

STAFF REPORT

SUBJECT: Highway 101 Milpas to Cabrillo Hot Springs: Phase II

MEETING DATE: February 21, 2008

AGENDA ITEM: 6J

STAFF CONTACT: Fred Luna

RECOMMENDATION:

1. Authorize the Chair to sign a cooperative agreement with Caltrans and the City of Santa Barbara to complete Phase II design and right of way of the Milpas project (Cabrillo Blvd underpass improvements at the Union Pacific Railroad).
2. Authorize the Executive Director to execute Amendment No. 5 to the extend the term of the contract with Moffatt & Nichol Engineers and increase the contract amount by \$292,631 for Phase II design and right of way services.

SUMMARY:

In April 2004, SBCAG retained the services of Moffatt & Nichol Engineers (MNE) to provide design services to augment those being provided by Caltrans on the Highway 101 Milpas to Cabrillo\Hot Springs project. MNE was tasked with designing a number of "local" (off-highway) project components including connecting the existing bike and pedestrian path along Cabrillo Boulevard with the new sidewalks being constructed along Old Coast Highway and the Montecito Roundabout. Because of the evolving complexity of this project element which involves the UPRR bridge over Cabrillo Blvd, and the risk that it would delay the mainline highway improvements, SBCAG and Caltrans decided to suspend work and deliver it on an independent schedule as Phase II. The City of Santa Barbara concurred with this approach. It is the objective of SBCAG staff and Caltrans that construction of Phase II be completed during the four years that Phase I is under construction.

Staff is recommending that the board approve Amendment No. 5 to the contract with MNE to prepare the design plans for the Phase II improvements to the 30% complete stage. The contract amendment is for \$292,631 and is commensurate with lease revenues SBCAG recently received from the City of Santa Barbara on a jointly owned property purchased in the 1990s for a now obsolete Measure D project. Staff also recommends that SBCAG enter into a cooperative agreement with Caltrans and the City of Santa Barbara to define responsibilities for design, right of way and funding for Phase II.

DISCUSSION:

Background

In December 2004, Caltrans received a Coastal Development Permit (CDP) from the City of Santa Barbara for the US 101 Operational Improvements Project: Milpas to Cabrillo-Hot Springs. This was a significant milestone and paved the way for detailed design to begin on all

the features included in the project. Through a cooperative agreement, SBCAG and Caltrans decided to share responsibilities for completing project design, with Caltrans performing design on the freeway elements and SBCAG's design team of Moffat & Nichol Engineers (MNE) working on the local improvements. One of the local improvements included in the Coastal Development Permit project description that fell to SBCAG and MNE to design was to improve pedestrian and bicycle safety from Cabrillo Boulevard to the Coast Village Road area.



A major constraint in providing a safer connection was at the Cabrillo underpass at the Union Pacific Railroad (UPRR). As Cabrillo passes under the overhead rail bridge, it provides a narrow shoulder for pedestrians and bicycles, as shown at left. Bikes and peds heading in opposite directions have a particularly challenging time squeezing between the travel lane and the railroad bridge

abutment. Original concepts to improve safety included constructing a tunnel behind the railroad bridge abutments. During preliminary discussions and meetings with UPRR in 2005 and 2006 this approach was determined to be infeasible. UPRR would not permit a "new" transverse crossing such as the proposed tunnel due to concerns about the effects it would have on its existing bridge structure, which is over 100 years old. UPRR indicated it would be agreeable only to a replacement of its bridge over Cabrillo Boulevard as the way to provide sufficient width for cars, bikes and pedestrians to pass safely underneath.

Current Status

During 2006, the SBCAG design team of MNE began evaluating a new approach that called for replacing the railroad bridge. MNE developed 7 different alternatives that could be compared through a screening process to determine those that met the objective of the project but would also be approvable by UPRR. It considered factors such as the existing geometry of Cabrillo Boulevard, the railroad bridge crossing on a skew (40 degree angle) the need to provide more width for the pedestrian and bike improvements, and limiting impacts to on-going railroad operations during construction. The alternatives were vetted through UPRR and based upon this SBCAG and Caltrans screened the alternatives to two that would be "approvable" to UPRR based on the preliminary concepts. However, the delays caused by discussion with UPRR over the feasibility of the tunnel, the examination of 7 new alternatives, and concerns about the complexity of constructing an improvement involving the railroad led Caltrans and SBCAG, with the concurrence of the city of Santa Barbara, to decide that work on the ped and bike improvements on Cabrillo Boulevard should be temporarily suspended and completed on a separate schedule as Phase II. This would allow the project team to concentrate on putting out

to bid all other components of the Milpas project including the high priority mainline highway improvements as Phase I, with the objective of beginning construction in the summer of 2008. This approach was successful. Bids on Phase I are scheduled to be opened on March 5, 2008. It is now necessary to re-start design on Phase II so that construction can be completed within the four year window that it will take to construct the Phase I improvements.

Contract Amendment for Design

As previously noted, two feasible alternatives remain for Phase II. Caltrans will perform an environmental evaluation of the two alternatives. The field information as well as the environmental information will be used to update the screening matrix to further compare and contrast the two alternatives. From this, a single alternative will be developed for detailed design by MNE. The final design work by MNE on the alternative selected has been divided into two parts that would be included in contract Amendment No. 5.

1) Investigations and Data: Field surveying to establish topography within railroad right of way, identify physical features and constraints, establish cut and fill lines for project improvements. Undertake investigations for soil types through surface and subsurface explorations and development of a material report that will be instrumental in the structure design. This effort will be culminated through the preparation of an advance planning study for the bridges which will be used to confirm the structure type with UPRR prior to commencing detailed design.

2) Detailed Design for Roadway and Bridge: Based upon the selected alternative, detailed design on the Cabrillo roadway and bridge (UPRR) improvements will commence. The culmination of this effort will be a deliverable of 30% complete detailed design, which will be reviewed by UPRR and Caltrans. A written approval from both agencies will be requesting prior to moving forward with additional design efforts.

In order to complete 100% design, the term of the contract with MNE would be extended by the amendment to December 31, 2012. Staff is requesting the SBCAG board authorize the Executive Director to execute Amendment No. 5 to the contract with MNE in the amount of \$292,631. The amount of the contract amendment being sought is commensurate with funding recently received by SBCAG from the City of Santa Barbara. The funding was a reimbursement of lease revenues and accrued interest on jointly owned and now unneeded property purchased for the Castillo\Highway 101 interchange which was deleted from the Measure D program in the early 1990s.

Future Funding

Amendment No. 5 will fund design of the selected alternative to the 30% mark, which will provide a cost estimate for Phase II of the 101 Milpas to Hot Springs project. A future amendment with MNE is anticipated to continue design to 100% completion. Funding for this additional design work is expected to come from developer fees that the City of Santa Barbara has levied and will collect for improvements at the Highway 101/Cabrillo Blvd ramps and SBCAG's share of the sale of property purchased jointly with the city of Santa Barbara for the now-obsolete Castillo\101 interchange improvement project. These revenues are anticipated to be over \$500,000, which will be enough to cover the remaining costs through 100% design with residuals being applied to the construction cost.

Cooperative Agreement

The Phase II improvements were not included in the Phase I environmental and design cooperative agreements between Caltrans, SBCAG and the city of Santa Barbara. A separate agreement is required to define roles and responsibilities for this phase.

In the Phase II agreement, Caltrans remains the Coastal Development Permit applicant, the environmental lead agency, will provide oversight of the design, and coordinate the project with other Highway 101 projects in the area. SBCAG is responsible for contracting with MNE for design services and preparing a prospective funding plan to complete 100% design, which is attached to the agreement, which includes City contributions, and could include from SBCAG regional Measure D, federal earmarks, state and federal grant funding, the exact mix of which will depend on how successful SBCAG is in securing grant funding. The City remains the permitting agency, the future owner and maintainer of the facilities constructed, and a funding contributor. The draft cooperative agreement has been reviewed by SBCAG and City staff. Final review by Caltrans is pending and staff is recommending that the chair of the SBCAG board be authorized to execute a cooperative agreement for this project. It is estimated that a similar cooperative agreement between SBCAG, Caltrans and the City of Santa Barbara will be executed to cover roles, responsibilities and funding for the construction of the Phase II Cabrillo project.

COMMITTEE REVIEW: None

Attachments:

1. Amendment No. 5 to the Agreement
2. Draft Cooperative Agreement with Caltrans

AMENDMENT NO. 5

**TO THE MASTER AGREEMENT DATED
FEBRUARY 21, 2008**

It is mutually agreed that the Master Agreement for the US 101 Operational Improvements (Milpas Street to Hot Springs Road/Cabrillo Boulevard) Project between the Santa Barbara County Association of Governments (SBCAG) and the CONSULTANT (Moffatt & Nichol) is hereby amended as stated below:

➤ **Amend Article 2.1 to read:**

The period of performance by CONSULTANT under this AGREEMENT shall commence on April 15, 2004 and shall continue in effect until ~~June 30, 2008~~ **December 31, 2012** or until otherwise terminated, canceled or extended.

➤ **Amend Article 3.1 to read:**

CONSULTANT shall be compensated for full and complete performance of the SERVICES, in compliance with all the terms and conditions of this AGREEMENT, and payment by CONSULTANT of all obligations incurred in, or application to, CONSULTANT'S performance of the SERVICES, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and services (except as may be explicitly set forth in this AGREEMENT as furnished by SBCAG). The total AGREEMENT compensation shall not exceed ~~\$1,935,000~~ **\$2,227,631** (two million, two-hundred twenty-seven thousand six-hundred thirty-one dollars). The compensation to CONSULTANT for each individual task order shall not exceed the amounts set forth in Article 3 of the Task Order and total compensation to CONSULTANT shall be governed by the aggregate amount of each individual task order pursuant to Article 27 Precedence of the Master Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year below written, but effective as of the day and year first set forth above.

Moffatt & Nichol Engineers

By: _____
Name: Sing-Ching R. Chan
Title: Vice President
Date: _____

SBCAG

By: _____
Name: Brooks Firestone
Title: Chair, SBCAG
Date: _____

Attest:

By: _____
Name: Jim Kemp
Title: Executive Director
Date: _____

Approved as to Form and Procedure:

County Counsel

By: _____
Deputy County Counsel,
Counsel for SBCAG

Cabrillo Boulevard Pedestrian Improvements

COOPERATIVE AGREEMENT

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

SANTA BARBARA COUNTY ASSOCIATION OF
GOVERNMENTS, a regional transportation
planning agency organized under the laws of the
State of California, referred to herein as "SBCAG"
and

CITY OF SANTA BARBARA, a body politic and a
municipal corporation of the State of California,
referred to herein as 'CITY'

DRAFT 1/24/08

RECITALS

1. STATE, SBCAG and CITY, pursuant to Streets and Highways Code section 130, are authorized to enter into a Cooperative Agreement for improvements to State Highways within the City of Santa Barbara.
2. STATE, SBCAG AND CITY desire to replace the Union Pacific Railroad overhead structure adjacent to State Route 101 at post mile 11.4 and add a Class 1 bicycle facility and multipurpose path referred to herein as "CABRILLO PROJECT".
3. STATE, SBCAG, and CITY agree that replacement of the railroad structure will meet the intent of the Conditions of Approval in the Coastal Development Permit (CDP) for the Milpas to Hot Springs project (05-44780_). CDP requirements associated with the bicycle and pedestrian improvements along Cabrillo Blvd near the UPRR for the Milpas to Hot Springs project will now be transferred to the CABRILLO PROJECT.
4. SBCAG intends to prepare Plans, Specifications and Estimate (PS&E) and is willing to fund one hundred percent (100%) of all capital outlay and staffing costs, except for cost of STATE quality assurance of PS&E and the CITY's contribution of \$620,000 and quality assurance of PS&E for CABRILLO PROJECT, as shown in Exhibit A.
5. The Final EIR/FONSI and Project Approval for the Milpas to Hot Springs project were both approved in March 2004, with Caltrans as the lead agency on the environmental document. Caltrans is the applicant for the Coastal Development Permit with the City of Santa Barbara (approved in November 2004), which includes both the Milpas to Hot Springs project and the CABRILLO PROJECT.

6. Construction of CABRILLO PROJECT will be the subject of a separate future Agreement.
7. The parties hereto intend to define herein the terms and conditions under which PS&E, Right of Way (RW) Acquisition, any additional environmental clearance and permitting is to be developed and financed.

SECTION I

SBCAG AGREES:

1. To prepare PS&E and contract documents for CABRILLO PROJECT and to fund 100% of all capital outlay and staffing costs with the exception of the cost of STATE quality assurance of PS&E and the CITY's contribution of \$620,000 and quality assurance of PS&E for CABRILLO PROJECT.
2. To submit a billing in the amount of \$620,000 to CITY, upon the execution of this agreement, said billing represents CITY's lump sum contribution of \$570,000 for PS&E and \$50,000 for Right of Way support costs for CABRILLO PROJECT.
3. To have detailed PS&E prepared, and to submit PS&E to STATE and CITY for STATE and CITY's review and concurrence at appropriate stages of development. The final plans and specifications for CABRILLO PROJECT shall be signed by a Civil Engineer registered in the State of California.
4. To permit STATE and CITY to monitor and participate in the selection of personnel who will prepare the PS&E, provide the right of way engineering services, and to permit STATE and CITY to oversee the performance of right of way activities. SBCAG agrees to consider any request by STATE or CITY to discontinue the services of any personnel considered by STATE or CITY to be unqualified on the basis of credentials, professional expertise, failure to perform in accordance with the scope of work and/or other pertinent criteria.
5. Personnel who prepare the PS&E and right of way maps shall be made available to STATE and CITY, at no cost to STATE or CITY, through completion of construction of CABRILLO PROJECT to discuss problems which may arise during construction and/or to make design revisions for contract change orders.
6. To make written application to STATE and CITY for necessary encroachment permits authorizing entry of SBCAG or their consultants onto STATE or CITY highway right of way to perform surveying and other investigative activities required for preparation of PS&E, right of way acquisition.
7. To identify and locate all utility facilities within the area of CABRILLO PROJECT as part of the design responsibility for CABRILLO PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for CABRILLO PROJECT.
8. To identify and locate all high and low risk underground facilities within the area of CABRILLO PROJECT and to protect or otherwise provide for such facilities, all in accordance with STATE's "Policy on High and Low Risk Underground Facilities Within

Highway Rights of Way". SBCAG hereby acknowledges receipt of STATE's "Policy on High and Low Risk Underground Facilities Within Highway Rights of Way".

9. If any existing public and/or private utility facilities conflict with the construction of CABRILLO PROJECT or violates STATE or CITY's encroachment policy, SBCAG shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or removal in accordance with STATE and CITY's policies and procedures for those facilities located within the limits of work included in the improvement to the STATE and CITY highways. The total costs to CABRILLO PROJECT of such protection, relocation, or removal within the present or future State or City highway right of way shall be determined in accordance with STATE and CITY's policies and procedures.
10. To furnish evidence to STATE and CITY, in a form acceptable to STATE and CITY, that arrangements have been made for the protection, relocation, or removal of all conflicting facilities within the STATE or CITY highway right of way and that such work will be completed prior to the award of the contract to construct CABRILLO PROJECT or as covered in the PS&E for said contract. This evidence shall include a reference to all required STATE and CITY highway encroachment permits.
11. To inform any utility owner and/or its contractor performing the protection or relocation work within the STATE or CITY highway right of way to obtain an encroachment permit from STATE or CITY prior to the performance of said work.
12. To be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permit(s), agreement(s), and/or environmental approvals for CABRILLO PROJECT. The costs of said compliance and implementation shall be a CABRILLO PROJECT cost.
13. To acquire and furnish all right of way, if any, outside of the existing STATE or CITY highway right of way and to perform all right of way activities, including all eminent domain activities, if necessary, at no cost to STATE or CITY, and in accordance with procedures acceptable to STATE and CITY. These activities shall comply with all applicable State, City and Federal laws and regulations, subject to STATE and CITY's quality assurance to insure that the completed work is acceptable for incorporation into the State or City highway right of way.
14. To utilize the services of a qualified public agency or a qualified consultant, as determined by STATE's District Division Chief of Right of Way, in all matters related to the acquisition of right of way in accordance with STATE and CITY's procedures. Whenever personnel other than personnel of a qualified public agency are utilized, administration of the personnel contract shall be performed by a qualified Right of Way person employed or retained by SBCAG
15. To certify legal and physical control of right of way ready for construction and that all right of way parcels were acquired in accordance with applicable State, City and Federal laws and regulations, subject to review and concurrence by STATE and CITY prior to the advertisement for bids for the contract to construct CABRILLO PROJECT.
16. To deliver to CITY legal title to the right of way in their jurisdiction, including access rights, free and clear of all encumbrances detrimental to CITY's present and future uses not later than the date of acceptance by CITY of maintenance and operation of the highway facility. Acceptance of said title by CITY is subject to a review of a Policy of Title

Insurance in the names of the City of Santa Barbara to be provided and paid for by SBCAG.

17. STATE and CITY's quality assurance activities referred to in Article I of Section II and Article 1 Section III of this Agreement does not include performance of any engineering services required for CABRILLO PROJECT. These services are to be performed by SBCAG. If SBCAG requests STATE and/or CITY to perform any of these services, SBCAG shall reimburse STATE or CITY for such services. An Amendment to this Agreement authorizing STATE and/or CITY's performance of such services will be required prior to performance of any engineering work by STATE or CITY.
18. SBCAG Contact: Fred Luna
260 North San Antonio Road, Suite B
Santa Barbara, CA 93110
(805) 961-8900

SECTION II

STATE AGREES:

1. At no cost to SBCAG or CITY, to provide quality assurance activities of all work on CABRILLO PROJECT done by SBCAG, including, but not limited to, investigation of potential hazardous material sites, undertaken by SBCAG or its designee, to provide prompt reviews and approvals, as appropriate, of submittals by SBCAG, and to cooperate in timely processing of CABRILLO PROJECT.
2. Upon proper application by SBCAG, to issue, at no cost to SBCAG, an encroachment permit to SBCAG authorizing entry onto the STATE Highway right of way to perform survey and other investigative activities required for preparation of the PS&E. If SBCAG uses consultants rather than its own staff to perform required work, the consultants will also be required to obtain a separate encroachment permit. These permits will be issued at no cost upon proper application by the consultants.
3. STATE will be responsible for completing any supplemental environmental documentation as needed to provide for any additional environmental clearance and subsequent environmental permitting on the CABRILLO PROJECT.
4. STATE agrees to obtain, as a CABRILLO PROJECT cost, all necessary CABRILLO PROJECT permits, agreements, and/or approvals from appropriate regulatory agencies.
5. STATE Contact: David Beard
50 Higuera Street
San Luis Obispo, CA 93401
(805) 549-3016

SECTION III

CITY AGREES:

1. At no cost to SBCAG or STATE, to provide quality assurance activities of all work on CABRILLO PROJECT done by SBCAG, including, but not limited to, investigation of potential hazardous material sites and all right of way activities undertaken by SBCAG or its designee, to provide prompt reviews and approvals, as appropriate, of submittals by SBCAG, and to cooperate in timely processing of CABRILLO PROJECT.
2. To deposit with SBCAG within twenty (20) days or receipt of billing \$620,000 which represents CITY's lump sum contribution of \$570,000 for PS&E and \$50,000 for Right of Way support costs for CABRILLO PROJECT.
3. Upon proper application by SBCAG, to issue, at no cost to SBCAG, an encroachment permit to SBCAG authorizing entry onto the CITY Highway right of way to perform survey and other investigative activities required for preparation of the PS&E. If SBCAG uses consultants rather than its own staff to perform required work, the consultants will also be required to obtain a separate encroachment permit. These permits will be issued at no cost upon proper application by the consultants.
4. CITY agrees to accept new right of way within its jurisdiction and to own and maintain the associated bicycle and pedestrian enhancements.
5. CITY Contact: Don Irelan
630 Garden Street
Santa Barbara, CA 93101

SECTION IV

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 in the annual State Budget Act and the action of the California Transportation Commission (CTC) allocating resources to STATE for the purposes of fulfilling STATE's obligations herein.
2. The parties hereto will carry out CABRILLO PROJECT in accordance with the Scope of Work, attached and made a part of the Agreement, which outlines the specific responsibilities of the parties hereto. The attached Scope of Work may be modified in writing in the future to reflect changes in the responsibilities of the respective parties. Such modifications shall be concurred with by SBCAG's Executive Director or other official designated by SBCAG, CITY's Director of Public Works or other official designated by CITY and STATE's District Director for District 5 and become a part of this Agreement after execution of the amending document by the respective officials of the parties.
3. The Project Report (PR) for Milpas to Hot Springs Project, approved in March, 2004 is by this reference, made an express part of this Agreement

4. The basic design features (as defined in Attachment 2 of the Scope of Work for CABRILLO PROJECT) shall comply with those addressed in the approved PR, unless modified as required for environmental clearance and/or FHWA approval of CABRILLO PROJECT
5. The design and right of way acquisition for CABRILLO PROJECT shall be performed in accordance with STATE and CITY standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be approved by STATE and/or CITY via the processes outlined in STATE and/or CITY's Highway Design Manual and appropriate memorandums and design bulletins published by STATE or CITY. In the event that STATE or CITY proposes and/or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on CABRILLO PROJECT in accordance with STATE or CITY's current Highway Design Manual. STATE and/or CITY shall consult with SBCAG in a timely manner regarding effect of proposed and/or required changes on CABRILLO PROJECT.
6. SBCAG's share of all changes in development costs associated with modifications to the basic design features as described above shall be in the same proportion as described in this Agreement, unless mutually agreed to the contrary by STATE, CITY and SBCAG in a subsequent amendment to this Agreement.
7. If there is a legal challenge to the environmental documentation, including supporting investigative studies and/or technical environmental report(s), permit(s), agreement(s), environmental commitments and/or environmental approval(s) for CABRILLO PROJECT, all legal costs associated with those said legal challenges shall be a CABRILLO PROJECT cost.
8. All administrative reports, studies, materials, documentation, including, but not limited to, all administrative drafts and administrative finals of the CEQA/NEPA environmental documentation and PR, relied upon, produced, created or utilized for CABRILLO PROJECT 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 and agents and 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.
9. Any hazardous material or contamination of an HM-1 category found within existing State Highway right of way during CABRILLO PROJECT shall be the responsibility of STATE. Any hazardous material or contamination of an HM-1 category found within local road right of way during CABRILLO PROJECT shall be the responsibility of CITY. For the purpose of this Agreement, hazardous material of HM-1 category is defined as that level or type of contamination which must be remediated by reason of its mere discovery regardless of whether it is disturbed by CABRILLO PROJECT or not. STATE and CITY shall sign the HM-1 manifest and pay all costs for remedy or remedial action within existing State or CITY Highway right of way, except that if STATE or CITY determines, in their sole judgment, that STATE's or CITY's cost for remedy or remedial action is increased as a result of SBCAG's decision to proceed with CABRILLO PROJECT, that additional cost identified by STATE or CITY shall be borne by SBCAG. SBCAG shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within local road right of way or other property. While STATE and CITY will exert every reasonable effort to fund the remedy or remedial action for which STATE or CITY

is responsible, in the event STATE or CITY is unable to provide funding, SBCAG will have the option to either delay CABRILLO PROJECT until STATE or CITY is able to provide that corrective funding or SBCAG may proceed with the remedy or remedial action as a CABRILLO PROJECT expense without any subsequent reimbursement by STATE or CITY.

10. Any remedy or remedial action with respect to any hazardous material or contamination of an HM-2 category found within existing State Highway right of way shall be the responsibility of SBCAG who shall sign the HM-2 manifest and management of HM-2 will be a CABRILLO PROJECT cost if the CABRILLO PROJECT proceeds. Any remedy or remedial action with respect to any hazardous material or contamination of an HM-2 category found within CITY right of way shall be the responsibility of SBCAG who shall sign the HM-2 manifest and management of HM-2 will be at SBCAG's cost, if the CABRILLO PROJECT proceeds. For the purpose of this Agreement any hazardous material or contamination of HM-2 category is defined as that level or type of contamination which said regulatory control agencies would have allowed to remain in place if undisturbed had CABRILLO PROJECT not proceeded.
11. If hazardous material or contamination of either HM-1 or HM-2 category is found on new right of way acquired by or on account of CITY for CABRILLO PROJECT, SBCAG shall be responsible, at SBCAG's expense, for all required remedy or remedial action and/or protection in the absence of a generator or prior property owner willing and prepared to perform that corrective work.
12. Locations subject to remedy or remedial action and/or protection include utility relocation work required for CABRILLO 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.
13. Remedial actions proposed by SBCAG on STATE or CITY Highway right of way shall be pre-approved by STATE and/or CITY and shall be performed in accordance with STATE's and/or CITY's standards and practices and standards and practices mandated by those Federal and State regulatory agencies.
14. 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 SBCAG on the State or CITY highway right of way shall be pre-approved by State or CITY and shall be performed in accordance with STATE or CITY's standards and practices and those standards mandated by the Federal and State regulatory agencies.
15. A separate Cooperative Agreement will be required to cover responsibilities and funding for the construction phases of CABRILLO PROJECT.
16. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights to third parties not parties to this Agreement or to affect the legal liability of parties to the Agreement by imposing any standard of care with respect to the development, design, construction, operation or maintenance of State or City highways and public facilities different from the standard of care imposed by law.
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 or

SBCAG under or in connection with any work, authority or jurisdiction conferred upon STATE or SBCAG and arising under this Agreement. It is understood and agreed that STATE or SBCAG shall fully defend, indemnify and save harmless the CITY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE or SBCAG under this Agreement.

18. 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 or SBCAG under or in connection with any work, authority or jurisdiction conferred upon CITY or SBCAG and arising under this Agreement. It is understood and agreed that CITY or SBCAG shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY or SBCAG under this Agreement.
19. Neither SBCAG 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 or STATE under or in connection with any work, authority or jurisdiction conferred upon CITY or STATE and arising under this Agreement. It is understood and agreed that CITY or STATE shall fully defend, indemnify and save harmless SBCAG and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY or STATE under this Agreement.
20. This Agreement may be terminated or provisions contained herein may be altered, changed, or amended by mutual consent of the parties hereto.
21. Except as otherwise provided in Article 19 above, this Agreement shall terminate upon completion and acceptance of CABRILLO PROJECT construction by STATE and CITY, or on December 31, 2013, whichever is earlier in time. The parties agree that the indemnification, legal challenge, and mitigation/environmental commitment clauses shall remain in effect until terminated or modified, in writing, by the parties.

STATE OF CALIFORNIA

Department of Transportation

WILL KEMPTON

Director

By _____

RICHARD KRUMHOLZ

District 5 Director

Approved as to Form & Procedure:

By _____

Attorney, Department of
Transportation

Certified as to Financial Terms & Conditions:

By _____

Accounting Administrator

Certified as to Funds:

By _____

District 5 Budget Manager

SANTA BARBARA COUNTY

TRANSPORTATION AUTHORITY/
SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS

250 North San Antonio Road, Suite B

Santa Barbara, CA 93110

By _____

Chair, SBCLTA/SBCAG

Approved as to form and procedure:

Stephen Shane Stark, County Counsel

By _____

Deputy County Counsel for SBCLTA/
SBCAG

Certified as to funds:

By _____

Executive Director SBCAG

CITY OF SANTA BARBARA

735 Anacapa Street

Santa Barbara, CA 93102

By _____

James L. Armstrong
City Administrator

ATTEST: _____

Cynthia M. Rodriguez, CMC
City Clerk Services Manager

Approved as to Content:

By _____

Anthony J. Nisich
Public Works Director

Approved as to Form:

By: _____

Stephen P. Wiley, City Attorney

EXHIBIT A

05-0Q370_ Cabrillo Boulevard Pedestrian Improvements			
Cost Estimate Breakdown			
\$000's			
	SBCAG*	CITY	TOTAL
PS&E	\$570	\$180	\$750
R/W SUPPORT	\$50		\$50
Total	\$620	\$180	\$800

* SBCAG funding is contingent on CITY paying SBCAG it shares of revenues from Haley Street sale +back lease payments + interest.

SCOPE OF WORK

This Scope of Work outlines the specific areas of responsibility for various project development activities for the CABRILLO PROJECT which proposes to replacement of the Union Pacific Railroad overhead structure on State Route 101 at post mile 11.4 to provide adequate width to improve roadway shoulders on Cabrillo Boulevard and add a Class 1 bike facility/multipurpose path. This Agreement covers PS&E only.

1. CITY, SBCAG and STATE concur that the proposal is a Category 4B as defined in STATE's Project Development Procedures Manual.
2. SBCAG will submit detailed Plans, Specifications and Estimate of CABRILLO PROJECT to STATE and CITY, as they are developed, for review and comment.
3. STATE and CITY will review, monitor, and approve detailed Plans, Specifications and Estimate of CABRILLO PROJECT
4. The existing freeway agreement will not require revision.
5. All phases of PROJECT, from inception through construction, whether done by SBCAG, CITY or STATE, will be developed in accordance with all policies, procedures, practices, and standards that STATE and CITY would normally follow.
6. Detailed steps in the project development process are attached to this Scope of Work as Attachment 1. These PS&E Phase Activities are intended as a guide to SBCAG, STATE and CITY's staff.