

MASTER AGREEMENT
ADMINISTERING AGENCY - STATE AGREEMENT
FOR
STATE FUNDED PROJECTS

District 04
Agreement No. 000102
City of San Mateo
Administering Agency

THIS AGREEMENT, made effective this 20th day of July, 2000, is by and between the City of San Mateo, hereinafter referred to as 'ADMINISTERING AGENCY,' and the State of California, acting by and through its Department of Transportation, hereinafter referred to as 'STATE.'

WITNESSETH

WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation facilities; and

WHEREAS, ADMINISTERING AGENCY has applied to the California Transportation Commission (CTC) and/or STATE for funding from the STATE Transportation Improvement Program (STIP), or other programs, as defined in the *Local Assistance Program Guidelines* for use on local transportation facilities as local administered PROJECT(s), hereinafter referred to as "PROJECT"; and

WHEREAS, said PROJECT will not receive any federal funds; and

WHEREAS, STATE is willing to enter into an AGREEMENT with ADMINISTERING AGENCY to delineate those certain obligations placed upon ADMINISTERING AGENCY relative to the use of said State funding and the prosecution of said PROJECT by ADMINISTERING AGENCY.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any programmed project unless and until a PROJECT-specific program supplement, adopting all of the terms and conditions of this AGREEMENT, hereinafter referred to as "PROGRAM SUPPLEMENT," has been fully executed by the parties.

2. A Financial commitment of state funds will occur only following the execution of this AGREEMENT together with the subsequent execution of each applicable PROGRAM SUPPLEMENT.

3. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of State funds encumbered to the PROJECT described in the PROGRAM SUPPLEMENT, to comply with the terms of this AGREEMENT and all of the agreed-upon Special Covenants and

Conditions attached to or made a part of the PROGRAM SUPPLEMENT, identifying and defining the nature of that specific PROJECT.

4. The PROGRAM SUPPLEMENT shall designate the ADMINISTERING AGENCY responsible for implementing the various phases of the PROJECT, the State funding program, and the matching funds to be provided by ADMINISTERING AGENCY and/or others. Adoption and execution of the PROGRAM SUPPLEMENT by ADMINISTERING AGENCY and STATE, incorporating the terms and conditions of this AGREEMENT into the PROGRAM SUPPLEMENT as though fully set forth therein, shall be sufficient to bind the ADMINISTERING AGENCY to these terms and conditions when performing the PROJECT. Unless otherwise expressly delegated in a resolution by the ADMINISTERING AGENCY'S governing body and concurred in by STATE, the PROGRAM SUPPLEMENT shall be managed by the ADMINISTERING AGENCY's governing body.

5. PROJECT shall be acquired, designed, and constructed (a) as required in the *Local Assistance Program Guidelines*, (b) such other STATE procedures as are identified in the PROGRAM SUPPLEMENT, and (c) as is specified in this AGREEMENT.

6. Unless otherwise provided in the PROGRAM SUPPLEMENT, the ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

7. The estimated cost and scope of PROJECT will be as described in the PROGRAM SUPPLEMENT and STATE funding participation is limited to the amounts established by STATE. A contract awarded by ADMINISTERING AGENCY for an amount in excess of said approved estimate may exceed said PROGRAM SUPPLEMENT cost estimate provided (a) ADMINISTERING AGENCY provides the necessary additional funding or (b) a PROJECT cost increase in State funding is first requested by ADMINISTERING AGENCY and is approved by STATE in the form of an amended PROGRAM SUPPLEMENT or a STATE approved encumbrance document adding (or deleting) PROJECT funds.

8. Subsequent to the inclusion of the PROJECT in a plan or program approved by STATE and the ADMINISTERING AGENCY entering into this AGREEMENT and the PROGRAM SUPPLEMENT, the ADMINISTERING AGENCY may request and receive payment for eligible work as follows:

(a) STATE will reimburse the STATE's share of eligible participating PROJECT costs monthly in arrears upon ADMINISTERING AGENCY's submittal of signed acceptable monthly progress pay invoices (in duplicate) for expenditures actually made by ADMINISTERING AGENCY.

(b) If PROJECT involves work on the STATE highway system, that PROJECT shall also be the subject of separate standard forms of STATE encroachment permits issued to ADMINISTERING AGENCY and any contractors and, where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY to determine how PROJECT is to be acquired, designed, or constructed and to establish ownership and future maintenance obligations.

(c) State funds will not participate in any portion of PROJECT work performed in advance of either the effective date of the executed PROGRAM SUPPLEMENT for said PROJECT or the effective date of this AGREEMENT.

9. The total of all ADMINISTERING AGENCY invoices (submitted monthly or quarterly in arrears) for reimbursement of participating PROJECT costs, including all required ADMINISTERING AGENCY matching funds, must not exceed the actual total allowable PROJECT costs, including, but not limited to, all completed preliminary engineering work, right of way acquisition, design and construction included within the PROJECT description contained in the PROGRAM SUPPLEMENT.

10. Invoices shall be submitted on ADMINISTERING AGENCY letterhead and shall reference (a) this AGREEMENT number, (b) the PROJECT title and number, (c) the progress billing number for the PROJECT, and (d) shall be formatted and costs reported in accordance with the current version of Chapter 5, "Accounting/Invoices," of the *Local Assistance Procedures Manual* published by STATE.

11. STATE programmed amounts may be increased to cover PROJECT cost increases only (a) if such funds are available, (b) STATE concurs with that proposed increase, and (c) STATE executes an amending PROGRAM SUPPLEMENT or a STATE approved encumbrance document encumbering those funds.

12. When additional State funds are not available, the ADMINISTERING AGENCY agrees that the payment of State funds will be limited to the amounts already approved in the PROGRAM SUPPLEMENT and all STATE approved encumbrance documents and that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY funds.

13. The legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain employment practices with respect to contract and other work financed with State funds. ADMINISTERING AGENCY shall ensure that work performed under this AGREEMENT is done in conformance with the rules and regulations embodying such requirements where they are applicable.

14. ADMINISTERING AGENCY and its subcontractors shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support reimbursement payment vouchers or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching costs, and other expenditures by ADMINISTERING AGENCY.

15. ADMINISTERING AGENCY and all subcontractors shall comply with the Uniform Administrative Requirements for State and Local Governments set forth in the Code of Federal Regulations (CFR), Title 49, Part 18. In addition, the ADMINISTERING AGENCY agrees to comply with the cost principles and procedures set forth in Office of Management and Budget Circular A-87. The ADMINISTERING AGENCY agrees that a reference to either Office of Management and Budget (OMB) Circular A-87 or the Code of Federal Regulations, Title 49, Chapter 1, Part 31, whichever is applicable and the code of Federal Regulations, Title 49, Part 18, will be included in any subcontracts entered into as a result of this AGREEMENT.

16. After completion of all work under this AGREEMENT, and after all PROJECT costs are known, ADMINISTERING AGENCY shall contract for a financial audit of PROJECT costs if those costs are in excess of \$300,000. This Audit, to be accomplished at the ADMINISTERING AGENCY's expense, may be done on an individual PROJECT basis, or PROJECT may be included in the ADMINISTERING AGENCY's annual Single Audit. If an individual audit of PROJECT is done, the auditor must prepare a Final Audit Report. If ADMINISTERING AGENCY chooses the Single Audit option, an audit report is required for the State funding share. This report should be prepared in accordance with the guidelines set forth in OMB Circular A-133. Compliance testing performed for this audit should determine whether the ADMINISTERING AGENCY has a system that is adequate to accumulate and segregate reasonable, allowable and allocable costs to assure that:

(a) Reimbursement claims submitted to STATE for the PROJECT are supported by payment vouchers and canceled checks.

(b) Charges for the various categories of eligible PROJECT costs incurred by the ADMINISTERING AGENCY are fully supported and recorded in the ADMINISTERING AGENCY's accounting records in accordance with generally accepted accounting principles.

(c) The ADMINISTERING AGENCY complied with CFR 49 Part 18, Uniform Administrative Requirements for State and Local Governments and OMB A-87, Cost Principles for State and Local Governments. Any instances of noncompliance or costs determined ineligible in accordance with these regulations but claimed for reimbursement should be identified and set forth in the auditor's report.

17. The "State Report of Expenditures" must be completed by ADMINISTERING AGENCY within one hundred eighty (180) days of PROJECT completion in the format described for State funded projects in Chapter 17, "Project Completion" of the *Local Assistance Procedures Manual*. The Final Invoice must be submitted with the "State Report of Expenditures". The Audit must be completed by the December 30th following the fiscal year of PROJECT completion. Project completion is defined as when all work identified in the approved PROJECT Application and PROGRAM SUPPLEMENT has been completed and final costs are known. The report documents (State Report of Expenditures and Final Audit Report) will be sent to the appropriate STATE office. Failure to comply with these reporting requirements may result in the withholding of future allocations for other projects.

18. STATE reserves the right to conduct technical and financial audits if it is determined to be necessary. After any financial audit, ADMINISTERING AGENCY shall promptly refund any excess State funds erroneously reimbursed to ADMINISTERING AGENCY.

19. Should ADMINISTERING AGENCY fail to refund all moneys due STATE as provided hereunder or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT, then, within thirty (30) days of STATE's demand, or within such other period as may be agreed to in writing between the parties hereto, STATE, acting through the State Controller, the State Treasurer, the California Transportation Commission (CTC), or any other public agency, may withhold or demand a transfer of an amount equal to the PROJECT

amount paid by STATE from future apportionments or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other funds and/or may withhold approval of future ADMINISTERING AGENCY projects.

20. Should ADMINISTERING AGENCY be constituted as a joint powers authority, a special district, or any other public entity not directly receiving funds through the State Controller and ADMINISTERING AGENCY is declared by STATE to be in breach of this AGREEMENT or otherwise in default, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article I-19, from any or all, joint and several, of those constituent entities comprising the joint powers authority or by the bringing of an action against ADMINISTERING AGENCY and its constituent member entities to recover all funds provided by STATE hereunder. The ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within the Joint Powers Agreement itself that would restrict or otherwise limit STATE's ability to recover state funds improperly spent by the ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

21. When PROJECT is not on the STATE highway system, but includes work to be performed by a railroad, the contract for such work shall be prepared and administered by ADMINISTERING AGENCY or by STATE, as the parties may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed or constructed under that contract.

ARTICLE II - ENGINEERING

1. "Project Development Costs" includes all preliminary work directly related to the PROJECT up to contract award for construction, including, but not limited to, environmental studies, preliminary surveys and reports, laboratory work, soil investigation, preparation of plans, specifications and estimates, advertising for bids, awarding contract, as well as project development contract administration.

2. "Construction Engineering" eligible costs include actual inspection and supervision of PROJECT construction work, construction staking, laboratory and field testing, preparation and processing of field reports, and records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

3. Unless the parties shall otherwise agree in writing, ADMINISTERING AGENCY's employees or its subcontractor engineering consultant shall be responsible for all PROJECT engineering work. When construction engineering is performed by STATE, charges by STATE invoiced to ADMINISTERING AGENCY shall include an assessment on direct labor costs in accordance with Section 8755.1 of the State Administrative Manual. Any portions of STATE charges not contractually absorbed by STATE shall be paid from PROJECT or other funds administered by ADMINISTERING AGENCY.

4. Costs incurred by ADMINISTERING AGENCY in the period prior to the effective date of this AGREEMENT or prior to a later date specified in a PROGRAM SUPPLEMENT or after termination date for PROJECT described in the PROGRAM SUPPLEMENT or this AGREEMENT are not allowable by STATE as reimbursable or matching costs.

ARTICLE III - RIGHT-OF-WAY

1. All related rights-of-way necessary for the construction of PROJECT shall be acquired by ADMINISTERING AGENCY, and no contract for construction of PROJECT or any portion thereof shall be advertised until those necessary rights-of-way have been secured.

2. The furnishing of rights-of-way as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise:

(a) expenditures to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.

(b) the payment of damages to real property not actually taken but injuriously affected by the proposed improvement.

(c) the cost of relocating owners and occupants pursuant to Government Code Sections 7260-7277.

(d) the cost of demolition and sales of all improvements on the right-of-way after credit for sale proceeds.

(e) the cost of all unavoidable utility relocation, protection or removal.

(f) the cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which ADMINISTERING AGENCY is not responsible and where the actual generator cannot be identified and recovery made.

3. Should ADMINISTERING AGENCY, in acquiring right-of-way for PROJECT, displace an individual, family, business, farm operation or nonprofit organization, the ADMINISTERING AGENCY shall provide relocation payments and services as required by California Government Code Sections 7260-7277.

4. State funds will not participate in any PROJECT costs arising out of delays to construction or a demolition contractor's orderly prosecution of the PROJECT work because utilities have not been timely removed or relocated or due to the unavailability of rights-of-way.

5. If any protection, relocation or removal of utilities is required within STATE's right-of-way, such work shall only be performed in accordance with then current STATE policies and procedures. ADMINISTERING AGENCY shall require any utility company performing relocation work in the STATE's right-of-way to obtain a STATE Encroachment Permit prior to the performance of said relocation work. Any relocated utilities shall be correctly located and identified on the PROJECT as-built plans.

ARTICLE IV - MISCELLANEOUS PROVISIONS

1. The cost of security, protection, or maintenance performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of the work or at any other time may not be charged to the PROJECT.
2. Neither STATE nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority, or jurisdiction delegated to ADMINISTERING AGENCY under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, ADMINISTERING AGENCY shall fully defend, indemnify and hold STATE, its officers and employees harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority, or jurisdiction delegated to ADMINISTERING AGENCY under this AGREEMENT.
3. Neither ADMINISTERING AGENCY nor any officer or employee thereof, shall be responsible for any damage or liability occurring by reasons of anything done or omitted to be done by STATE under or in connection with any work, authority, or jurisdiction delegated to STATE under this AGREEMENT. It is also understood and agreed that pursuant to Government Code Section 895.4, STATE shall fully defend, indemnify and hold ADMINISTERING AGENCY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority, or jurisdiction delegated to STATE under this AGREEMENT.
4. Auditors of state shall be given access to books and records of ADMINISTERING AGENCY and its consultants, contractors and subcontractors for the purpose of verifying PROJECT costs and STATE's share to be paid or credited to ADMINISTERING AGENCY for matching funds. ADMINISTERING AGENCY shall include clauses in its contracts for PROJECT obligating consultants, contractors and subcontractors to conform and cooperate in any audit of their PROJECT costs including providing copies of all requested documents and financial records.
5. ADMINISTERING AGENCY will maintain and operate the PROJECT property acquired, developed, rehabilitated, or restored for its intended public use as proposed in those documents supplied by ADMINISTERING AGENCY as part of PROJECT funding applications and as described in this AGREEMENT until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the property may transfer this obligation and responsibility to maintain and operate the PROJECT property to another public entity.

6. Upon ADMINISTERING AGENCY acceptance of the completed PROJECT construction contract or upon the construction contractor being relieved of the responsibility for maintaining and protecting any portion of the work, the ADMINISTERING AGENCY having jurisdiction over the PROJECT shall maintain, repair and restore any damaged portions of the completed work in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, under ADMINISTERING AGENCY's jurisdiction is not being properly operated, maintained, repaired or restored and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future projects of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition satisfactory to STATE. The provisions of this section shall not apply to a PROJECT which has been vacated, as preapproved by STATE, through due process of law.

7. The ADMINISTERING AGENCY obligation to maintain, referred to in paragraph 6 above, includes not only the physical condition of the PROJECT but its continued operation as well. PROJECT shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as the PROJECT requires. Said maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under an agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

8. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY, either in whole or in part.

9. No alteration or variation of the terms of this AGREEMENT or the PROGRAM SUPPLEMENT 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.

10. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

11. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution.

ARTICLE V - CONDITION OF ACCEPTANCE

ADMINISTERING AGENCY shall conform to all State statutes, regulations, and the *Local Assistance Program Guidelines* and *Local Assistance Procedures Manual* as published by STATE and incorporated herein, including all subsequent approved revisions thereto, hereafter collectively referred to as PROCEDURES, applicable to PROJECT, unless otherwise designated in the approved PROGRAM SUPPLEMENT.

This AGREEMENT and any PROGRAM SUPPLEMENT(s) executed under this AGREEMENT shall terminate upon sixty (60) days' prior written notice by STATE except that obligations relative to the respective parties indemnification shall not expire and the ADMINISTERING AGENCY's duties assumed under Sections 4, 5, 6 and 7 of Article IV shall continue for so long as PROJECT remains operable.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officers.

STATE OF CALIFORNIA
Department of Transportation

City of San Mateo

for By William J. Schup
Chief, Office of Local Programs
Project Implementation

By John Lee
MAYOR

Date 1/25/01

Date January 16, 2001

ATTEST:
[Signature]
CITY CLERK

RESOLUTION NO. 13 (2001)

APPROVING AND AUTHORIZING EXECUTION OF
THE MASTER AGREEMENT BETWEEN
CITY OF SAN MATEO AND CALTRANS
FOR FUNDING FROM STATE GRANTS
FOR LOCAL TRANSPORTATION FACILITIES

RESOLVED, by the Council of the City of San Mateo, California,
and it does hereby FIND, DETERMINE and ORDER, that:

1. The public interest and convenience require the Master Agreement, cited in the title above, be executed.
2. Said Master Agreement is hereby approved and the Mayor is authorized to sign and execute it on behalf of the City.
3. The City Clerk is instructed to attest the signature of the Mayor and affix the corporate seal of said City.

/s/ John Lee

MAYOR

ATTEST:

(SEAL) /s/ Norma Gomez

CITY CLERK

* * *

Resolution adopted by the City Council of the City
of San Mateo, California, at a regular meeting held
on January 16, 2001, by the following vote of the
Council Members:

AYES: Council Members GROOM,
LEMPERT, EPSTEIN and LEE

NOES: NONE

ABSENT: MACK

(SEAL) /s/ NORMA GOMEZ, City Clerk