

**Right of Way Transfer Agreement**

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This agreement "Agreement" is made and entered into by and between the State of California, acting by and through the California High-Speed Rail Authority "Authority", and the County of Fresno, a Political Subdivision of the State of California, whose principal mailing address is 2220 Tulare St, 6th Floor, Fresno, CA 93721, hereinafter referred to as "the County." The County and the Authority are hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Authority is currently engaged in a program that has various projects under current provisions of Streets and Highway Code section 2704.04 and Public Utilities Code section 185000 et seq. throughout the State of California identified as the California High-Speed Rail Project "Project";

WHEREAS, the Authority requires county roads for state high-speed rail system purposes, and for public use in accordance with Public Utilities Code section 185000 et seq., and is authorized to acquire the property pursuant to Public Utilities Code section 185036;

WHEREAS, the Project will require the Relocation, construction, and/or removal of certain county roads located within the County "County Roads";

WHEREAS, the Authority is authorized to transfer property pursuant to Public Utilities Code section 185040 et seq.;

WHEREAS, the Authority is responsible for the relocation of County Roads that are in conflict with the design or construction of the Project, including the execution and funding of any required Relocation; and

WHEREAS, the Parties desire to enter into an agreement which establishes the contractual terms and conditions applicable to the transfer of property among the Parties due to the second construction section of the Project "CP2-3" from East American Avenue in the County of Fresno to one mile north of the County of Tulare and the County of Kings border.

ACCORDINGLY, the Parties hereby agree as follows:

1. Capitalized terms used but not identified in this Agreement shall have the definitions set forth in the Cooperative Agreement (HSR13-54) entered into by and between the County and the Authority "Cooperative Agreement." All Facility Work shall be performed in accordance with the requirements of the Cooperative Agreement, and in the event of any inconsistency between the provisions of this Agreement and the Cooperative Agreement, the provisions of the Cooperative Agreement shall prevail.

2. By this Agreement, the Parties agree and consent to the following transfers of right-of-way, as delineated in Exhibit A attached hereto and incorporated by such reference, at no cost to any Party for the value of the property.

a. Exhibit A (Existing Fee), identified in red. Existing property right held by the County "Right-of-Way of County" owned in fee to be conveyed to the Authority that has been determined is necessary for the Authority to construct the Project.

- b. Exhibit A (Existing Fee-County Reserves Road Rights), identified in white with red border. Existing Right-of-Way of County owned in fee to be conveyed to the Authority that has been determined is necessary for the Authority to construct the Project as to which County reserves an easement for road rights.
- c. Exhibit A (Replacement Fee Right-of-Way), identified in green. Replacement right-of-way to be acquired by the Authority and conveyed to the County in fee for relocated County roads, alleys, or other related facilities.
- d. Exhibit A (Replacement Right-of-Way for Road Rights Only), identified in white with green border. Replacement right-of-way to be acquired by the Authority and conveyed to the County in easement for road rights only for relocated County roads, alleys, or other related facilities.
- e. Exhibit A (Superseded Existing Right-of-Way to Mitigate), identified in purple. Superseded existing Right-of-Way of County to be conveyed to the Authority that would be required by Authority to mitigate damages to adjacent properties impacted by the Project.
- f. Exhibit A (Superseded Existing Right-of-Way to Vacate), identified in yellow. Superseded existing Right-of-Way of County that would not be needed for the Project and will be vacated or disposed of by the County.
- g. Exhibit A (Existing County Owned Easement), identified in orange. Existing Right-of-Way of County owned in easement required by the Project that will be subjected to the process in Streets and Highway Code section 8320 for abandonment/vacation by the County upon request of the Authority only after Authority's acquisition of the underlying fee.

Exhibit A may be changed without an amendment to this Agreement, as delegated by the County's Board of Supervisors and as authorized in conformance with Authority site selections for this Agreement. Nevertheless, any changes, which shall be at no cost to either Party, shall be agreed upon in writing by authorized representatives of the Parties. By its approval of this Agreement, the County's Board of Supervisors authorizes the Director of County's Department of Public Works and Planning, or his/her designee, to execute such written changes to Exhibit A only, on behalf of County for the purpose of reconciling Exhibit A.

3. It is understood among the Parties that the right-of-way may be required in sections or units, and that both as to the acquisition of right-of-way and the construction of the Project, the obligations of the Authority hereunder shall be carried out at such time and for such unit or units of the Project as funds are budgeted and made lawfully available for such expenditures.

4. The County by execution of this Agreement hereby grants the Authority immediate right of possession "RP" and use of the existing Right-of-Way of County shown on Exhibit A for the purpose of constructing the Project. Said RP does not relieve Authority of its obligations to provide suitable replacement right-of-way and Facilities. Any closure, removal, or restriction of County Roads by the Authority will be performed in accordance with the Cooperative Agreement.

5. Authority agrees to acquire all necessary rights-of-way as may be required for the construction, reconstruction, or alteration of County Roads. See Exhibit A (Replacement Fee Right-of-Way and Replacement Right-of-Way for Road Rights Only).

6. The existing Right-of-Way of County required for construction of the Project and shown on Exhibit A (Existing Fee and Existing County Owned Easement) will, if owned in fee, be conveyed from the County to the Authority in recordable form acceptable to the Authority, or if owned in easement will be subjected to the process in Streets and Highway Code section 8320 for abandonment/vacation upon the Authority's request and upon the Authority's acquisition of the underlying fee.

7. The replacement County Road right-of-way acquired by the Authority and shown on Exhibit A (Replacement Fee Right-of-Way and Replacement Right-of-Way for Road Rights Only) shall be conveyed to the County in recordable form acceptable to the County and subject to no liens or encumbrances that would prevent the use of the property for public facilities purposes or other relevant purposes.

8. The superseded existing Right-of-Way of County that is not required for construction of the Project but is required by the Authority to mitigate damages to adjacent properties being affected by the Project and shown on Exhibit A (Superseded Existing Right-of-Way to Mitigate) shall, if owned in fee, be conveyed from the County to the Authority or the designated affected property owner, subject to all existing encumbrances; if, however, the Right-of-Way of County is owned in easement, the County will be subjected to the process in Streets and Highways Code section 8320 for abandonment/vacation of their interests as requested by the Authority.

9. The County will accept ownership and maintenance of County Roads as agreed to in the separate Ownership and Maintenance Agreement between the Parties. The County will accept title to the portions of such County Roads or other County-owned facilities lying outside the Authority's right-of-way limits, upon transfer by the Authority.

10. In accordance with the County's policy, the County may sell or dispose of all remaining superseded existing Right-of-Way of County shown in Exhibit A (Superseded Existing Right-of-Way to Vacate) not required for Project and the net proceeds will remain with the County.

11. The County shall be solely responsible to timely perform any required road abandonment or vacation proceedings necessary for the County to comply with the terms of this Agreement. The Authority shall reimburse the County for actual costs incurred for the abandonment or vacation.

12. The terms and conditions of this Agreement may not be modified except with the mutual written consent of the Parties. Nevertheless, Exhibit A may also be modified in accordance with Section 2 of this Agreement.

13. Conveyance as specified in Sections 6 and 7 above shall be completed upon the County's written acceptance of the notice of Substantial Completion of construction on the affected County Road. "Substantial Completion" means the stage of completion where the County Road is fit for use for its intended purpose. The County shall be invited to participate in the final walk through. Any significant deviation noted pertaining to roadway shall be corrected as a condition of final acceptance by the County.

and any such correction will be completed before close out of the Project.

14. Conveyance of superseded Right-of-Way of County as described in Section 8 above will be completed during construction of the Project and at the request of the Authority.

15. Disposal of any remaining superseded existing Right-of-Way of County described in Section 10 above is solely at the discretion of the County.

16. The County shall perform any required road abandonment proceedings in Section 11 above in a timely manner to ensure that the County can perform as specified in Sections 13 and 14 above.

17. The Parties have herein set forth the whole of their agreement with respect to the subject matter hereof. The performance of this Agreement constitutes the entire consideration for the transfer of County Roads and shall relieve the Authority of all further obligation or claims based thereon, or based upon the location, grade, or construction of the proposed public improvement.

18. Once the Authority has been granted possession and use of the property pursuant to Section 4, the Authority is entitled to undertake, at the Authority's sole expense, an inspection of County Roads; a review of the physical condition of County Roads, including but not limited to, inspection and examination of soils, environmental factors, hazardous substances, biological resources, archaeological information and water resources, if any, relating to County Roads; and a review and investigation of the effect of zoning, maps, permits, reports, engineering data, regulations, ordinances, and laws affecting County Roads, if any. The Authority shall provide the County copies of all inspection and/or examination reports obtained by the Authority pursuant to this paragraph. Such reports shall be provided immediately upon Authority's receipt of the same.

19. Notwithstanding other provisions in this Agreement, the Authority's RP and use of the property including the right to remove and dispose of improvements in accordance with the terms of Section 4, shall commence upon full execution of this Agreement by the Parties.

(Signature Pages Follow)



AGREEMENT – SIGNATURE SHEETS

IN WITNESS WHEREOF, the Parties have executed this Agreement effective the day and year last written below.

COUNTY OF FRESNO

By: _____

Nathan Magsig, Chairman of the
Board of Supervisors of the
County of Fresno

Date: _____

January 8, 2019

ATTEST:

By: _____

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

Date: _____

January 8, 2019

(Continues)



STATE OF CALIFORNIA

California High-Speed Rail Authority

By: 
Donald A. Odell, Director of Real Property

Date: 1/14/19

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED