

AMENDMENT NO. 1

to the

MEMORANDUM OF UNDERSTANDING

for the

**DELIVERY OF THE
7TH STREET GRADE SEPARATION PROJECT**

by and between

**THE ALAMEDA COUNTY TRANSPORTATION COMMISSION,
THE CITY OF OAKLAND, AND
THE BOARD OF PORT COMMISSIONERS (PORT OF OAKLAND)**

This Amendment No. 1 (“AMENDMENT”), effective on _____, is by and between the Alameda County Transportation Commission, a joint powers agency (“ALAMEDA CTC”), the City of Oakland, a municipal corporation (the “CITY”), and the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (the “PORT”).

RECITALS

A. ALAMEDA CTC, CITY, and PORT (each a “Party” and together the “Parties”) entered into that certain Memorandum of Understanding which was fully executed on _____ (“MOU”) to define the respective roles, responsibilities, and authorities of the PORT, the CITY, and ALAMEDA CTC specifically for the construction phase of the 7th Street Grade Separation East Project (“PROJECT”).

B. The Parties have agreed to modify the MOU to incorporate therein a Construction Coordination and Communication Plan (“CCCP”) documenting the Parties’ shared roles and responsibilities during construction of the PROJECT.

NOW, THEREFORE, the Parties mutually understand and agree to the following:

AGREEMENT

1. Although ALAMEDA CTC is responsible for procurement of contractors and obtaining funding for the construction of the PROJECT, the PORT and the CITY will also have shared roles and responsibilities during construction.

2. The Parties acknowledge that successful completion of the PROJECT scope through construction will require a clear understanding of the Parties’ respective roles and responsibilities and a resolution structure that addresses the competing needs of scope, cost, schedule and quality. The CCCP attached hereto as **Appendix A** and incorporated herein by this reference is intended to serve as a baseline for this understanding.

3. The CCCP is intended as a guide to be used through construction. It is a living document and may change without an amendment subject to the revision process included within the CCCP.

[SIGNATURES ON NEXT PAGE]

APPENDIX A
7TH STREET GRADE SEPARATION PROJECT (EAST)
CONSTRUCTION COORDINATION AND COMMUNICATION PLAN

ALAMEDA CTC, in cooperation with the PORT and CITY (referred to herein collectively as the "PARTIES" and each individually as a "PARTY"), plans to construct the 7TH Street Grade Separation Project East project ("PROJECT"). The Plans and Specifications for the PROJECT have been approved by the CITY and PORT. The PARTIES have entered or will enter into separate agreements for Right-of-Way with the PORT, encroachment permits with the CITY, and a Cooperative Agreement related to the Construction & Maintenance ("C&M") Agreement for Union Pacific Railroad ("UPRR") facilities and funding commitments. This Construction Coordination and Communication Plan ("CCCP") solely constitutes a guide to the respective intentions and policies of the parties involved. This CCCP consists of the following sections:

- Roles and Responsibilities
- Definitions
- Construction Coordination and Communication Protocols

ROLES AND RESPONSIBILITIES

ALAMEDA CTC is the implementing agency for the construction phase of the PROJECT and is responsible for administering the construction contract, which includes performing field inspections to ensure the selected contractor performs the construction work in compliance with contract documents and quality assurance testing, including field laboratory and source testing needed for the construction of the PROJECT. ALAMEDA CTC will designate the Resident Engineer, and the Resident Engineer will represent ALAMEDA CTC for the PROJECT.

PORT and CITY

Any reference to PORT and CITY will also include PORT and CITY'S respective assigned designee/third-party agent acting on behalf of each respective agency.

After the Contractor secures all necessary permits and approvals, PORT and CITY will ensure full and unimpeded access to the construction areas (defined limits of work) under their respective jurisdictions in accordance with a Temporary License Agreement (TLA) with the PORT (dated April 20, 2022 and as amended on June 29, 2022) and an encroachment permit to be issued by the CITY, and will not impede or delay the performance of Contractor's Work except as provided herein. PORT and CITY retain the authority to stop or suspend construction for actions or inactions by ALAMEDA CTC, the Contractor, or subcontractors, as per the conditions set forth in said TLA, the encroachment permit, and/or public safety concerns.

PORT and CITY will each designate a respective Primary Coordinator, who will represent PORT and CITY for the PROJECT and shall be the single point of contact for all construction-related communications to and from the PORT and CITY.

PORT and CITY will provide respective Quality Assurance ("QA") Personnel to perform oversight of the construction operations and will be involved in all aspects of the PROJECT work that will ultimately be owned, operated, maintained, and/or repaired by PORT and/or the CITY. The PORT

and CITY QA Personnel will work in coordination with the ALAMEDA CTC Resident Engineer and ALAMEDA CTC field inspection staff. PORT and CITY'S Primary Coordinator and QA Personnel shall not communicate directly with the Contractor, subcontractors, or suppliers.

All PROJECT communication from PORT (PORT Primary Coordinator) and/or CITY (City Primary Coordinator) shall be directed to the ALAMEDA CTC Resident Engineer.

All decisions relating to any variation from the approved plans and/or specifications towards the installation of improvements that will ultimately be owned, operated, maintained, or repaired by PORT or CITY must be made jointly by the Resident Engineer and PORT Primary Coordinator and/or CITY Primary Coordinator.

ALAMEDA CTC, PORT, and CITY shall meet prior to commencement of physical construction to identify the respective Primary Coordinators for construction coordination. Any PARTY may change its representative with 30 days written notice to the other PARTIES.

This CCCP may be modified by the PARTIES to reflect the PROJECT conditions and needs as may be required and agreed to by the Primary Coordinators.

All documents, plans, correspondences, materials, and activities referenced herein are strictly and solely related to the construction of the PROJECT.

DEFINITIONS

This Section provides the terms, definitions, abbreviations, and references used in this CCCP.

Contract: The contract between ALAMEDA CTC and the Contractor for construction of the PROJECT based on the Plans and Specifications.

Contractor: The person or business or its legal representative entering into the Contract with ALAMEDA CTC for the performance of the construction of the PROJECT.

Plans: Contract plans for the PROJECT that the Parties approve.

Specifications: Contract specifications for the PROJECT that the Parties approve.

Resident Engineer: ALAMEDA CTC'S designated person responsible for the Contract administration.

PORT Primary Coordinator: Primary representative of the PORT who has the necessary background and decision-making authority as it relates to advancing the PROJECT.

CITY Primary Coordinator: Primary representative of the CITY who has the necessary background and decision-making authority as it relates to advancing the PROJECT.

Commission Engineer: Alameda CTC's Staff member holding and maintaining a California Professional Civil Engineer license who is designated by the Alameda CTC Executive Director as the Commission Engineer who is responsible for overseeing all aspects of

ALAMEDA CTC's transportation projects from environmental approval, design, right-of-way certification and clearance, and surveys; to contract bids and awards, project management, and construction.

Jobsite: Any location where Contract work is being performed, including but not limited to, fabrication shops, material suppliers, project offices and hauling routes.

CONSTRUCTION COORDINATION AND COMMUNICATION PROTOCOLS

The ALAMEDA CTC Resident Engineer is ALAMEDA CTC's representative on the construction project and is the sole person responsible for official communication with the Contractor. The PORT and CITY staff will not direct the Contractor's workforce; any instructions to the Contractor regarding the performance of the work will come through the ALAMEDA CTC Resident Engineer.

Any disagreements among CITY Primary Coordinator and/or PORT Primary Coordinator and the ALAMEDA CTC Resident Engineer are to be resolved at the lowest possible level to the extent possible. In the event that CITY and/or PORT Primary Coordinators and the ALAMEDA CTC Resident Engineer do not agree on how to resolve an issue related to PROJECT work that will ultimately be owned, operated, maintained and/or repaired by CITY or PORT, the conflict resolution process described in Section II-7 shall be used.

For the construction of the PROJECT, ALAMEDA CTC will consult with PORT and/or CITY for all work in their respective jurisdictions, including the following:

- Advertisement and Award of the Contract;
- Work quality and acceptability;
- Manner of performance of the work;
- Construction staging;
- PROJECT Plans and specifications interpretation;
- Differing site conditions, utility conflicts, and similar field issues, and any changes required as a result; and
- Contract Change Orders

In addition, the following sections provide the coordination and communication steps between the PARTIES during pre-construction, construction, and post-construction activities.

I. PRE-CONSTRUCTION:

Pre-construction activities will include submittals and meetings as described below.

1. SUBMITTALS

ALAMEDA CTC will provide the following pre-construction submittals to the CITY and PORT: Details regarding the CITY and PORT's response times for reviewing and approving (if so required) these submittals (if so required), is further detailed in Table A-1.

- a. Contract Advertisement Package (Pre-Construction Item 1 in Table A-1). ALAMEDA CTC will only proceed with PROJECT advertisement with CITY and PORT concurrence.
- b. Response to Bidder Inquiries. ALAMEDA CTC will issue a response to the Bidder Inquiries after CITY and PORT review (Pre-Construction Item 2 in Table A-1).
- c. Construction Bids and any Addendum(s) to the construction contract which modifies Plans or applicable Specifications (Pre-Construction Item 3 and Item 4, respectively, in Table A-1). ALAMEDA CTC will issue the addendum with CITY and PORT concurrence.
- d. Contract Award Recommendation and Bid Analysis (Pre-Construction Item 5 in Table A-1). ALAMEDA CTC will proceed with contract award with CITY and PORT concurrence.
- e. Initial Quality Management Plan and Incident Notification Plan and Updates (Pre-Construction Item 6 and Item 7, respectively, in Table A-1).
- f. Contractor Injury Illness and Prevention Program (“IIPP”) and Code of Safe Practices and Contractor’s Initial Critical Path Method (“CPM”) Schedule (Pre-Construction Item 8 and 9, respectively, in Table A-1). These submittals, in addition to the Contractor’s Emergency Contact Information, will be provided by ALAMEDA CTC at least (5) business days in advance of the Pre-Construction Meeting (which is detailed further below).

2. MEETINGS

CITY and PORT shall attend the following pre-construction meetings.

- a. Pre-Bid Meeting. At least twenty (20) business days before the pre-bid meeting, the ALAMEDA CTC Project Manager will inform PORT and CITY of the pre-bid meeting's date, time, and venue.
- b. Agency Pre-Construction Meeting: at least twenty (20) business days before the start of construction work, ALAMEDA CTC will arrange a pre-construction conference with PORT and CITY.
 - i. The purpose of this meeting will be to establish a working relationship and understanding between the parties and to discuss project organization, job communications (including a review of this CCCP), the construction schedule, traffic control, materials, shop drawing submittals and processing, inspection, survey requirements, testing, safety, water discharge requirements, and any other subjects as may be pertinent for the proper execution of the work. At a minimum, the Resident Engineer, Project Manager, ALAMEDA CTC staff, the PORT Primary Coordinator, the PORT QA Personnel, the CITY Primary Coordinator, the CITY QA Personnel and any others, as determined by the Commission Engineer, shall attend. This is intended to be an internal meeting between the PARTIES.

- ii. The PARTIES will determine the dispute escalation ladder at the agency pre-construction meeting. PORT and CITY will provide the names and contact information for their staff at each level of the escalation ladder, typically starting at the field representative level and progressing up four levels of authority.
- c. Contractor Pre-Construction Meeting: At least ten (10) business days before the start of construction work, ALAMEDA CTC will schedule a pre-construction meeting between the PARTIES, the Prime Contractor, and any subcontractors.
 - i. The purpose of this meeting will be to review the key submittals, inspection points, and responsibilities of each party as detailed in the PROJECT plans and specifications, and to answer any questions from the Contractor.
 - ii. At a minimum, the Resident Engineer, and field inspector(s) from ALAMEDA CTC, and assigned QA Personnel from PORT and CITY shall be in attendance along with the project manager and superintendent from the prime contractors and subcontractors.

II. DURING CONSTRUCTION:

The following sections are discussed below:

1. Meetings
2. Safety
3. Site conditions and existing utilities
4. Submittals
5. Inspections
6. Dispute Resolution Process
7. Value Engineering
8. Materials

1. MEETINGS

- a. Project Partnering Meetings: ALAMEDA CTC will invite CITY and PORT to participate in the Project partnering meetings at least ten (10) business days before the scheduled meeting date. Partnering will provide for a facilitated dialogue for collaboration, dispute resolution between the Contractor and ALAMEDA CTC and will involve all key project stakeholders, including PORT and CITY. Facilitated partnering will establish dispute escalation ladders and timelines. The initial partnering meeting will be held soon after the Contract is awarded. After the initial partnering meeting, quarterly facilitated partnering meetings will be held.
- b. Weekly Progress Meetings. Once construction work commences (including administrative and fieldwork), PORT and CITY will attend weekly progress meetings with ALAMEDA CTC at the Project Field Office (or virtually, when possible) to discuss issue-specific topics at the meetings as deemed appropriate

by the PARTIES. The weekly meeting agenda and the Contractor's three-week look-ahead construction schedule will be distributed before each meeting, and agenda items will be discussed at these meetings.

- c. Other meetings, including, but not limited to, safety meetings, pre-operations meetings, commissioning meetings, etc., as determined by the PARTIES.

2. SAFETY

- a. PORT and CITY staff (consultants, agents, or representatives) must be provided safe access to the Jobsite for QA inspection purposes during construction, during working hours. PORT and CITY personnel will be required to review the project site-specific safety plans prior to entry onto the Jobsite. PORT and CITY personnel will be required to notify the ALAMEDA CTC Resident Engineer or designated staff prior to entry onto the Jobsite. CITY and PORT will not perform QA inspections in unsafe conditions and will notify ALAMEDA CTC's Resident Engineer about any safety concerns. ALAMEDA CTC and Contractor will address these safety concerns in a timely manner. PORT and CITY staff shall review and sign the Project Code of Safe Practices before entering the Jobsite.
- b. Notwithstanding any other provision of the specifications, Contractor is solely and completely responsible for the conditions at the Jobsite, including the safety of all persons and property, during performance of the work. This requirement applies continuously and is not limited to normal work hours. Health and safety provisions shall conform to applicable Federal, State, County, and local laws, regulations, ordinances, standards, and codes, including the Federal Occupational Safety and Health Act of 1970 (29 USC, Section 651, et seq.) and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations.

3. SITE CONDITIONS AND EXISTING UTILITIES

- a. CITY and PORT each acknowledge and agree that to the extent and degree of accuracy that the information was available, such agency has provided information to an excavator where the operator's active or inactive subsurface installations are located and that such agency's review of the Plans represents that agency's compliance as "operator" under Government Code section 4216.3(a)(1)(A)(ii) in lieu of physically marking the utilities' locations. Other known existing underground conduits, pipelines, and other utilities are shown on the Plans in their approximate locations with reasonable accuracy; however, the accuracy or completeness of utilities indicated on the contract drawings is not guaranteed. Service laterals are not typically shown on plans. ALAMEDA CTC will notify PORT and/or CITY in writing of physical conditions differing materially from:
 - i. Plans and other Contract documents
 - ii. Jobsite examination

- b. PORT and CITY will be included in the investigation of Jobsite conditions related to work in their respective jurisdictions; approve whether to resume work and jointly determine with ALAMEDA CTC whether the condition differs materially.
- c. If existing obstructions are encountered that will prevent construction, ALAMEDA CTC will notify PORT and/or CITY before continuing with the work so that PORT and/or CITY can investigate and approve field revisions necessary to avoid conflict with the existing structures, utilities, or appurtenances. ALAMEDA CTC will not need to obtain formal PORT and/or CITY approval prior to making field adjustments that do not require a change order or result in a material change to the final outcome or product of the work, nor does such a field adjustment result in a future maintenance and operational cost to the PORT and/or CITY.
- d. ALAMEDA CTC will notify PORT and/or CITY if the Contractor cannot locate underground utilities shown on the Plans or discovers underground utilities that are not shown on the Plans or marked as required by Government Code sections 4216 *et seq.* The PORT and CITY will not perform any utility markings for PROJECT, as all utility markings are to be performed by the Contractor in accordance with the project plans, which are representative of the known location of underground utilities. In cases where field-discovered utilities are in conflict with the work, the Contractor will protect the utilities from potential damage until each utility owner provides approvals/direction on how to eliminate the conflict.
- e. In the event that Contractor damages any underground PORT and/or CITY owned utilities not shown on the Plans or otherwise marked pursuant to Government Code 4216 *et seq.*, PORT and or/ CITY will be immediately notified through the QA Personnel or by email to the Primary Coordinator(s). Resolution of the conflicting unmarked utility will be addressed through the RFI process with PORT and/or CITY's and/or utility owner's input, as appropriate.
- f. Damaged marked or known PORT and/or CITY facilities will be repaired by the Contractor or utility owner as directed by the Resident Engineer. Repair work will be coordinated by the ALAMEDA CTC Resident Engineer with PORT and/or CITY and/or utility owner's Field Representatives.

4. SUBMITTALS

ALAMEDA CTC will provide the following construction submittals to the CITY and PORT. Details regarding the CITY and PORT's response times for reviewing and/or approving (if so required) these submittals is further detailed in Table A-1. Submittals (original and re-submitted) will be transmitted electronically through a contract management submittal system. Submittals will be tracked by ALAMEDA CTC and will be discussed at each weekly progress meeting.

- a. Construction CPM Schedule Updates – All Activities (Construction Item 1 in Table A-1). These CPM Schedules will be provided by ALAMEDA CTC to the PORT and CITY on a monthly basis.
- b. 3-Week Look Ahead Construction Schedule -All Activities (Construction Item 2 in Table A-1).

- c. Traffic-Related Requests and Inquiries – Traffic Handling, Ingress/Egress and Lane Closures. etc. (Construction Item 3 in Table A-1).
- d. Hazardous Material Submittals (Construction Item 4 in Table A-1).
- e. Shop Drawings Submittals (Construction Item 5 in Table A-1).
- f. Other Submittals (Construction Item 6 in Table A-1). CITY and PORT reserve the right to review and approve any submittals that relate to assets that either CITY and PORT owns, operates and maintains. The CITY and PORT will make best efforts to ensure such review and/or approval does not interfere with Contractor's work or schedule.
- g. Responses to Requests for Information ("RFI") (Construction Item 7 in Table A-1).
 - i. The RFI process is a way for the Contractor to request additional information or clarity on the plans and specifications. The Engineer of Record and/or PORT / CITY will provide input to the ALAMEDA CTC Resident Engineer on the response to RFI's related to work within their responsibility and/or jurisdiction.
 - ii. ALAMEDA CTC will provide all RFIs to PORT and/or CITY. ALAMEDA CTC Resident Engineer will notify PORT and/or CITY of any RFI that may impact planned construction of work in their jurisdiction. The RFIs will be transmitted electronically through a contract management submittal system.
 - iii. ALAMEDA CTC Resident Engineer will request concurrence from PORT and/or CITY on response to RFIs for the planned construction of work in their jurisdiction as deemed appropriate.
- h. Contract Change Orders ("CCO") (Construction Item 8 in Table A-1).
 - i. ALAMEDA CTC will notify PORT and/or CITY in writing of any CCO's relating to the planned construction of work in their jurisdiction.
 - ii. ALAMEDA CTC will request concurrence from PORT /CITY for all CCO work that modifies approved PROJECT plans or specifications in their jurisdiction. The PORT and/or CITY may authorize proceeding with the changed work prior to issuance of a change order if deemed in the best interest of the PROJECT. If agreement on the changed work cannot be reached, the dispute resolution process outlined in Section 6 shall be used.
- i. Commissioning Report (e.g., pump station, electrical, signals) (Construction Item 9 in Table A-1).
 - i. When certain elements of the work have reached the startup and implementation phase that require commissioning (e.g. pump station, Freight Intelligent Transportation System), the Contractor will request a

- joint commissioning meeting. The ALAMEDA CTC Resident Engineer will provide PORT / CITY at least ten (10) business days' notice of a scheduled commissioning meeting(s) as required for each subject project element. PORT and CITY will attend commissioning meeting(s) and observe / advise the ALAMEDA CTC Resident Engineer regarding contractual testing and commissioning procedures, etc., if any, during the subject commissioning process(es).
- ii. Any deficient work items or failed testing conditions will be completed or corrected by the Contractor. Subsequent commissioning meetings, testing, procedures, etc. may be necessary and will be mutually scheduled amongst the PARTIES.
 - iii. Upon the successful completion of commissioning of a particular subject project element, the ALAMEDA CTC Resident Engineer will transmit the subject Commissioning Report and the PORT / CITY will have five (5) business days to review and approve the report.
- j. Final Punch List (Construction Item 10 in Table A-1).
- i. When the work has reached the final completion stage, the Contractor will request a joint Pre-Acceptance Inspection and Safety Review of the completed PROJECT. The ALAMEDA CTC Resident Engineer, PORT, and CITY to jointly determine if any deficient work items are required to be completed prior to ALAMEDA CTC accepting the PROJECT.
 - ii. ALAMEDA CTC will give PORT / CITY at least ten (10) business days' notice of the joint Pre-Acceptance Inspection and Safety Review.
 - iii. Any deficient work items to be completed or corrected will be transmitted in writing in a Final Punch List by ALAMEDA CTC to PORT / CITY within five (5) business days of the joint pre-acceptance inspection and safety review for review and approval.
 - iv. Upon conclusion of the PROJECT and the Contractor's completion of the Final Punch List, ALAMEDA CTC will schedule the final acceptance inspection and safety review of the completed work with PORT / CITY with at least five (5) business days' notice.
- k. Certificate of Acceptance (Construction Item 11 in Table A-1).
- i. Within five (5) days of the final acceptance inspection and safety review, the PORT / CITY will provide the ALAMEDA CTC Resident Engineer with a list of incomplete items and the process in item 4. SUBMITTALS. j (ii) above will be repeated until completion of the items occurs. Once all the items on the Final Punch List have been completed, as well as other required deliverables, to the satisfaction of the PARTIES, the ALAMEDA CTC Resident Engineer will provide a signed and stamped Certificate of Acceptance to PORT / CITY to certify that the PROJECT has been completed and the work has been constructed in accordance with the approved Plans and

Specifications. The Certificate of Acceptance will also notify PORT / CITY of ALAMEDA CTC 's schedule to file the Notice of Completion (NOC) with the County of Alameda.

- ii. Within five (5) business days after receipt of ALAMEDA CTC'S Certificate of Acceptance, PORT/CITY will re-review the work. Upon completion of the review, PORT / CITY will either sign the Certificate of Acceptance or advise ALAMEDA CTC of work not complete or obligations not fulfilled as required for contract acceptance. If necessary, the review procedure will be repeated.
- iii. Upon the receipt of the fully signed Certificate of Acceptance, PORT/CITY will assume full maintenance and operation of the facility in accordance with the terms and conditions of the Cooperative Agreement dated _____, 2023 between the PARTIES.

5. INSPECTIONS

- a. ALAMEDA CTC shall provide all inspections and oversight as necessary to certify to CITY and PORT that the Contractor constructed the improvements in accordance with the contract Plans and Specifications.
- b. PORT and CITY will observe all aspects of the construction of the work in their jurisdiction as determined relevant and necessary by PORT / CITY for the purposes of acceptance of the facility upon completion of the work.
- c. PORT and CITY will be provided safe access to all locations where the work, material, or equipment subject to inspection is being performed, manufactured, and where any off-site work is being performed, including shops, sites, and assembly facilities of subcontractors and suppliers.
- d. PORT and CITY will assign a Primary Coordinator and QA Personnel whose duties and responsibilities shall include, but not be limited to, the following:
 - i. PORT Primary Coordinator will act as a liaison between ALAMEDA CTC and PORT.
 - ii. CITY Primary Coordinator will act as a liaison between ALAMEDA CTC and CITY.
 - iii. Participate/coordinate the review of Contractor's submittal, RFI, and schedule reviews, including traffic handling plans and construction staging, with the appropriate PORT / CITY stakeholders.
 - iv. Observe field work for the ultimate acceptance of the facility by PORT / CITY.
 - v. Attend project/construction meetings as required.
 - vi. Review the ALAMEDA CTC Resident Engineer's prepared inspection reports and punch lists. Concurrently, PORT / CITY will prepare independent punch lists to be incorporated into the ALAMEDA CTC Resident Engineer's prepared final punch lists after consulting with the appropriate PORT / CITY stakeholders.

- vii. The Resident Engineer will facilitate safety reviews and tailgate safety meetings. PORT / CITY will occasionally attend safety reviews and tailgate safety meetings when available or when specifically requested by the Resident Engineer to address a particular issue/concern.
- viii. Participate/coordinate contract change order (“CCO”) reviews and provide approval if the changes result in revisions of plans or specifications in their jurisdictions.

6. CONTRACTOR CLAIMS

PORT / CITY will continue to support to the ALAMEDA CTC Resident Engineer through the post-acceptance claims process, including arbitration.

7. DISPUTE RESOLUTION PROCESS

If a dispute arises between PORT / CITY and ALAMEDA CTC (which includes the Contractor) regarding any aspect of the PROJECT, such as the quality or performance of the work, the following process will be used to resolve the dispute.

Issues that arise in the field will be brought to each PARTY’S attention by the PARTY that identifies the issue. Field meetings between the ALAMEDA CTC field inspectors, PORT / CITY QA Personnel, and the Contractor should occur as soon as practical after the issue is identified. All resolutions or recommendations made in the field to address or correct issues shall be documented by the ALAMEDA CTC field inspectors and communicated to the ALAMEDA CTC’S Resident Engineer. After consultation with the Primary Coordinator(s), the Resident Engineer will render the final recommended decision(s) and properly document and provide necessary directions via email to the team, including the PORT / CITY Primary Coordinator. ALAMEDA CTC’S Resident Engineer will ultimately direct the Contractor to act on the resolution accordingly. In the event that the PORT Primary Coordinator or the CITY Primary Coordinator does not agree with the ALAMEDA CTC’S Resident Engineer’s final decision, ALAMEDA CTC acknowledges that the PORT / CITY may ultimately reject acceptance of any disputed work.

If the issue cannot be immediately resolved or if more information or research is required, the Contractor will be asked to submit an RFI to the ALAMEDA CTC Resident Engineer. Work on the disputed item may stop while the solution is developed.

If the issue remains disputed after the initial field meeting or RFI response, each agency will agree to elevate the issue up the dispute escalation ladder, as determined in the agency pre-construction meeting, to their respective and equivalent decision makers within 48 hours.

8. VALUE ENGINEERING

PORT / CITY will be notified of any value engineering change proposal (VECP) that affects work in their jurisdiction. PORT / CITY will be notified of and be present in

the meeting to discuss the preparation of the VECP. Any VECP approval will be treated in a similar fashion as a CCO and shall follow the approval process established for change orders.

9. MATERIALS

PORT / CITY will provide materials listed in Section 6-1.02 of the Standard Specification to ALAMEDA CTC in accordance with a schedule provided by ALAMEDA CTC Resident Engineer.

During progress of work, PORT / CITY may issue any additional material, if listed in the specifications and required as a result of changes in design, material, or location for the convenience of PORT / CITY.

III. POST-CONSTRUCTION:

1. SUBMITTALS

ALAMEDA CTC will provide written confirmation that the following post-construction submittals to the CITY and PORT have been completed. Details regarding the CITY and PORT's response times for reviewing and approving (if so required) these submittals is further detailed in Table A-1.

- a. As Built Drawings (Post-Construction Item 1 in Table A-1). ALAMEDA CTC will provide the final as-built drawings (signed and stamped) to PORT / CITY upon completion of construction and prior to contract acceptance. The format shall be in standard "D" sheet and also AutoCAD, latest version and PDF.
- b. Project Reports and Survey Monument Information (Post Construction Item 2 in Table A-1). ALAMEDA CTC will provide the Project Reports and Survey monumentation information to PORT / CITY upon completion of construction and prior to contract acceptance. Preservation of Monuments: ALAMEDA CTC will submit evidence, if required, that all provisions associated with California Professional Land Surveyors' Act, including the fulfillment of performing all filings necessary with the County Recorder, have been performed.
- c. Manufacturer Warranties and Operation Manuals (Post Construction Item 3 in Table A-1).

2. RETURN OF MATERIALS

Confirmed Material Return Orders and a transmittal cover letter will be mailed directly to CITY and PORT by ALAMEDA CTC. CITY will determine and be reimbursed for the quantities and value of the materials not installed or returned. The return of materials shall be delivered by the Contractor to the City maintenance yard and does not qualify as change order work.

3. GUARANTEE

PORT / CITY shall notify ALAMEDA CTC within one year of the Certificate of Contract Acceptance date if any aspect of the work is deemed to have substantial defects as defined in Section 5-1.47 of the Caltrans Standard Specifications. Upon said notification, ALAMEDA CTC shall immediately notify the Contractor of defects and require the repair of substantial defects.

Table A1 – Agency Review/Approval and Response Time Requirements													
Project Activity		Responsible Party*			Review Only (no approval required)			Review/Approve			Response Time (Working Days ¹)		
		Alameda CTC	Port	City	Alameda CTC	Port	City	Alameda CTC	Port	City	Alameda CTC	Port	City
Pre-Construction													
1	Contract Advertisement Package	X				X	X	X				7	7
2	Response to Bidder Inquiries	X				X	X	X				2	2
3	Addendum(s) – construction contract Addenda to Construction Contract and Advertisement Package	X						X	X	X		5	5
4	Construction Bids	X				X	X	X				2	2
5	Contract Award Recommendation and Bid Analysis	X						X	X	X		1	1
6	Initial Quality Management Plan	X						X	X	X		10	10
7	Incident Notification Plan and Updates	X							X	X		5	5
8	Contractor IIPP and Code of Safe Practices	X			X	X	X					5	5
9	Initial Construction CPM Schedule	X				X	X	X				5	5
Construction													
1	Construction CPM Schedule Updates – (all activities)	X				X	X	X				5	5
2	3-Week Look Ahead Construction Schedule (all Activities)	X				X	X	X				1	1
3	Traffic-Related Requests and Inquiries – Traffic Handling, Ingress/Egress and Lane Closures, etc.	X						X	X	X		5	5
4	Hazardous Material Submittals							X	X	X		5	5
5	Shop Drawing Submittals	X						X	X	X		14	14
6	Other Submittals	X					X		X			5	5

Table A1 – Agency Review/Approval and Response Time Requirements													
Project Activity		Responsible Party*			Review Only (no approval required)			Review/Approve			Response Time (Working Days ¹)		
		Alameda CTC	Port	City	Alameda CTC	Port	City	Alameda CTC	Port	City	Alameda CTC	Port	City
7	Response to Requests for Information (RFI)	X				X	X					3	3
8	Contract Change Orders (CCO)	X							X	X		10	10
9	Commissioning Report	X						X	X	X		14	14
10	Final Punch List	X						x	X	X		5	5
11	Certificate of Acceptance	X							X	X		5	5
Post Construction													
1	As-Built Drawings	X							X	X		15	15
2	Project Reports and Survey Monument Information					X	X					5	5
3	Manufacturer Warranties and Operation Manuals (e.g., pump station, CMS, etc.)	X				X	X					5	14

1: Monday through Friday, except agency holidays.

AMENDMENT NO. 3
to the
COOPERATIVE AGREEMENT
between
ALAMEDA COUNTY TRANSPORTATION COMMISSION
and the
CITY OF OAKLAND
for the
7TH STREET GRADE SEPARATION AND PORT ARTERIAL IMPROVEMENTS PROJECT

This AMENDMENT NO. 3 is entered into on _____, 2023, by and between the ALAMEDA COUNTY TRANSPORTATION COMMISSION, a joint powers agency (“ALAMEDA CTC”), and the CITY OF OAKLAND, a public agency (“CITY”). ALAMEDA CTC and CITY are sometimes referred hereinafter to as the “PARTIES.”

RECITALS

- A.** ALAMEDA CTC and the CITY entered into that certain agreement dated June 24, 2019, as amended by AMENDMENT NO. 1 dated June 30, 2020 (as so amended, the “AGREEMENT”) whereby CITY agreed to provide management and supporting services towards the delivery of the 7th Street Grade Separation and Port Arterial Improvements Project (“PROJECT”).
- B.** ALAMEDA CTC and the CITY entered into that certain agreement dated _____ (as so amended, the “AGREEMENT”) to extend the term thereof to allow for additional time for CITY’s performance of these services for the Project (AMENDMENT NO. 2).
- C.** ALAMEDA CTC and the CITY now wish to further amend the AGREEMENT to authorize ALAMEDA CTC to reimburse the CITY for an encroachment permit fee which is required for the construction of the PROJECT (excluding time and materials’ costs for the actual construction) and to extend the term thereof to allow for additional time for CITY’s performance of these services for the PROJECT.
- D.** Authorization for the prior amendments and this AMENDMENT NO. 3 was given by the governing body of the ALAMEDA CTC at its meeting on February 3, 2020.

AMENDMENT

- 1.** Notwithstanding anything to the contrary contained in the AGREEMENT, the expiration date set forth in the AGREEMENT is hereby extended by from June 1, 2023 to December 31, 2026.
- 2.** Section 3.2 of the Agreement is hereby amended to read as follows: “To make available \$ _____ of Project funds for reimbursement of work by CITY, including reimbursement for an encroachment permit fee which is intended to support the Project implementation plan identified in

EXHIBIT C
TASKS AND FUNDING SUMMARY

Task No.	Subprojects	Staff Costs	Contracts Costs²	Permit Cost
1 ¹	FITS	\$90,000	\$80,000	--
2 ¹	7SGSE	\$102,500	\$325,000	--
3 ¹	7SGSW	\$147,500	\$255,000	--
4	7SGSE Construction	--	--	\$3,132,788
Subtotal:		\$340,000	\$660,000	\$3,132,788
Not-to-exceed Amount:		\$4,132,788		
<p>Notes:</p> <ol style="list-style-type: none"> 1. Estimated efforts through construction award only. 2. Copies of agreements authorizing contracts work to be provided within 30 days of execution. 3. Amounts by Subproject and staff/contracts are intended as estimates of the level of work necessary shall notify ALAMEDA CTC in writing of any changes and obtain approval in advance of incurring the expense (see Exhibit D, ALAMEDA CTC TASK SHIFT APPROVAL FORM) for Tasks 1, 2 and 3. Failure to do so may delay reimbursements and/or result in denial of reimbursement. 				

EXHIBIT D

ALAMEDA CTC FORMS

ALAMEDA CTC TASK SHIFT APPROVAL FORM

Task No.	Subprojects	Current Approved Staff Costs	Current Approved Contracts Costs	Current Approved Permit Cost	REVISED Staff Costs	REVISED Contracts Costs	REVISED Approved Permit Cost
1	FITS	\$90,000	\$80,000		\$ _____	\$ _____	
2	7SGSE	\$102,500	\$325,000		\$ _____	\$ _____	
3	7SGSW	\$147,500	\$255,000		\$ _____	\$ _____	
4	7SGSE Construction	--	--	\$3,132,788	--	--	\$3,132,788
Subtotal:		\$340,000	\$660,000		\$ _____	\$ _____	\$3,132,788
Not-to-exceed Amount:		\$4,132,788			\$4,132,788		

CITY OF OAKLAND:

Requested By: _____

Signature: _____

Date: _____

Title: _____

ALAMEDA CTC:

Approved By: _____

Signature: _____

Date: _____

Title: _____