the City within 30 days from the date of receipt of the stop work notice.

HSR 14-XX ATTACHMENT NO. 3

BUDGET FOR ROEDING PARK AND CHAFFEE ZOO AGREEMENT WITH HSR

BUDGET ITEMS	TOTAL HRS.	HOURLY RATE	SUB TOTAL	FRINGE BENEFITS	OVERHEAD	GRAND TOTAL
CITY STAFF						
DEPUTY CITY ENGINEER	10	\$56.06	\$560.60	\$199.46	\$127.20	\$887.26
PROJECT ADMINISTRATOR	10	\$56.06	\$560.60	\$199.46	\$127.20	\$887.26
CITY ATTORNEY+ OUTSIDE COUNSEL	575	\$130.00	\$74,750.00			\$74,750.00
HIGHLAND CONSULTING	10	\$70.00	\$700.00			\$700.00
TRAFFIC MANAGER	10	\$50.97	\$509.70	\$181.35	\$115.65	\$806.70
PW & FINANCE DEPT. STAFF	100	\$37.00	\$3,700.00			\$3,700.00
REIMBURSABLES						
ZOO MASTER PLAN AND EIR UPDATE (12/11/2013 INVOICE)			\$47,989.56			\$47,989.56
ZOO LEGAL COUNSEL			\$50,000.00			\$50,000.00
GRAND TOTAL	715		\$178,770.45	\$580.27	\$370.05	\$179,720.77

09 September. 2015