

**ORIGINAL**

11-SD-15-R10.0  
EA: 43028  
Project Number: 1118000087  
Agreement 11 - 0718

## COOPERATIVE AGREEMENT

### Local Contribution Only

This AGREEMENT, effective on NOV 13 2017, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

City of San Diego, a body politic and municipal corporation or chartered city of the State of California, referred to hereinafter as CITY.

#### RECITALS

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System (SHS) per the California Streets and Highways Code sections 114 and 130.
2. The term AGREEMENT, as used herein, includes this document and any associated attachments, exhibits, and amendments.
3. For the purpose of this AGREEMENT, emergency work to repair culvert failure and rebuild embankment at the west side of Interstate 15 (I-15) at Clairemont Mesa Boulevard, will be referred to hereinafter as PROJECT. This description only serves to identify the PROJECT. The project scope of work is defined in the appropriate authorizing documents per the Project Development Procedures Manual.
4. CITY will contribute an amount of \$3,350,000 to the PROJECT. Contributed funds will be used for the PROJECT.
5. PARTIES agree that funds will be contributed to the following PROJECT COMPONENTS:
  - CONSTRUCTION SUPPORT
  - CONSTRUCTION CAPITAL

DOCUMENT NO. **RR-311417**  
FILED NOV 13 2017  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

6. PARTIES hereby set forth the terms, covenants, and conditions for CITY's contribution toward the PROJECT.

### **ROLES AND RESPONSIBILITIES**

7. CALTRANS is the SPONSOR and IMPLEMENTING AGENCY for the PROJECT.
8. CITY is a FUNDING PARTY contributing a fixed amount toward the PROJECT as shown in the FUNDING TABLE.
9. CALTRANS is responsible for completing all work for the PROJECT.

### **GENERAL CONDITIONS**

10. All obligations of CALTRANS under the terms of this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
11. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and Federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.
12. 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 CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
13. This AGREEMENT is intended to be PARTIES' final expression and supersedes any oral understanding or writings pertaining to PROJECT.

**INVOICE AND PAYMENT**

14. CITY will contribute the funds listed below:

<b>FUNDING TABLE</b>			
<b>Fund Source</b>	<b>Fund Type</b>	<b>Project Component</b>	<b>Amount</b>
LOCAL	City	Construction Support	\$1,005,000
LOCAL	City	Construction Capital	\$2,345,000
<b>Total Funds</b>			<b>\$3,350,000</b>

- 15. CALTRANS will invoice CITY for a lump sum \$3,350,000 (single payment), as a fixed cost, after execution of this AGREEMENT.
- 16. CITY will pay the invoiced amount within thirty (30) calendar days of receipt of the invoice unless CITY is paying with Electronic Funds Transfer (EFT). When paying with EFT, CITY will pay the invoiced amount within five (5) calendar days of receipt of the invoice.
- 17. If CITY has received EFT certification from CALTRANS then CITY will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
- 18. This AGREEMENT will terminate upon CALTRANS' receipt of the PROJECT funds. However, all indemnification articles will remain in effect until terminated or modified in writing by mutual agreement.

## DEFINITIONS

**FUNDING PARTY** – A PARTY who commits a defined dollar amount to the PROJECT.

**IMPLEMENTING AGENCY** – The party responsible for managing the scope, cost, and schedule of a project component to ensure the completion of that component.

**PARTY** – The term that references a signatory agency to this AGREEMENT.

**PARTIES** – The term that collectively references all of the signatory agencies to this AGREEMENT. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one party's individual actions legally bind the other PARTIES.

**SPONSOR** – The PARTY that accepts the obligation to secure financial resources to fully fund PROJECT. This includes any additional funds beyond those committed in this AGREEMENT necessary to complete the full scope of PROJECT.

**PROJECT COMPONENT** – A distinct portion of the planning and project development process of a capital project as outlined in California Government Code, section 14529(b).

- **PID (Project Initiation Document)** – The activities required to deliver the project initiation document for PROJECT.
- **PA&ED (Project Approval and Environmental Document)** – The activities required to deliver the project approval and environmental documentation for PROJECT.
- **PS&E (Plans, Specifications, and Estimate)** – The activities required to deliver the plans, specifications, and estimate for PROJECT.
- **R/W (Right of Way) SUPPORT** – The activities required to obtain all property interests for PROJECT.
- **R/W (Right of Way) CAPITAL** – The funds for acquisition of property rights for PROJECT.
- **CONSTRUCTION SUPPORT** – The activities required for the administration, acceptance, and final documentation of the construction contract for PROJECT.
- **CONSTRUCTION CAPITAL** – The funds for the construction contract.

## CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

The primary AGREEMENT contact person for CALTRANS is:

Everett Townsend  
District Division Chief  
4050 Taylor Street, MS-220  
San Diego, CA 92110-2737

Office Phone: (619) 688-3305  
Email: [Everett.Townsend@dot.ca.gov](mailto:Everett.Townsend@dot.ca.gov)

The primary AGREEMENT contact person for CITY is:

Drew Kleis, Deputy Director  
9370 Chesapeake Drive, Suite 100, MS-1900  
San Diego, CA 92123

Office Phone: (858) 541-4320  
Fax Number: (858) 541-4350  
Email: [dkleis@sandiego.gov](mailto:dkleis@sandiego.gov)

**SIGNATURES**

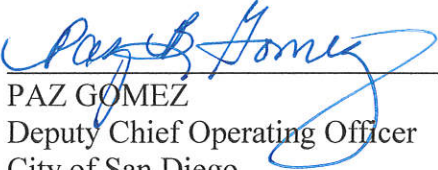
PARTIES declare that:

1. Each PARTY is an authorized legal entity under California state law.
2. Each PARTY has the authority to enter into this AGREEMENT.
3. The people signing this AGREEMENT have the authority to do so on behalf of their public agencies.

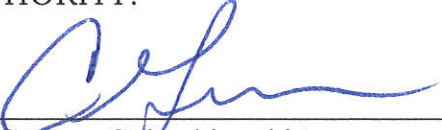
STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

By:   
 \_\_\_\_\_  
 CORY BINNS  
 Acting District Director

CITY OF SAN DIEGO  
TRANSPORTATION AND STORM  
WATER DEPARTMENT

By:   
 \_\_\_\_\_  
 PAZ GOMEZ  
 Deputy Chief Operating Officer  
 City of San Diego


VERIFICATION OF FUNDS AND  
AUTHORITY:


By:   
 \_\_\_\_\_  
 Carmen Golembiewski  
 Budget Manager

APPROVED AS TO FORM:

Mara W. Elliott  
City Attorney

CERTIFIED AS TO FINANCIAL TERMS  
AND POLICIES:

*For Gina Schumacher*  
 By:   
 \_\_\_\_\_  
 Gina Schumacher  
 HQ Accounting Supervisor

By:   
 \_\_\_\_\_  
 Heidi Vonblum  
 Deputy City Attorney *11/16/17*

**R. 311417**

RESOLUTION NUMBER R- 311417

DATE OF FINAL PASSAGE NOV 20 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING A COOPERATIVE AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE REPAIR OF A STORM DRAIN AT THE INTERSECTION OF CLAIREMONT MESA BOULEVARD AND INTERSTATE FREEWAY 15.

WHEREAS, in July 2017, a California Department of Transportation (Caltrans) field investigation revealed that a portion of an 11-foot diameter storm drain located within the City right-of-way had collapsed west of Interstate Freeway 15 southbound off-ramp just north of Clairemont Mesa Boulevard, and which collapse caused an area of slope to fail that supports the northern side of Clairemont Mesa Boulevard; and

WHEREAS, Caltrans and the City desire for Caltrans to administer, design, and construct the necessary repairs to the storm drain pipe and slope (Project) and for City to provide Caltrans with its share of the cost of the Project; NOW, THEREFORE,

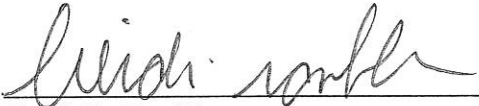
BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is authorized and directed to execute Cooperative Agreement No. 11-0718 with Caltrans, under the terms and conditions set forth in the agreement on file in the office of the City Clerk as Document No. RR- 311417, for the Project in an amount of \$3,350,000 (Agreement), contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to transfer appropriations of \$652,987 from ABT00001 – City Facility Improvements, Fund 100012, Infrastructure Fund; \$843,298 from ABT00001 – City Facility Improvements, Fund 400002,

Capital Outlay-Misc; \$520,000 from ABT00001 – City Facility Improvements, Fund 400680, Lease Revenue Bond 2015B-CP; and \$1,333,715 from AIH00002 – Street Light Circuit Upgrades, Fund 400265, CIP Contributions from the General Fund to ACA00001 – Drainage Projects.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend an amount not to exceed \$3,350,000 from ACA00001 – Drainage Projects, \$652,987 from fund 100012 Infrastructure fund, \$843,298 from Fund 40002, Capital Outlay – Misc., \$520,000 from Fund 400680 Lease Revenue Bonds 2015B-CP, and \$1,333,715 from Fund 400265, CIP Contributions from the General Fund for the purpose of executing the Agreement, contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Heidi K. Vonblum  
Deputy City Attorney

HKV:nja  
11/02/17  
Or. Dept: Transportation and Storm Water  
CC No.: 3000010477  
Doc. No.: 1618627




I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 13 2017.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 11/20/17  
(date)

  
KEVIN L. FAULCONER, Mayor

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

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on NOV 13 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 20 2017.


(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 311417

Passed by the Council of The City of San Diego November 13, 2017, by the following vote:

YEAS: BRY, ZAPF, WARD, COLE, KERSEY, CATE, SHERMAN,  
GÓMEZ, ALVAREZ.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: Matthew R. Hilario, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
RESOLUTION NO. R-311417, approved on November 13, 2017. The date of final  
passage is November 20, 2017.

**ELIZABETH S. MALAND**

City Clerk of the City of San Diego, California

(Seal)

By:  \_\_\_\_\_, Deputy

The City of San Diego  
**COMPTROLLER'S CERTIFICATE**

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING CC 3000010961  
 DEPT. NO.: 2116

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_

Purpose: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
TOTAL AMOUNT									

FUND OVERRIDE

**CERTIFICATION OF UNENCUMBERED BALANCE**


I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$3,350,000.00

Vendor: CalTrans

Purpose: To authorize the expenditure of funds not to exceed \$3,350,000.00 to CalTrans for emergency work to repair culvert failure and rebuild embankment at the west side of Interstate 15 at Clairemont Mesa Boulevard.

Date: March 26, 2018

By: Brianna Uy  
  
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
1	B18101	100012	NOT_RELEVANT_GRANT	512176	OTHR-00000000-SH	2116	2116121116	B-18101.06.01.02	\$652,987.00
2	B18101	400002	NOT_RELEVANT_GRANT	512176	OTHR-00000000-SH	2116	2116121116	B-18101.06.01.02	\$843,298.00
3	B18101	400860	NOT_RELEVANT_GRANT	512176	OTHR-00000000-SH	2116	2116121116	B-18101.06.01.02	\$1,322,045.78
4	B18101	400265	NOT_RELEVANT_GRANT	512176	OTHR-00000000-SH	2116	2116121116	B-18101.06.01.02	\$439,823.26
5	B18101	400859	NOT_RELEVANT_GRANT	512176	OTHR-00000000-SH	2116	2116121116	B-18101.06.01.02	\$91,845.96
TOTAL AMOUNT									\$3,350,000.00

FUND OVERRIDE