

DUPLICATE

K136028

REIMBURSEMENT AGREEMENT
FOR TORREY MEADOWS DRIVE (FORMERLY STREET 'B') OVERCROSSING
DESIGN WORK
IN THE TORREY HIGHLANDS COMMUNITY

THIS AGREEMENT [Agreement] is made and entered into between THE CITY OF SAN DIEGO, a municipal corporation [City] and KILROY REALTY CORPORATION, a California Corporation [Developer], [collectively the Parties], for reimbursement of design and permitting costs for Project No. T-9, Torrey Meadows Drive (formerly Street "B") Overcrossing, in the Torrey Highlands area in accordance with the Torrey Highlands Public Facilities Financing Plan.

RECITALS

1. Developer owns real property located on Torrey Santa Fe Road, southwest of State Route 56 and west of Camino del Sur, within the Torrey Highlands Subarea IV Plan area in the City of San Diego, California.
2. On October 16, 2008, City approved Neighborhood Use Permit No. 601521 for Santa Fe Summit II and III/Project No. 131969 recorded on February 25, 2009 as Document No. 2009-0093095 in the Office of the San Diego County Recorder [Approval]. The Approval authorizes development of four commercial office buildings, each approximately 120,000 to 150,000 gross square feet, not to exceed a total of 600,000 gross square feet, and three parking structures totaling approximately 280,175 square feet [SFS II and III Project]. A copy of the Approval is attached as **Exhibit A**.
3. The City Council has adopted a Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessment, and in particular, on (date TBD), by Resolution No. R (to be provided) adopted the Financing Plan for Fiscal Year 2013 [Financing Plan]. The Financing Plan includes Project No. T-9, Torrey Meadows Drive (formerly Street "B") Overcrossing. Project No. T-9 includes the provision of a waterline within the Torrey Meadows Drive Overcrossing in the scope of Project No. T-9. The project sheet for Project No. T-9 in the Financing Plan is attached as **Exhibit B-1**. This Agreement is contingent on the 2012 Resolution Ordering the Designation of the Area of Benefit in Torrey Highlands and the Boundaries thereof and Establishing the Amount of the Facilities Benefit Assessment against each Parcel within the Area of Benefit, and contingent on that designation and establishment of amount not resulting in any changes to the Financing Plan. This Agreement relates solely to the scope of work set forth in **Exhibit C** [the Project]. Under the Financing Plan, a total of \$7,148,447 minus the City's Administrative Costs and minus the City's equipment expenditures, constitutes the total and maximum City funds potentially available for reimbursement for Project No. T-9 from the Torrey Highlands FBA. The Estimated Cost for the Project is \$1,242,500 as shown in **Exhibit E**. Developer is not automatically entitled to reimbursement of the Estimated Cost. Developer must satisfy all terms of this Agreement to become eligible for reimbursement for any portion of the Estimated Cost.
4. Torrey Highlands is being developed in conjunction with an adopted Transportation Phasing Plan, which is an Appendix to the Financing Plan. The Transportation Phasing Plan limits issuance of building permits in Torrey Highlands until the listed transportation improvements have been constructed and/or assured to the satisfaction of the City Engineer. The

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limitations of the Transportation Phasing Plan are established in the form of threshold conditions which must be met before development in Torrey Highlands is allowed to continue.

5. The Phase Three transportation improvements identified in the Transportation Phasing Plan have been assured. Pursuant to the Transportation Phasing Plan, assurance of the Phase Three improvements allows for the immediate construction of 300,000 square feet of the 600,000 square feet of commercial office space permitted by the Approval. Pursuant to the Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2010 approved by the City Council by Resolution No. R-304935, the remaining 300,000 square feet of commercial office space permitted by the Approval could not proceed because Phase Four transportation improvements had not yet been assured

6. City desires progress on Project No. T-9 and Developer desires to proceed with the remaining 300,000 square feet of commercial office space permitted by the Approval as soon as possible. This Agreement will allow Developer to proceed with the remaining 300,000 square feet of commercial office space permitted by the Approval in exchange for Developer's agreement to complete the Project to the satisfaction of the California Department of Transportation [Caltrans] and City. As such, this Agreement is contingent upon adoption of the Financing Plan with the addition of footnote (7) to the Transportation Phasing Plan as follows: "For development associated with neighborhood use permit no. 601521 for the Santa Fe Summit II and III project (project no. 131969), Phase Four improvements are not required to be assured in order to apply for building permits; however, no certificate(s) of occupancy may be issued for the last 300,000 square feet of commercial space under Neighborhood Use Permit No. 601521 until project no. T-9 is assured to the satisfaction of the City Engineer." The Transportation Phasing Plan is included as **Exhibit B-2**.

7. Project No. T-9 will cross over State Route 56. As such, Project No. T-9 requires approval from Caltrans. The City anticipates that it will enter into cooperative agreements with Caltrans for review and approval of a Project Initiation Document, Project Approval and Environmental Document, Plans Specifications and Estimates, and Construction for Project No. T-9 [Cooperative Agreements]. A cooperative agreement for the Project Initiation Document, on file in the Office of the City Clerk as Document No. RR- 308126-2 is being considered along with this Agreement [First Cooperative Agreement]. City and Developer anticipate that City will enter into other cooperative agreements with respect to Project No. T-9 in the future. This Agreement is contingent upon City entering into the First Cooperative Agreement with Caltrans.

NOW, THEREFORE, in consideration of the recitals and mutual obligations of the Parties, and for other good and valuable consideration, City and Developer agree as follows:

ARTICLE I. SUBJECT AND TERM OF THE AGREEMENT

1.1 Term of Agreement. Following the final adoption of the City Council Resolution authorizing this Agreement and the subsequent execution of the same by the Parties, this Agreement shall be effective upon the date it is executed by City Attorney in accordance with San Diego Charter section 40 [Effective Date]. Unless otherwise terminated, the Agreement shall be effective until the earlier of (i) the date the final reimbursement payment is made, or (ii) five (5) years from the Effective Date, unless otherwise approved by City resolution or ordinance.

- 1.2 **Scope of Project.** The scope of work for the Project is described in **Exhibit C**. In the event that the Cooperative Agreements contain a scope of work for the Project that is different than the scope of work shown in **Exhibit C**, in regards to work to the point of Ready to List, this Agreement shall not be effective unless and until the Parties enter into an amendment to this Agreement that is consistent with the scope of work set forth in the Cooperative Agreements. If an amendment to the scope of work is required, and the amendment does not result in an increase in the Estimated Cost, the amendment may be authorized by the Mayor, or his designee; otherwise, if the amendment would result in an increase in the Estimated Cost, the amendment shall require City Council approval.
- 1.3 **Developer's Obligations.** Prior to applying for certificates of occupancy for the remaining 300,000 square feet of commercial office space permitted by the Approval, Developer shall complete the Project to the satisfaction of Caltrans and the City Engineer and deliver design plans for Project No. T-9 to City. The design plans shall include the documents specified in **Exhibit C** (Scope of Work) in accordance with this Agreement, the Cooperative Agreements (in regards to work to the point of Ready to List), and the Financing Plan. Developer shall complete the Project within the timeframe established in the Project Schedule attached as **Exhibit D**, and within the budget as provided in the Estimated Cost attached as **Exhibit E**.
- 1.4 **City's Obligations.** Upon Developer's commencement of work on the Project, Developer shall be eligible to apply for construction permits for the remaining 300,000 square feet of commercial office space permitted by the Approval, provided however, that nothing in this Agreement shall affect the City's ability to withhold issuance of construction permits associated with the Approval for any other valid reason(s). As required by the San Diego Municipal Code Chapter 14, Article 2, Division 6, Developer shall pay all applicable FBAs associated with the Approval prior to the issuance of any building permits, and City shall use the FBAs paid by Developer related to this Agreement for the construction of Project No. T-9 as provided for in the Financing Plan. Any subsequent updates to the Financing Plan will maintain the priority standing of Project No. T-9. Upon completion of the Project in accordance with **Exhibit C** and assurance of Project No. T-9 to the satisfaction of Caltrans and the City Engineer [Project No. T-9 Assurance], Developer shall be eligible to apply for certificates of occupancy for the remaining 300,000 square feet of commercial office space permitted by the Approval, provided however, that nothing in this Agreement shall affect the City's ability to withhold issuance of certificates of occupancy for any other valid reason(s).

ARTICLE II. PROJECT SCHEDULE

- 2.1 **Project Schedule.** Developer shall perform and complete the Project in accordance with the Project Schedule, including its obligations and components approved by Caltrans and the City as set forth in **Exhibit D**. Developer shall diligently pursue the Project to completion. Failure to maintain the Project Schedule constitutes a Default subject to Section 2.6. The rights and remedies of City enumerated in this Section are cumulative and shall not limit, waive, or deny any of City's rights or remedies under any other provision of this Agreement or those available at law or in equity.

- 2.2 **Changes in Project Schedule.** Changes in the Project Schedule that increase the Estimated Cost must be approved by City in writing as set forth in Section 3.3. Changes in the Project Schedule that do not increase the Estimated Cost may be approved by City's Engineering and Capital Projects – Right of Way Design Division Senior Civil Engineer [Senior Civil Engineer].
- 2.3 **Notification of Delay.** If Developer anticipates or has reason to believe that performance of work under this Agreement will be delayed, Developer shall immediately notify Senior Civil Engineer. Unless City grants Developer additional time to ascertain supporting data, a written notice of the delay must be delivered to City within thirty (30) calendar days of the initial notification and shall include: an explanation of the cause of the delay, a reasonable estimate of the length of the delay, any anticipated increased costs due to the delay, all supporting data, and a written statement that the time adjustment requested is the entire time adjustment Developer needs as a result of the cause of the delay. If Developer anticipates or has reason to believe the delay will increase the Estimated Cost, Developer shall also give notice to City in accordance with Section 3.4.
- 2.4 **Delay.** If delays in the performance of the Project are caused by unforeseen events beyond the control of the Parties, such delay may entitle Developer to a reasonable extension of time. Any such extension of time must be approved in writing by City, and will not be unreasonably withheld. A delay in the performance of work or any activity by City or Developer that affects a deadline to perform imposed on the other party by this Agreement will entitle the other party to the number of days City or Developer failed to complete performance of the work. The following conditions may justify such a delay depending on their actual impact on the Project: war; changes in law or government regulation; later commonly accepted or adopted higher standards and specifications of construction; fires; floods; adverse weather or other similar condition of the elements necessitating temporary cessation of Developer's work; or other specific reasons mutually agreed to in writing by City and Developer. Any delay claimed to be caused by Developer's inability to obtain materials, equipment, labor, or additional required services shall not entitle Developer to an extension of time unless Developer furnishes to City, in accordance with the notification requirements in Section 2.3, documentary proof satisfactory to City of Developer's inability to reasonably obtain materials, equipment, labor, or additional required services. Notwithstanding the above, Developer shall not be entitled to any extension of time, additional costs, or expenses for any delay caused by the acts or omissions of Developer, its consultants, contractors, employees, or other agents [collectively, "Developer's agents"]. A change in the Project Schedule shall not entitle Developer to an increase in Reimbursable Costs (as defined in Section 3.2). If City determines that the delay materially affects the Project, City may exercise its rights under Section 2.6 of this Agreement.
- 2.5 **Costs of Delay.** City and Developer acknowledge that delays may increase the cost of the Project and that funding may be insufficient to cover such cost increases, and Developer agrees to absorb the estimated increase in Estimated Cost not accounted for in the Financing Plan. Provided that Developer informs City pursuant to Sections 2.3 and 3.4 of cost increases due to delay, and such cost increases are determined by City to be reasonable and fully recoverable through the FBA, Developer may request an increase in the Estimated Cost in accordance with Section 3.3.

2.6 City's Right to Terminate for Default.

- 2.6.1** If Developer fails to adequately perform any obligation required by this Agreement, Developer's failure constitutes a Default. Unless Developer undertakes all reasonable efforts to ensure the Default is completely remedied to City's satisfaction within thirty (30) calendar days of receiving written notice from City specifying the nature of the Default, City may immediately terminate this Agreement, including all rights of Developer and any person or entity claiming any rights by or through Developer under this Agreement. A delay shall not constitute a Default if Developer has made good faith and reasonable efforts to adhere to the Project Schedule and such delay was caused by unforeseen events that justify the delay as set forth in Section 2.4.
- 2.6.2** If City terminates the Agreement due to Developer's Default, City shall have the option to assume all of the rights of any and all contracts or subcontracts entered into by Developer or Developer's agents for the Project. Developer shall include, and shall require its contractors and subcontractors to include, provisions in all contracts and subcontracts related to the Project that City is a third party beneficiary of the same and that City is entitled to and protected by the indemnities and warranties, whether written or express, contained therein.
- 2.6.3** The rights and remedies of City enumerated in this Section are cumulative and shall not limit, waive, or deny City's rights under other provisions of this Agreement, or waive or deny any right or remedy at law or in equity available to City against Developer.

- 2.7 City's Right to Terminate for Bankruptcy or Assignment for the Benefit of Creditors.** If Developer files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, City may, at its option, and without further notice to or demand upon Developer, immediately terminate this Agreement, and terminate all rights of Developer and any person or entity claiming any rights by or through Developer. The rights and remedies of City enumerated in this Section are cumulative and shall not limit, waive, or deny any of City's rights or remedies under other provisions of this Agreement or those available at law or in equity.

ARTICLE III. PROJECT COSTS

- 3.1 Project Costs.** Project Costs include Developer's reasonable costs necessary for the completion of the Project in accordance with this Agreement. Project Costs do not include Developer's Administrative Costs (as defined in Section 3.3.1).
- 3.2 Reimbursable Project Costs.** Developer may seek reimbursement only for Reimbursable Costs. Reimbursable Costs consist only of the Estimated Cost (as defined in Section 3.3) reasonably expended by Developer and approved for reimbursement in the Financing Plan and by City under the terms of this Agreement.
- 3.2.1 Non-Reimbursable Costs.** Non-Reimbursable Costs include: (1) any cost in excess of the Estimated Costs not approved in accordance with Section 3.3.3; (2) any cost identified in this Agreement as a Non-Reimbursable Cost; (3) any cost to remedy defective work; (4) any cost incurred as a result of Developer's or Developer's agents' negligence, omissions, delay, or Default; (5) any cost of substituted products, work, or services not necessary for completion of the Project, unless requested and approved by City in writing; (6) any cost not approved by City in the manner required by this Agreement or the Charter of the City of San Diego and rules, regulations, or laws promulgated thereunder; (7) any cost not supported by proper invoicing or other documentation as reasonable and necessary to substantiate the costs; (8) any cost in excess of FBA's actually collected by the City and available for reimbursement to Developer for the Project; and (9) interest costs. Additionally, the fair value as reasonably determined by City of any property that is destroyed, lost, stolen, or damaged rendering it undeliverable, unusable, or inoperable for City constitutes a Non-Reimbursable Cost. Refundable deposits, such as utility deposits, also constitute a Non-Reimbursable Cost.
- 3.3 Estimated Cost(s).** The Estimated Cost of the Project shall consist only of (i) Project Costs, and (ii) Developer's Administrative Costs (as defined in Section 3.3.2). The total Estimated Cost for the Project is \$1,242,500 as shown in **Exhibit E**. Any change to the Estimated Cost must be approved in accordance with Section 3.3.3.
- 3.3.1 Developer's Administrative Costs.** Developer's Administrative Costs are reasonably incurred Project-related administration expenses. Developer's Administrative Costs shall not include any legal fees or costs. Developer's Administrative Costs shall not exceed five percent (5%) of Developer's Project Costs.
- 3.3.2 Change Orders and Adjustments.** The Estimated Cost may be increased only through properly processed and approved Change Orders in accordance with the "Procedure for Processing Change Orders" attached as **Exhibit F**. The Estimated Cost may only be increased if Developer provides documentation showing the increase is reasonable in nature and amount, and is due to causes beyond Developer's or Developer's agents' control or otherwise not the result of unreasonable conduct by Developer or Developer's agents and may, based on actual impact on the Project and the Estimated Cost, include: acts of God; war; changes in law or government regulation; litigation; labor strikes; later commonly

accepted or adopted higher standards and specifications of construction; or other specific reasons mutually agreed to in writing by City and Developer. Developer shall not be reimbursed, and no Change Order shall be approved, for costs or expenses resulting from a design error or omission (unless such a design error is the direct result of a City request for such design or omission), or Developer's or Developer's agents' negligence. Developer shall not have the right to terminate, reform, or abandon this Agreement for City's refusal to approve a Change Order.

- 3.4 **Notification of Increased Costs.** If Developer anticipates that the cost of the Project will exceed the Estimated Cost, Developer shall notify City in writing within ten (10) Working Days (as defined below) of becoming aware of the potential increase. Working Days exclude Saturdays, Sundays, and all holidays listed in San Diego Municipal Code section 21.0104(a)-(j). This written notification shall include an itemized cost estimate and a list of recommended revisions Developer believes will bring the cost to an amount within the Estimated Cost.

ARTICLE IV. CONSULTANTS

- 4.1 **Selection of Consultant.** Developer's hiring of consultants is subject to approval by City. Developer's consultants shall be subject to all applicable State and City laws, including regulations and policies applicable to consultants retained directly by City. The selection of any consultant is subject to all applicable consultant selection laws, rules, and regulations, including, but not limited to, the City Charter, City Council Policies, the San Diego Municipal Code, and the City's Administrative Regulations. Prior to selecting a consultant, Developer shall consult with City's Purchasing and Contracting Department. Developer shall work with City's Purchasing and Contracting Department to ensure that City's consultant selection procedures are followed. Developer shall cause the provisions in **Exhibit G** "Consultant Provisions" to be included in its consultant contract(s) for the Project. Notwithstanding the foregoing, Developer is not required to comply with the applicable consultant selection laws, rules, and regulations identified above with respect to its contract(s) with TY Lin for the Project that it entered into prior to the Effective Date of this Agreement, but Developer is required to cause the provisions of Exhibit G "Consultant Provisions" to be included in its consultant contract(s) with TY Lin.

ARTICLE V. DESIGN AND CONSTRUCTION STANDARDS

- 5.1 **Standard of Care.** Developer agrees that the professional services provided under this Agreement shall be performed in accordance with the standards customarily adhered to by experienced and competent professional engineering, landscape, and architecture firms using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California.
- 5.2 **Compliance with all Laws, Design Standards, and Construction Standards.** Developer shall ensure compliance with all laws and the most current editions of the Greenbook, the City's Standard Drawings and Design and Construction Standards, including, but not limited to, those listed in **Exhibit H** and **Exhibit C** (Scope of Project). It is Developer's sole responsibility to comply with the Americans with Disabilities Act

and Title 24 of the California Building Standards Code, California Code of Regulations. Developer shall certify compliance with Title 24/ADA to City in the form and content as set forth on **Exhibit I** "Certificate for Title 24/ADA Compliance."

- 5.3 Imputed Knowledge.** Developer shall be responsible for all amendments or updates to Design and Construction Standards and knowledge of all amendments or updates to Design and Construction Standards, whether local, state, or federal, and such knowledge will be imputed to Developer to the fullest extent allowed by law.
- 5.4 City Approval.** Developer shall be required to obtain City approval of design, plans, and specifications in the manner required in **Exhibit J**. Unless specifically provided otherwise, whenever this Agreement requires an action or approval by City, that action or approval shall be performed by the Senior Civil Engineer.
- 5.5 City Approval Not a Waiver of Obligations.** Where approval by City, the Mayor, or other representatives of City is required, it is understood to be general approval only and does not relieve Developer of responsibility for complying with all applicable laws, codes, regulations, and good consulting, design, or construction practices.

ARTICLE VI. REIMBURSEMENT

6.1 Reimbursement to Developer.

- 6.1.1 Notification of Reimbursable Project.** After delivery of the Project to City and Caltrans, Developer shall submit a "Notification of Reimbursable Project" form (attached as **Exhibit K**) to City's Development Services Department, Facilities Financing Department, and Engineering and Capital Projects Department.
- 6.1.2 Type of Reimbursement.** Developer shall be entitled to cash reimbursement or FBA credits for the Reimbursable Costs expended by Developer in accordance with this Agreement and the Financing Plan. Developer may choose to receive FBA credits or cash reimbursement. The Financing Plan currently has the Estimated Cost scheduled for reimbursement beginning in or after Fiscal Year 2010. Any changes to the timing of reimbursement shall be reflected in future updates to the Financing Plan without further amendment to this Agreement. Developer shall not receive cash reimbursement until there are sufficient funds to reimburse Developer, in whole or in part, from the FBA. If sufficient funds are unavailable in the FBA, City shall reimburse Developer only if and as funds accrue in the FBA. Where FBA credits are requested, credit reimbursement shall be made in accordance with the schedule in the Financing Plan. In the event there are no additional FBA funds available for collection by City to fund the Project, City shall not be required to reimburse any portion of Developer's outstanding Project costs or expenditures, and Developer expressly agrees to fully absorb all such outstanding costs without any reimbursement from City.
- 6.1.3 Funds for Reimbursement.** Developer shall be entitled to cash or credit toward Developer's FBA fees as reimbursement as set forth in this Agreement and only from FBA funds collected by City in accordance with the Financing Plan, as it may be amended, in the amount set forth in this Agreement and only as allocated for the design portion of Project No. T-9 in the Financing Plan, if and as such

funds become available, after the appropriate deductions and expenditures are made, pursuant to the method of reimbursement described in Section 6.1.6 and in the priority of reimbursement described in Section 6.1.8.

- 6.1.4 Amount of Reimbursement.** Developer shall only be entitled to Reimbursable Costs in accordance with Section 3.2 in an amount not to exceed the Estimated Cost in accordance with Section 3.3.
- 6.1.5 Method of Reimbursement.** Developer shall submit to City a written request for reimbursement for all Reimbursable Costs incurred or advanced for the Project. Reimbursement Requests for projects other than those covered by this Agreement must be submitted as separate requests. The Reimbursement Request must also include all relevant documents in accordance with this Section. If City determines that all relevant documents have not been submitted, City shall request that Developer provide additional documentation within sixty (60) calendar days after Developer submits the Reimbursement Request. Developer shall provide additional documentation within ten (10) Working Days of City's request. City will make all reasonable efforts to review all Reimbursement Requests within sixty (60) calendar days. However, City is not obligated to reimburse Developer until City confirms receipt of all relevant documentation to support the Reimbursement Request. After all appropriate cost documentation has been received and City approves the Reimbursement Request [Reimbursement Request Approval], subject to the other limitations contained in this Article VI, City shall reimburse Developer for those Reimbursable Costs within seventy-five (75) calendar days of the date of Reimbursement Request Approval provided funds are available in the FBA for the Project and the Project is scheduled in the Financing Plan for reimbursement at that time.
- 6.1.5.1 Withholding.** Subject to the limitations in Article VI, Developer shall be entitled to cash reimbursement or FBA credits up to ninety percent (90%) of the Reimbursable Costs. The remaining ten percent (10%) of the Reimbursable Cost shall be paid to Developer upon receipt of the Project as specified in this Agreement.
- 6.1.5.2 Timing of Submissions of Reimbursement Requests.** Developer shall submit one Reimbursement Request after completion of the Project Approval Environmental Documentation (PAED), and one Reimbursement Request after completion of the Plans, Specifications, and Estimates.
- 6.1.5.2 Cutoff for Submission of Reimbursement Requests.** Developer shall submit all Reimbursement Requests within six (6) months after final submittal of the Project [Cutoff Date]. Any Reimbursement Request submitted after the Cutoff Date shall not be included in Reimbursable Cost and Developer shall not be entitled to any reimbursement for those costs or expenses.
- 6.1.6 Verification of Reimbursement Request.** Developer shall provide reasonably organized documentation to support the Reimbursement Request, including but not limited to, copies of invoices received and copies of cancelled checks,

substitute checks, or image replacement documents showing that payment has been made in connection with the Reimbursement Request in the following manner:

- 6.1.6.1 Developer shall submit two (2) copies of a Reimbursement Request (cover letter and documentation) to the City's Facilities Financing Project Manager, who will then provide a copy to the City's Senior Civil Engineer.
- 6.1.6.2 The City's Senior Civil Engineer, upon review and verification of the Reimbursement Request, shall prepare a memorandum to Facilities Financing indicating the reimbursable amounts that are appropriate to be paid if and as funds become available. The memorandum shall indicate any costs to be disallowed and the reason for the disallowance. The Senior Civil Engineer shall then forward the Reimbursement Request and memorandum to the Facilities Financing Project Manager.
- 6.1.6.3 The Facilities Financing Project Manager shall verify that reimbursements are scheduled in the Financing Plan and verify FBA cash/credits are available for reimbursement.
- 6.1.6.4 The Facilities Financing Project Manager shall inform Developer of the amount approved for reimbursement. Developer shall then submit an invoice for the approved reimbursement amount to the Facilities Financing Project Manager for payment.

6.1.7 Priority of Reimbursement. Reimbursement to Developer from the FBA for the Project will be subsequent to reimbursement of City's administrative expenses incurred in connection with the Project or Financing Plan, but takes priority over any private developer project added to the FBA subsequent to the Effective Date (as defined in Section 1.1) of this Agreement, with the following exceptions:

- 6.1.7.1 Any State or Federally mandated project.
- 6.1.7.2 Appropriations for City administered, managed, and funded Capital Improvement Project.
- 6.1.7.3 To the extent Developer has failed to notify City in writing of any actual or anticipated cost increases as required in Sections 2.3 and 3.4, the reimbursement for the cost increases will be subsequent in priority to those projects with agreements approved by the City Council prior to City Council approval of increased Estimated Costs.
- 6.1.7.4 The FBA identifies another project for funding in an earlier fiscal year than the Project prior to the Effective Date of this Agreement.

ARTICLE VII PUBLIC RELATIONS

- 7.1 **Presentations.** Developer and Developer's agents shall be available for all presentations required to be made to City Council, Council Committees, any other related committees, and citizen groups to provide them with information about the Project as well as presentations to any governing or regulatory body or agency for other approvals as may be required.
- 7.2 **City as Primary Contact.** Developer agrees that City is the primary contact with the media regarding the Project and Developer shall forward all questions regarding the Project status to City's Engineering and Capital Projects' Senior Public Information Officer.
- 7.3 **Advertising.** Developer acknowledges that advertising referring to City as a user of a product, material, or service by Developer and/or Developer's agents, material suppliers, vendors or manufacturers is expressly prohibited without City's prior written approval.

ARTICLE VIII. DELIVERABLES

- 8.1 **Deliverables.** The Deliverables required from Developer under this Agreement are set forth in **Exhibit C** (Scope of Work).
- 8.2 **Ownership of Deliverables.** The Project shall become the property of City as work is submitted for reimbursement in accordance with Section 6.1.5. Developer agrees that this Agreement and the Project shall not be used on any other work without the City's consent.

ARTICLE IX. GENERAL DEVELOPER OBLIGATIONS

- 9.1 **Drug-Free Workplace.** Developer shall comply with City's requirements in Council Policy 100-17, "DRUG-FREE WORKPLACE," adopted by San Diego Resolution R-277952 and fully incorporated into this Agreement by reference. Developer shall certify to City that it will provide a drug-free workplace by submitting a Certification for a Drug-Free Workplace in the form and content of **Exhibit L**.
- 9.2 **ADA Certification.** Developer shall comply with the City's Americans With Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.
- 9.3 **Non-Discrimination Requirements.**
- 9.3.1 **Compliance with the City's Equal Opportunity Contracting Program.** The Developer shall comply with the City's Equal Opportunity Contracting Program Contractor Requirements. Developer shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Developer shall provide equal opportunity in all employment practices. Developer shall ensure that its subcontractors and consultants comply with the City's Equal Opportunity Contracting Program. Nothing in this Section shall be interpreted to hold

Developer liable for any discriminatory practice of its consultants or their subcontractors.

9.3.2 Non-Discrimination Ordinance. Developer shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of consultants, subcontractors, vendors or suppliers. Developer shall provide equal opportunity for consultants and subcontractors to participate in subcontracting opportunities. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, and other sanctions. This language shall be in contracts between Developer and any consultants, subcontractors, vendors and suppliers.

9.3.3 Compliance Investigations. Upon City's request, Developer agrees to provide to City, within sixty (60) calendar days, a truthful and complete list of the names of all consultants, subcontractors, vendors, and suppliers that Developer has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Developer for each subcontract or supply contract. Developer further agrees to fully cooperate in any investigation conducted by City pursuant to the City's Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517]. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against Developer up to and including contract termination, debarment, and other sanctions. Developer further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

9.4 Equal Benefits. This Agreement is with a sole source and therefore, Subdivider is not subject to the City's Equal Benefits Ordinance, Chapter 2, Article 2, Division 43 of the San Diego Municipal Code [SDMC]. However, the Equal Benefits Ordinance is applicable to contracts or contract amendments that Subdivider enters into with respect to the Project after January 1, 2011. Therefore, Subdivider shall ensure that its contractor(s) and consultant(s) comply with the Equal Benefits Ordinance by including in each of its contracts with its contractor(s) and consultant(s) provisions (1) stating that the contractor(s) and/or consultant(s) must comply with the Equal Benefits Ordinance; (2) stating that failure to maintain equal benefits is a material breach of those agreements; and (3) requiring the contractor(s) and/or consultant(s) to certify that they will maintain equal benefits for the duration of the contract. SDMC § 22.4304(e)-(f). In addition, Subdivider understands that its contractor(s) and/or consultant(s) must comply with the requirement that they not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, and that it notify employees of the equal benefits policy at the time of hire and during open enrollment periods during the performance of the contract. SDMC § 22.4304(a)-(b). Subdivider also understands that its contractor(s) and/or consultant(s) must also provide the City with access to documents and records sufficient for the City to verify compliance with the EBO's requirements. SDMC § 22.4304(c). Additionally, Subdivider understands that its contractor(s) and/or

consultant(s) may not use a separate entity to evade the requirements of the EBO. SDMC § 22.4304(d). Subdivider shall ensure that its contractor(s) and consultant(s) complete the an Equal Benefits Ordinance Certification of Compliance provided by the City. Subdivider shall also notify the City within five (5) business days of any violations of the Equal Benefits Ordinance by its contractor(s) and/or consultant(s) if it knows or should reasonably know of such violations.

ARTICLE X. INDEMNITY & DUTY TO DEFEND

- 10.1 Indemnification and Hold Harmless Agreement.** Other than in the performance of design professional services which shall be solely as addressed in Sections 10.2 below, to the fullest extent permitted by law, Developer shall defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, agents, departments, officials, and employees [Indemnified Parties] from and against all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Developer or Developer's agents), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any services performed under this Agreement by Developer, any subcontractor, anyone directly or indirectly employed by them, or anyone they control. Developer's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the active negligence, sole negligence or willful misconduct of the Indemnified Parties. Developer's duty to defend, indemnify, protect and hold harmless shall not apply to construction defects associated with the future construction of Project No. T-9, unless such defects are the result of Developer's or Developer's agents' services performed under this Agreement.
- 10.2 Design Professional Services Indemnification and Defense.**
- 10.2.1 Design Professional Services Indemnification.** To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782.8), with respect to the performance of design professional services, Developer shall require its design professional to indemnify and hold harmless the City, its officers, or employees, from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Developer's design professional's officers and employees.
- 10.2.2 Design Professional Services Defense.** Parties will work in good faith to procure applicable insurance coverage for the cost of any defense arising from all claims, demands, or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Developer's design professional or design professional's officers or employees.
- 10.3 Insurance.** The provisions of this Article are not limited by the requirements of Article X related to insurance.

- 10.4 **Enforcement Costs**. Developer agrees to pay any and all costs which City incurs enforcing the indemnity and defense provisions set forth in this Article.

ARTICLE XI. INSURANCE

- 11.1 **General**. Developer shall not begin work on the Project under this Agreement until it has: (i) obtained and provided to City, insurance certificates reflecting evidence of all insurance required in this Article; (ii) obtained City approval of each company or companies; and (iii) confirmed that all policies contain specific provisions required by City pursuant to this Article.
- 11.2 **Type and Amount of Insurance**. The City Attorney shall confer with the City's risk management department and determine the appropriate dollar amount and type of insurance, including any endorsements or specific clauses, necessary for the Project [Required Insurance]. Developer shall obtain the Required Insurance prior to the commencement of the Project. City's standard insurance provisions are attached as **Exhibit M**. If Developer is not informed otherwise in writing of Required Insurance, City's standard insurance provisions included in **Exhibit M** shall be the Required Insurance.
- 11.3 **Written Notice**. Except as provided for under California law, any Required Insurance shall not be canceled, non-renewed or materially changed except after thirty (30) calendar days prior written notice by Developer to City by certified mail, except for non-payment of premium, in which case ten (10) calendar days notice shall be provided.
- 11.3.1 Where the words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" are present on a certificate, they shall be deleted.
- 11.4 **Rating Requirements**. Except for the State Compensation Insurance Fund, all insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have been given at least an "A" or "A-" and "VI" rating by AM BEST, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by City.
- 11.5 **Non-Admitted Carriers**. City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers.
- 11.6 **Additional Insurance**. Developer may obtain additional insurance not required by this Agreement.
- 11.7 **Obligation to Provide Documents**. Prior to performing any work on the Project, Developer shall provide copies of documents including but not limited to certificates of insurance and endorsements, and shall furnish renewal documentation prior to expiration of insurance. Each required document shall be signed by the insurer or a person authorized by the insurer to bind coverage on its behalf. City reserves the right to require complete, certified copies of all insurance policies required herein.

- 11.8 **Deductibles/Self Insured Retentions.** All deductibles and self-insurance retentions on any policy shall be the responsibility of Developer. Deductibles and self-insurance retentions shall be disclosed to City at the time the evidence of insurance is provided.
- 11.9 **Policy Changes.** Developer shall not modify any policy or endorsement thereto which increases City's exposure to loss for the duration of this Agreement.
- 11.10 **Reservation of Rights.** City reserves the right, from time to time, to review the Developer's insurance coverage, limits, deductible and self insured retentions to determine if they are acceptable to City. City will reimburse the Developer for the cost of the additional premium for any coverage-requested by City in excess of that required by this Agreement without overhead, profit, or any other markup.
- 11.11 **Not a Limitation of Other Obligations.** Insurance provisions under this Article shall not be construed to limit Developer's obligations under this Agreement, including indemnity.
- 11.12 **Material Breach.** Failure to maintain, renew, or provide evidence of renewal of required insurance during the term of this Agreement, and for a period of up to five (5) years after completion of the Project or termination of this Agreement, whichever occurs later, may be treated by City as a material breach of this Agreement.

ARTICLE XII. WARRANTIES

- 12.1 **Warranties Required.** This Agreement is subject to all implicit and explicit warranties or guarantees required or implied by law. Developer shall include this section in its contracts with any consultants and/or subcontractors, and their agents, which with it contracts to complete the Project.

ARTICLE XIII. RECORDS AND AUDITS

- 13.1 **Retention of Records.** Developer shall maintain data and records related to the Project and this Agreement and shall ensure that Developer's agents maintain data and records related to the Project and this Agreement for a period of not less than five (5) years following receipt of final payment under this Agreement.
- 13.2 **Audit of Records.** At any time during normal business hours and as often as City deems necessary, Developer shall make available, and ensure that Developer's agents make available all of the data and records with respect to all matters covered by this Agreement to City for examination at reasonable locations within the City/County of San Diego. Developer shall permit, and shall ensure that Developer's agents permit City to make audits of all invoices, materials, payrolls, records of personnel, and other data and media relating to all matters covered by this Agreement. If records are not made available within the City/County of San Diego, then Developer shall pay all City's travel related costs to audit the records associated with this Agreement at the location where the records are maintained. All costs associated with compliance with this section are Non-Reimbursable Costs.

13.2.1 Costs. Developer shall allow, and shall ensure that Developer's agents allow City to audit and examine books, records, documents, and any and all evidence and accounting procedures and practices that City determines are necessary to discover and verify all costs of whatever nature, which are claimed to have been incurred, anticipated to be incurred, or for which a claim for additional compensation has been submitted under this Agreement.

ARTICLE XIV. NOTICES

- 14.1 Writing.** Any demand upon or notice required or permitted to be given by one party to the other party shall be in writing.
- 14.2 Effective Date of Notice.** Except as otherwise provided by law, any demand upon or notice required or permitted to be given by one party to the other party shall be effective: (1) upon personal delivery, (2) on the second business day after mailing by Certified or Registered U.S. Mail, Return Receipt Requested, or (3) on the succeeding business day after mailing by Express Mail or after deposit with a private delivery service of general use (e.g., Federal Express) postage or fee prepaid as appropriate.
- 14.3 Recipients.** All demands or notices required or permitted to be given shall be sent to each of the following:
- 14.3.1** Director, Engineering & Capital Projects Department
City of San Diego
City Administration Building
202 C Street, M.S. #9B
San Diego, California 92101
- 14.3.2** Facilities Financing Manager
City Planning and Community Investment
City of San Diego
1010 Second Avenue, Suite 600 M.S. #606F
San Diego, California 92101
- 14.3.3** Kilroy Realty Corporation
3611 Valley Centre Drive, Suite 550
San Diego, CA 92130
Attn: Steve Scott
- 14.4 Change of Address(es).** Notice of change of address shall be given in the manner set forth in Article XIV.

ARTICLE XV. MEDIATION

- 15.1 Mandatory Mediation.** If a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.
- 15.2 Mandatory Mediation Costs.** The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.
- 15.3 Selection of Mediator.** A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator shall be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or may be any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing party. If the Mediator is selected from a list provided by AAA, the initiating party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.
- 15.3.1** If AAA is selected to coordinate the mediation [Administrator], within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing party strikes all of initiating party's preferred Mediators, opposing party shall submit a list of three preferred Mediators listed in preference order to initiating party and Administrator. Initiating party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.
- 15.3.2** The Administrator shall appoint, or the Parties shall agree upon, the highest, mutually preferred Mediator from the individual parties' lists who is available to serve within the designated time frame.
- 15.3.3** If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.
- 15.4 Conduct of Mediation Sessions.** Mediation hearings shall be conducted in an informal manner and discovery shall not be allowed. All discussions, statements, or admissions shall be confidential to the Parties' legal position. The Parties may agree to exchange any information they deem necessary.

- 15.4.1** Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either party may have attorney(s) or expert(s) present. Upon reasonable demand, either party may request and receive a list of witnesses and notification whether attorney(s) will be present.
- 15.4.2** Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be “non-binding” and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE XVI. MISCELLANEOUS PROVISIONS

- 16.1** **Headings.** All article headings are for convenience only and shall not affect the interpretation of this Agreement.
- 16.2** **Gender and Number.** Whenever the context requires, the use herein of (i) the neuter gender includes the masculine and the feminine genders, and (ii) the singular number includes the plural number.
- 16.3** **Reference to Paragraphs.** Each reference in this Agreement to a Section or Article refers, unless otherwise stated, to a Section or Article of this Agreement.
- 16.4** **Incorporation of Recitals.** All Recitals herein are true and correct to the Parties’ best knowledge and belief, and are fully incorporated into this Agreement by reference and are made a part hereof.
- 16.5** **Covenants and Conditions.** All provisions of this Agreement expressed as either covenants or conditions on the part of City or Developer shall be deemed to be both covenants and conditions.
- 16.6** **Integration.** This Agreement and all Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties or a written amendment to this Agreement agreed to by both Parties. All prior negotiations and agreements are merged into this Agreement.
- 16.7** **Severability.** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.
- 16.8** **Drafting Ambiguities.** The Parties acknowledge they each have been fully advised by their own counsel with respect to the negotiations, terms, and conditions of this Agreement. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.
- 16.9** **Conflicts Between Terms.** If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall

control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

- 16.10 **Time is of the Essence.** Time is of the essence of each covenant and condition set forth in this Agreement.
- 16.11 **Good Faith Performance.** The Parties shall cooperate with each other in good faith, and assist each other in the performance of the provisions of this Agreement.
- 16.12 **Further Assurances.** City and Developer each agree to execute and deliver such additional documents as may be required to effectuate the purposes of this Agreement.
- 16.13 **Exhibits.** Each of the Exhibits referenced and attached to this Agreement is fully incorporated herein by reference.
- 16.14 **Compliance with Controlling Law.** Developer shall require its consultants, contractors, subcontractors, agents, and employees to comply with all laws, statutes, resolutions, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, Developer shall require its consultants, contractors, subcontractors, agents, and employees comply immediately with all directives issued by City or its authorized representatives under authority of any laws, statutes, resolutions, ordinances, rules, regulations or policies. The laws of the State of California shall govern and control the terms and conditions of this Agreement.
- 16.15 **Hazardous Materials.** Hazardous Materials constitute any hazardous waste or hazardous substance as defined in any federal, state, or local statute, ordinance, rule, or regulation applicable to Property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (Title 42 United States Code sections 9601-9675), the Resource Conservation and Recovery Act (Title 42 United States Code sections 6901-6992k), the Carpenter Presley-Tanner Hazardous Substance Account Act (Health and Safety Code sections 25300-25395.15), and the Hazardous Waste Control Law (Health and Safety Code sections 25100-25250.25).
- 16.16 **Jurisdiction, Venue, and Attorney Fees.** The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California. The prevailing party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.
- 16.17 **Municipal Powers.** Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.
- 16.18 **Third-Party Relationships.** Nothing in this Agreement shall create a contractual relationship between City and any third-party; however, the Parties understand and agree

that City, to the extent permitted by law, is an intended third-party beneficiary of all Developer's contracts, purchase orders and other contracts between Developer and third-party services. Developer shall incorporate this provision into its contracts, supply agreements and purchase orders.

- 16.19 **Non-Assignment.** The Developer shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without City's prior written approval. Any assignment in violation of this Section shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of City. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.
- 16.20 **Successors in Interest.** This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.
- 16.21 **Independent Contractors.** The Developer, any consultants, contractors, subcontractors, and any other individuals employed by Developer shall be independent contractors and not agents of City. Any provisions of this Agreement that may appear to give City any right to direct Developer concerning the details of performing the work or services under this Agreement, or to exercise any control over such performance, shall mean only that Developer shall follow the direction of City concerning the end results of the performance.
- 16.22 **Approval.** Where the consent or approval of a Party is required or necessary under this Agreement, the consent or approval shall not be unreasonably withheld; however, nothing in this Section shall in any way bind or limit any future action of the City Council pertaining to this Agreement or the Project.
- 16.23 **No Waiver.** No failure of either City or Developer to insist upon the strict performance by the other of any covenant, term, or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.
- 16.24 **Signing Authority.** The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been duly obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.
- 16.25 **Remedies** Notwithstanding any other remedies available to City at law or in equity, Developer understands that its failure to comply with the insurance requirements or other obligations required by this Agreement, and/or submitting false information in response to these requirements, may result in withholding reimbursement payments until Developer complies and/or may result in suspension from participating in future city contracts as a developer, prime contractor or consultant for a period of not less than one

(1) year. For additional or subsequent violations, the period of suspension may be extended for a period of up to three (3) years.

IN WITNESS WHEREOF, this agreement is executed by the City of San Diego, acting by and through its Mayor, pursuant to Resolution No. R- 308126, authorizing such execution, and by Developer.

~~2012~~ ²⁰¹³ * This Agreement was approved by the City Attorney this 13th day of August, and this date shall constitute the Effective Date of this Agreement.

THE CITY OF SAN DIEGO, a Municipal Corporation

By: Walter Ekard
Walter Ekard
Interim Chief Operating Officer

Approved as to form:
JAN I. GOLDSMITH, City Attorney

By: Heidi K. Vonblum for
Heidi K. Vonblum,
Deputy City Attorney

Kilroy Realty Corporation,
a California Corporation

By: Justin W. Smart
Justin W. Smart
Senior Vice President Development

By: Jeffrey C. Hawken
Jeffrey C. Hawken
Executive Vice President &
Chief Operating Officer

HKV
4/11/2012
Or.Dept: FACILITIES FINANCING

R- 308126

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON FEB 25, 2009
DOCUMENT NUMBER 2009-0098096
DAVID L. BUTLER, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 10:51 AM

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-7939

NEIGHBORHOOD USE PERMIT NO. 601521
SANTA FE SUMMIT II AND III / PROJECT NO. 131969
Development Services Department

This Neighborhood Use Permit No. 601521 is granted by the Development Services Department of the City of San Diego to KILROY REALTY, L.P., A DELAWARE LIMITED PARTNERSHIP, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0201. The 21.73-acre site is located at Torrey Santa Fe Road, southwest of State Route 56 and west of Camino del Sur in the IP-2-1, CV-1-2, and OC-1-1 zone(s) of the Torrey Highlands Subarea IV Plan area. The project site is legally described as Lots 10-19 of the Torrey Highlands Employment Center, in the City of San Diego, County of San Diego, State of California, Map 14883, filed September 17, 2004 and Parcels 1 through 4 of Parcel Map No. 19895, recorded in the Office of the County Recorder of San Diego County, December 6, 2005.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the reallocation of sign area allowance on building structures and ground signage, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 16, 2008, on file in the Development Services Department.

The project shall include:

- a. Four office buildings, each approximately 120,000 to 150,000 gross square feet but, not to exceed a total of 600,000 gross square feet and three parking structures totaling approximately 280,175 gross square feet;
- b. The reallocation of building wall sign square footage among Building No.s 5, 6, 7, and 8 and Parking Structures "B," "C," and "D";
- c. Tenant ground signs, project beacons and site identification signs;
- d. Landscaping (planting, irrigation and landscape related improvements);

ORIGINAL

- e. Off-street parking; and
- f. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site

improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project

12. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 40-0315, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 40-0315, satisfactory to the Development Services Department and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources
- Land Use
- Noise
- Transportation/Traffic Circulation
- Paleontological Resources
- Hydrology/Water Quality

14. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

16. Prior to the building occupancy, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

17. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

19. Prior to the issuance of any construction permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

20. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08 DWQ.

21. Prior to any building occupancy, the Owner/Permittee shall conform to the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

PLANNING/DESIGN REQUIREMENTS:

22. The combined Santa Fe Summit Phase II and Phase III sites shall not exceed 600,000 square feet of occupied building space with a maximum of 500,000 square feet plus 100,000 square feet of multi-tenant office use which may include up to 20,000 square feet of retail, provided the retail occurs within a mixed use building containing office use space.

23. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

24. All signs associated with this development shall be consistent with sign criteria established by the approved Exhibit "A."

TRANSPORTATION REQUIREMENTS

25. Prior to the issuance of any construction permit for the first building structure, the Owner/Permittee shall permit and bond, or provide proof of such for the transportation and traffic signal improvements at the intersection of Camino del Sur and Torrey Santa Fe Road. Any construction change to modify the traffic signal to the current curb configuration shall be submitted and approved, satisfactory to the City Engineer.

26. Prior to the issuance of any building's certificate of occupancy, the Owner/Permittee shall have completed, approved, and established operations for the transportation and traffic signal

improvements at the intersection of Camino del Sur and Torrey Santa Fe Road, in a manner satisfactory to the City Engineer.

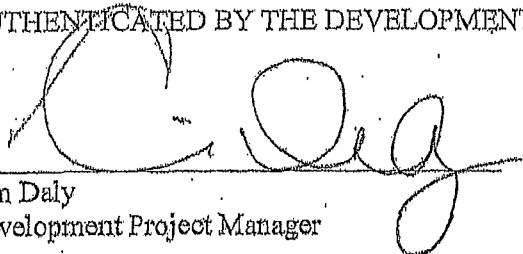
INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Development Services Department of the City of San Diego on October 16, 2008, Resolution No. CM-6028.

Permit Type/PTS Approval No.: NUP No. 601521
Date of Approval: October 16, 2008

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT



Tim Daly
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

KILROY REALTY, L.P.
Owner/Permittee

By _____


Steve Scott,
Senior Vice President

By _____


Robert C. Little
VP Commercial Development

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Rev. 02/04/08 rh

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

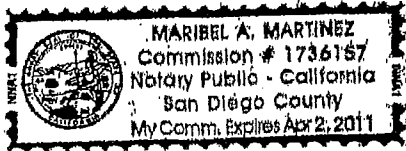
On Feb. 24, 2009 before me,

Maribel A. Martinez, Notary Public
Here Insert Name and Title of the Officer

personally appeared

Jim Daly
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Maribel A. Martinez
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Santa Fe Summit # 277 Project No. 13191A

Document Date: October 16, 2008 Number of Pages: 7

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jim Daly

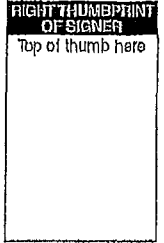
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney In Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney In Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

ORIGINAL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

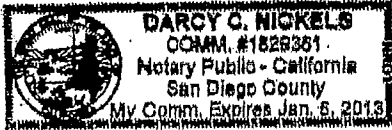
State of California

County of San Diego

On 2/10/09 before me, Darcy C. Nickels, Notary Public

personally appeared Robert Little and Steve Scott

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Darcy C. Nickels
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Neighborhood Use Permit No: 601521

Document Date: 10/16/08

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

CITY OF SAN DIEGO
FACILITIES FINANCING PROGRAM

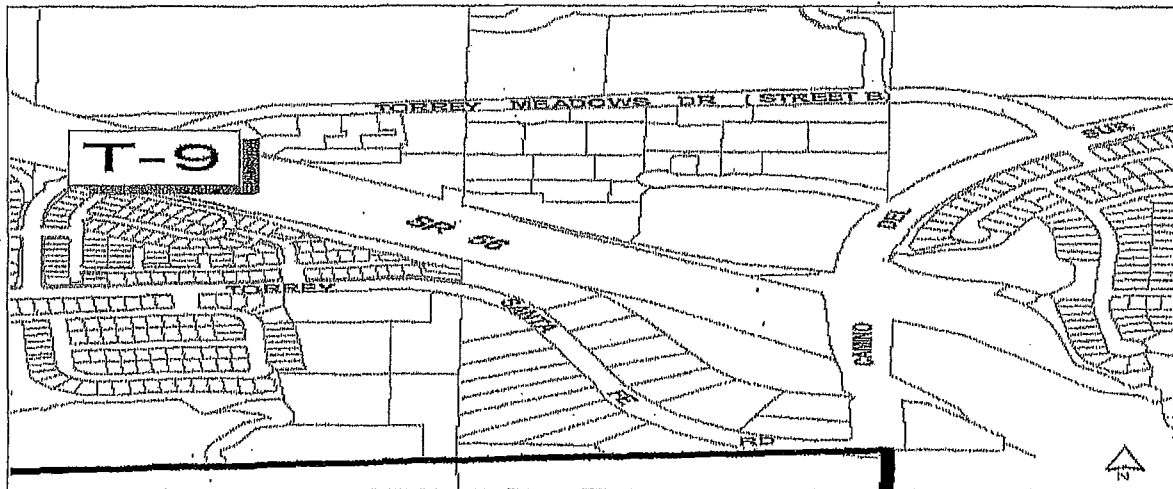
TITLE: TORREY MEADOWS DRIVE (STREET "B") OVERCROSSING

DEPARTMENT: ENGINEERING & CAPITAL PROJECTS
CIP or JO #: N/A.

PROJECT: T-9
COUNCIL DISTRICT: 1
COMMUNITY PLAN: TH

SOURCE	FUNDING	EXPENDED	CONT/ARROR	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
FBA-TH	\$7,148,447			\$1,000,000	\$6,148,447			
FBA-BMR								
FBA-PHR								
FBA-DMM								
FBA-RP								
DEV. ADV								
DEV/SUBD	\$612,666		\$612,666					
COUNTY								
STATE								
OTHER								
UNIDEN								
TOTAL	\$7,761,113	\$0	\$612,666	\$1,000,000	\$6,148,447	\$0	\$0	\$0

SOURCE	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
FBA-TH								
FBA-BMR								
FBA-PHR								
FBA-DMM								
FBA-RP								
DEV. ADV								
DEV/SUBD								
COUNTY								
STATE								
OTHER								
UNIDEN								
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0



CITY OF SAN DIEGO
FACILITIES FINANCING PROGRAM

TITLE: TORREY MEADOWS DRIVE (STREET "B") OVERCROSSING

DEPARTMENT:	ENGINEERING & CAPITAL PROJECTS	PROJECT:	T-9
CIP or JO #:	N/A	COUNCIL DISTRICT:	1
		COMMUNITY PLAN:	TH

DESCRIPTION:

THIS PROJECT PROVIDES FOR THE DESIGN AND CONSTRUCTION OF A 2-LANE OVERCROSSING OF TORREY MEADOWS DRIVE (STREET "B") OVER SR-56. THIS PROJECT INCLUDES THE BRIDGE APPROACHES ON EACH SIDE OF THE BRIDGE, I.E. APPROXIMATELY 200 LINEAR FEET OF TWO-LANE LOCAL COLLECTOR, TOGETHER WITH ANY RIGHT-OF-WAY NOT PREVIOUSLY ACQUIRED AS PART OF THE SR-56 PROJECT. THIS PROJECT ALSO INCLUDES A 16-INCH WATER MAIN IN THE PROPOSED TORREY MEADOWS DRIVE BRIDGE. ON THE NORTH SIDE OF THE BRIDGE, THE NEW 16-INCH WATER MAIN WILL CONNECT TO THE TWO EXISTING 16-INCH WATER MAINS IN TORREY MEADOWS DRIVE. ON THE SOUTH SIDE OF THE BRIDGE, THE NEW 16-INCH WATER MAIN WILL CONNECT TO THE EXISTING 8-INCH WATER MAIN CROSS AT THE INTERSECTION OF TORREY MEADOWS DRIVE AND PRIMROSE LANE.

JUSTIFICATION:

THIS TWO-LANE CONNECTION WILL PROVIDE ACCESS TO THE NEIGHBORHOOD PARK, ELEMENTARY AND HIGH SCHOOLS, AND THE LOCAL MIXED USE ZONE FOR THOSE PROPERTIES SOUTH OF SR-56 AND WILL HELP TO ALLEVIATE TRAFFIC CONGESTION AT THE CAMINO DEL SUR INTERCHANGE. THE 16-INCH WATER MAIN IS NEEDED FOR SYSTEM RELIABILITY AND REDUNDANCY.

FUNDING ISSUES:

THE TORREY SANTA FE DEVELOPMENT CONTRIBUTED A FAIR-SHARE OF THE COST.

NOTES:

SCHEDULE:

DESIGN TO BEGIN IN FY 2007;
CONSTRUCTION IS ANTICIPATED TO START IN FY 2011.

CONTACT: FARAH MAHZARI

TELEPHONE: (619) 533-3836

EMAIL: fmahzari@sandiego.gov

Torrey Highlands Public Facilities Financing Plan FY 2010

IMP NO.	FBA PROJ NO.	FACILITY-LOCATION-DESCRIPTION	RESPONSIBLE PARTY	STATUS
PHASE FOUR: In order to exceed 36,100 ADT (18,100 Residential, 18,000 Commercial/Retail), the following improvements need to be assured to the satisfaction of the City Engineer. (7)				
22a	T-3.1A	Camino del Sur: Carmel Mountain Road to Dormouse: Construct 2 lane roadway.	T.H./ Others ⁽⁶⁾ ⁽⁶⁾	
23a	T-5.1	Carmel Mountain Rd; Terminus in Peñasquitos to Camino del Sur: Construct 2-lane bridge and roadway.	T.H./ Others ⁽⁶⁾ ⁽⁶⁾	
23b	T-5.2	Carmel Mountain Road, within Subarea Boundary: Widen to a 4 lane major.	T.H. ⁽⁶⁾	
29	T-3.2B	Camino del Sur: SR-56 to Carmel Mtn. Rd; Improve to 4 lanes	T.H. ⁽⁶⁾	
30A	n/a	Interim Improvements at El Camino Real & SR-56	City	Completed
30B	T12	Extension of the RT lane on SB El Camino Real between Valley Centre and Carmel Valley Road (frontage of vacant pad to the north of AM/PM.	BMR ⁽⁶⁾	
30C	T-13	Third Westbound Lane on State Route 56; Carmel Country Rd to El Camino Road.	T.H./Others ^(c)	
34	T-3.2A	Camino del Sur: Carmel Mountain Road to Dormouse: Improve to 4 lanes	T.H. ⁽⁶⁾	
37	n/a	Carmel Mountain Rd @ I-15: Construct Interchange	Others ⁽⁶⁾	Completed
PHASE FIVE: In order to exceed 57,760 ADT (f), the following improvements need to be assured to the satisfaction of the City Engineer.				
18	n/a	Via de la Valle; San Andrés to El Camino Real East: Improve to 4 lanes	Others ⁽⁶⁾	
20	n/a	I-5 @ Carmel Valley Road: NB Connectors	Others ⁽⁶⁾	
24	n/a	El Camino Real: Half Mile Drive to Via de la Valle: Improve to 4 lane major.	Others ⁽⁶⁾	
25b	T-4.3	Carmel Valley Road (four /six lanes within Pacific Highlands Ranch)	P.H.R.	
25c	T-4.4	Carmel Valley Road: Camino del Sur to Black Mountain Road; Improve to 4 lanes.	T.H./Others ^(c)	
28	T-1.2	SR-56: Black Mtn Rd to one mile west of Camino del Sur Interchange: Improve to 6 lanes.	Others ⁽⁶⁾	
31	n/a	I-15: SR-56 to Escondido; HOV lane extension.	Others ⁽⁶⁾	Completed
32	n/a	I-15: Carmel Mountain Road to Camino del Norte; NB and SB Truck Climbing lanes.	Others ⁽⁶⁾	Completed
35	n/a	SR-56: I-5 to I-15: Full Freeway.	Others ⁽⁶⁾	

EXHIBIT B-2

TRANSPORTATION PHASING PLAN AMENDMENT -- NOTE #7

NOTE: (1) "Responsible Party" shown in above table is preliminary. A process of determining exact fair-share contributions to needed improvements shall be completed during the development phase.

- (a) BMR shall provide improvements and seek reimbursement from others as appropriate.
- (b) If BMR project does not precede T.H., then T.H. may seek reimbursement.
- (c) Funding shall be provided by Transnet/FBA/City/Others as appropriate.
- (d) BMR is required to fund a portion of this improvement.
- (e) If BMR project does not precede T.H., then T.H. is responsible for improvement.
- (f) The ADT beyond 57,760 will be used to complete buildout of the Regional Commercial Center and Church School is not expected before 2010.

BMR =Black Mountain Ranch
T.H. =Torrey Highlands
F.H. =Fairbanks Highlands
P.H.R. =Pacific Highlands Ranch

(2) Those projects listed above that do not include a FBA Project No. are expected to be funded by others outside the Torrey Highlands sub-area.

(3) The transportation improvements listed in each phase must be assured to the satisfaction of the City Engineer before any development permit is authorized (Improvements shall meet one of the following conditions: constructed and open to traffic; bonded; scheduled for construction in the City CIP for the year in which the building permits are requested; programmed for construction in the STIP for the year in which the building permits are requested).

(4) At the start of Phase Four (36,100 average daily trips), advance \$1.0 Million for the third westbound lane on SR-56 to I-5 (Project T-13) to begin the preliminary engineering and environmental document.

(5) At the start of Phase Four (36,100 average daily trips), begin the environmental document and/or the final design for the following roadway improvements: Camino del Sur as a four lane major street from SR-56 to Park Village Road (Projects T-3.1A, T-3.1B, T-3.2A & T-3.2B); Carmel Mountain Road as a four lane major street from Sundance Avenue to Camino del Sur (Projects T-5.1 & T-5.2), the extension of the southbound right-turn lane on El Camino Real from Valley Center Drive to Carmel Valley Road (Project T-12).

(6) At the start of Phase Four, for residential units which are served by existing streets, the following FBA projects which are all located south of SR-56 are not required to be built or assured (T-3.1A, T-3.1B, T-5.1, T-5.2, T-3.2A and T-3.2B), in order to obtain building permits.

(7) For development associated with neighborhood use permit no. 601521 for the Santa Fe Summit II and III project (project no. 131969), Phase Four improvements are not required to be assured in order to apply for building permits; however, no certificate(s) of occupancy may be issued for the last 300,000 square feet of commercial office space under Neighborhood Use Permit No. 601521 until project no. T-9 is assured to the satisfaction of the City Engineer in accordance with the terms of the Reimbursement Agreement for Torrey Meadow Drive (formerly street 'B') overcrossing design work in the Torrey Highlands Community, on file in the office of the City Clerk as Document No. RR-

Contract for Torrey Meadows Drive Overcrossing at SR-56 – Project Initiation, Project Approval & Environmental Document (PA/ED), PS&E, and Construction Support:

I. PROJECT DESCRIPTION

This scope of work outlines the tasks for the preparation of the Project Initiation Document (PID), which will be a Project Study Report / Project Development Support (PSR/PDS), Environmental Technical Studies and Environmental Document, the Project Report (PR), and Plans, Specifications & Estimate (PS&E) for the Torrey Meadows Drive overcrossing. Torrey Meadows Drive exists as a two-lane street both north and south of State Route 56 (SR-56) and currently ends in a cul-de-sac on either side of the freeway. In light of public safety (Ingress/egress) concerns and to provide the infrastructure necessary to support continued local development, the City has mandated that Torrey Meadows Drive be extended across SR-56. The Torrey Highlands Public Facilities Financing Plan FY 2010 identifies the Torrey Meadows Drive (Street "B") Overcrossing as Project T-9, with total funding of approximately \$7.8 million. The project is generally located near Post Mile 5.6 along SR-56.

II. EXPECTED RESULTS

The purpose of this scope of work is to initiate the project, gain environmental approval, and to complete the design-related tasks necessary to bring the Plans, Specifications, and Estimate (PS&E) to the point of Ready to List (RTL).

Under this scope of work T.Y. Lin International ("TYLI") will prepare the PID, Environmental Document Technical Studies, and PS&E for the overcrossing project. The project approval documents will be completed following Caltrans' guidelines, with concurrent reviews and approvals by both Caltrans and the City of San Diego. The ED is assumed to be an Initial Study (IS) leading to a Mitigated Negative Declaration (MND) with the City of San Diego serving as the lead agency for the California Environmental Quality Act (CEQA) and Caltrans as a responsible agency.

TYLI proposes to utilize the services of the following subconsultants:

- HELIX Environmental Planning, Inc. ("HELIX") for the environmental technical studies and Landscape Plans.
- Kleinfelder, Inc. ("Kleinfelder") for hazardous materials and geotechnical investigations
- Towill, Inc. ("Towill") for surveying and mapping
- Urban Systems Associates ("Urban Systems") for traffic studies
- Various vendors or subconsultants for minor services such as title reports, right-of-way appraisals, potholing, cultural resource surveys, etc.

III. SCOPE OF WORK

The work will comply with the following general guidelines:

- The plans will be prepared in accordance with Caltrans' current policies and procedures.
- Horizontal and vertical alignment, cross sections and staking notes will be developed using roadway design software acceptable to Caltrans. Design files will be submitted to Caltrans for review at the same time as the deliverable based on the design work (such as a plan set) is submitted.
- Drawings will be prepared in MicroStation Version 8 using Caltrans drafting standards.

The scope of work for this project is divided into subtasks as noted below.

Task 1 Project Management

Project Management will be conducted to provide a smooth flow of information between PDT members. A project schedule will be developed and periodically updated. A comprehensive Quality Assurance/Quality Control (QA/QC) plan will be implemented. Monthly PDT Meetings will be held. Management tasks include:

Task 1.1 Management Activities

Management activities in support of this proposal include:

- Ongoing project management including frequent communication and coordination with the City and Caltrans management team and subtask teams.
- Attend Management Team meetings, at least monthly, to discuss project progress and determine the direction for the future work.
- Coordinate with and direct the efforts of the project consultant team.
- Conduct project documentation, filing, accounting, invoicing.

Task 1.2 Monthly PDT Meetings and Focused Meetings

CONSULTANT will coordinate and attend Project Development Team (PDT) meetings with City and Caltrans staff and other representatives from resource agencies as necessary. Assumes a total of 8 PDT meetings are anticipated for this project. CONSULTANT will prepare minutes and distribute them to the City's Project Manager and other attendees at each meeting. An Action Item list and a Deliverables Status Matrix will be prepared and updated for each PDT meeting. Additionally CONSULTANT will coordinate focused technical meetings as needed to facilitate approval.

- Prepare for and attend up to three community meetings. Document significant comments received from the public. It is assumed that the City is responsible for arranging and noticing for this meeting; CONSULTANT will provide project graphics for community meetings.

Task 1.3 Project Schedule

CONSULTANT will, within two weeks of Notice to Proceed (NTP), provide a detailed project baseline schedule, indicating milestones, major activities and deliverables, to the City and Caltrans for review and comments. CONSULTANT will update the schedule on a monthly basis, to coincide with the PDT meetings or as required.

Task 1.4 Quality Control

CONSULTANT will have a quality control plan in effect during the course of the project. CONSULTANT will develop a plan establishing a process to verify design calculations are independently checked. Exhibits and plans will also be checked, corrected and back-checked for accuracy and completeness. CONSULTANT will review environmental and engineering sub-consultant report submittals to verify that appropriate background information, study methodology, interpretation of data, format and content are completed in accordance with current standards.

Task 2 Traffic Studies Consultant shall prepare traffic studies to meet the requirements of both Caltrans and City of San Diego Environmental Standards. The following tasks serve as the basis for the traffic budget:

- Traffic counts at up to 7 intersections and 7 street segments.
- Existing traffic redistribution manual analysis to determine how existing traffic would be redistributed because of the project. Study segments include Torrey Meadows Drive, Camino Del Sur, Torrey Santa Fe Road and Torrey Meadows.

- Two new travel forecasts 2035 with/without project with up to 3 select links for each alternative.
- Analysis of up to 5 scenarios: existing, existing+ redistributed traffic, opening with project based on growth factor, 2035 without and 2035 with project.
- Traffic report document with graphics and exhibits.
- Meeting/coordination/environmental support including construction staging, routes and traffic control.

Task 3 Project Mapping

Task 3.1 Topographic Mapping

CONSULTANT will prepare aerial photogrammetric mapping in English units for the project area. CONSULTANT will acquire color aerial photography at a photo scale of 1" = 250', prepare topographic mapping at 1" = 20' scale with one-foot contours and planimetrics, and prepare a color digital ortho-rectified image with 0.25-foot (three-inch) pixel resolution, in accordance with Caltrans mapping standards. A field survey will be executed to verify the photogrammetrically mapped features and their positional accuracies to verify the mapping products of the quality and integrity required for engineering design. The mapping product will include key spot elevations such as invert elevations of sanitary and storm sewers in the project area.

CONSULTANT will research public records to determine the location of established control in the project vicinity, recover those controlling monuments, and, through the use of various surveying methods (traditional traverse/trig leveling, differential leveling, and static/RTK GPS) extend the established horizontal and vertical control network to the immediate project area. Work will be expressed in terms of the California State Plane Coordinate System 1983 (NAD83), Zone VI, epoch 1991.35, U.S. Survey Feet, and referenced to the National Geodetic Vertical Datum 1929 (NGVD29) as determined locally by the City of San Diego vertical control network (to be confirmed with Caltrans Surveys). A control report will be prepared which fully documents the control and procedures used and the resulting positions of control established for this project.

Task 3.2 Design Surveys

Before the PS&E phase, CONSULTANT will complete design surveying:

- 50' Cross sections at proposed walls (if any)
- 50' cross sections SR-56 +/- 200 feet from Torrey Meadows alignment
- Drainage Features as necessary within the project limits
- Provide Survey Control monumentation

Task 3.3 Right of Way Mapping

CONSULTANT will conduct boundary research to recover available record data for the right of way that comprise the land-net for the project area. Consultant surveyors will use the above data to search for existing boundary monuments. Found monuments will be field measured and that data will be reduced and analyzed in the office. The field evidence will be compared and reconciled to the record boundary geometry. The final dimensioned boundary geometry will be produced as a deliverable.

3.3.1. Determine Right of Way Impacts

Using the preliminary engineering alignments and limit of grading, Consultant will determine potential right-of-way impacts.

3.3.1.1. Project Review with Affected Agencies

Consultant will provide support for meetings with the City of San Diego, Caltrans, and other affected agencies with exhibits, and background information regarding the design as it affects the right-of-way.

3.3.1.2. Easement Requirements Determination

Consultant will determine the need for any easements, including footing easements for retaining walls, temporary easements for construction on private property, and required right-of-way (if any) for the proposed improvements.

3.3.1.3. Right-of-Way Requirement Maps

Consultant will prepare maps to indicate the right-of-way (including easements) needed to construct, operate, and maintain the project facilities.

3.3.2. Right-of-Way Engineering**3.3.2.1. Existing Land Net**

Consultant will collect record data and field evidence required to begin development of the Right-of-Way Base Map. Tasks associated with the component include retrieval of pertinent record maps and the assembly of those maps to facilitate search, recovery, positioning, and documentation of land corners pertinent to ownership rights in the project area.

3.3.2.2. Land Net Map

Consultant will prepare a Land Net Map that depicts existing property ownership boundaries, lines, and monuments (land net). Effort entails completion of work activities required to analyze, determine, and delineate a single land net that encompasses the whole project, presented in the context of project control.

3.3.2.3. Right-of-Way Maps

Consultant will create exhibits to accompany right-of-way acquisition documents and instruments. Consultant will also work with the ROW specialist to confirm the sufficiency of the right-of-way limits proposed by designers prior to finalizing the appraisal maps.

3.3.2.4. Appraisal Maps

Using the Land Net Map and the Right-of-Way as determined above, calculate and delineate new parcels and sub parcels (or easements) generated by project. Prepare deeds or plats to facilitate appraisal efforts.

3.3.2.5. Acquisition Documents (Pre-authorization Required)

Consultant will provide informational support, as needed, to create property acquisition documents, including the preparation of legal descriptions. This task does not include creation of contract obligation documents.

3.3.3. Obtain Right-of-Way Interests for Right-of-Way Certification (Pre-authorization Required for 3.3.3.1, 3.3.3.2, and 3.3.3.3)

Consultant will implement and manage a comprehensive right-of-way program for the public acquisition process. Consultant will develop and implement a formal right-of-way program in compliance with City of San Diego and Caltrans policies and procedures. Consultant will provide overall right-of-way program management, leadership, and direction of the right-of-way process, policies, and scheduling.

3.3.3.1. Right-of-Way Appraisals

Consultant will conduct the fee appraisals and appraisal reviews for the project.

3.3.3.2. Right-of-Way Acquisition

Consultant will procure preliminary title reports for each property. These reports will be used by the real estate appraisers to provide their opinion of market value of the properties. Consultant will submit a recommended package to the City for the determination of just compensation along with a formal offer to purchase package. Consultant will present the City's written offer to property

owners in person and systematically resolve barriers to settlement. Settlements will be carefully weighed and presented with recommendations to the City.

Upon offer acceptance, Consultant will open escrows and systematically work to deliver title to the condition stated in the purchase documents. Consultant will prepare the Right-of-Way Certification and the necessary documentation in order to proceed with project advertisement and construction.

3.3.3.3. Right-of-Way Condemnation

Consultant will work collaboratively with the City's staff to participate in the resolution of necessity and service process by supplying needed certifications, files, diaries, and litigation guarantees needed for their work.

Task 3.4 Right of Way Data Sheet

Summarize right-of-way impacts for the project. Impacts to affected parcels are expected to be minimal for this project. Prepare the Right-of-Way Data Sheet for inclusion in the PR.

Task 3.5 Utility Mapping

CONSULTANT will perform a utility search for affected utilities in the project area. The search will include field review and review of available "as-builts" and encroachment permits for the project area. CONSULTANT will research records for both public and franchise utilities and will plot the location of existing facilities including: water, storm drain, electric, and fiber optic cable. CONSULTANT will include preparation of a database of utility records indicating the type of utility, owner, drawing number, and other vital information. The identified utility companies will be sent a letter requesting information regarding existing and proposed utilities. Using the information obtained, CONSULTANT will prepare a utility base map used to complete the Utility Information Sheet and begin early coordination of any utility conflict resolution.

Task 3.5.1 Utility Information Sheet

CONSULTANT will prepare a Utility Information Sheet. The names of known utilities and points of contact will be developed. A description of the location, existing facility and potential conflicts with the project will be prepared.

Task 3.5.2 Utility Conflict Identification

CONSULTANT will survey visible utility features within the proposed area of improvements and identify known critical utility crossings that should be potholed during the design phase to confirm the location so as to avoid conflicts during construction.

Task 3.5.3 Utility Potholing

CONSULTANT will prepare a pothole plan to pothole existing utilities at up to ten (10) locations. Actual potholing will be additional service.

Task 4 Preliminary Design

CONSULTANT will develop approximately 30% plans- Geometric Approval Drawings (GAD) -that will include horizontal and vertical alignments, typical sections, superelevations, earthwork and conceptual stage construction. This preliminary design will be used in the development of the PSR/PDS and PR. City staff (and Caltrans staff if applicable) will be provided the GAD for review and comment. Components of the GAD will include:

Task 4.1 Roadway and Miscellaneous Design

Base Geometrics

Prepare a base geometric exhibit that includes geometric data required to construct the

project. Horizontal curve data will be organized in a data table. A legend and list of abbreviations will be prepared.

Typical Cross Sections

Include typical cross sections for CIP roadway improvements that include original ground, traveled way, shoulders, cut/fill slopes, walls, existing/proposed right of way and existing/recommended structural sections. Structural section recommendations will be per City of San Diego standards.

Profile/Superelevation Diagrams

Prepare profile and superelevation diagrams for freeway and arterial road improvements that include original ground, profile grade information and superelevation data if applicable.

Task 4.2 Proposed Geometrics Review

Respond to review comments of the proposed geometrics by City and Caltrans staff, leading to approval of design assumptions and alignments, typical sections, superelevations, and conceptual stage construction. This subtask is key to beginning subsequent task work.

Task 4.3 Requests for Exceptions to Design Standards

CONSULTANT will complete the DIB 78-01 Checklist for the development of Geometric Plans.

Task 4.4 Grading Design

CONSULTANT will develop grading designs for the project. The grading design will aid in the development of the project footprint, project cost, retaining wall locations, adherence to slope standards, drainage design and direct/indirect project impacts.

Task 4.5 Landscape Concept Plan

CONSULTANT will prepare a Landscape Concept Plan which will depict the type, size and general location of existing and new landscape improvements. City and Caltrans "as-built" plans will be supplemented with observation in the field to inventory the existing planting, retaining or sound walls, overhead utilities and general conditions. The proposed landscape improvements will generally indicate the plant materials list, type of planting themes, view shed mitigation measures and tree massing locations. Detailed descriptions of key entry themes or concepts may be provided in plan sketches to accompany the overall drawing.

Task 4.6 Structures Advance Planning Studies (APS)

CONSULTANT will complete Structures APS for the bridge widening. The APS will assist in the development of project costs, feasibility, constructability and cost. Preparation of the APS will begin with review of background information including: "as-built" structure plans, bridge maintenance records, preliminary bridge site data, and previously prepared APS. The study will take into consideration foundation requirements, cost, ease of construction and aesthetics. CONSULTANT will prepare the APS plan sheets using the standard Caltrans Bridge General Plan sheet format which includes a plan, elevation and typical section. The CONSULTANT will prepare a Design Memo summarizing important assumptions and considerations involved in the APS alternatives. CONSULTANT will prepare a Preliminary Cost Estimate for the bridge type based on approximate quantities and historical construction costs for similar projects. The APS will be prepared in accordance with Caltrans OSFP Information and Procedures Guide, Section 3-2, and Caltrans Bridge Memo to Designers, Section 1-8. After review by the CITY and Caltrans, CONSULTANT will incorporate comments into the final APS.

Task 4.7 Transportation Management Plan (TMP)

CONSULTANT will prepare a preliminary TMP for review and use in the Project Report. The preliminary TMP concepts will address development of a public awareness campaign, proper

Identification of detour routes and lane closures, scheduling of construction activities during off-peak hours, emergency access, development of traffic contingency plans and other factors related to traffic management during construction. It is anticipated that there will be very minimal impacts to Caltrans' facilities, such as night-time closure of the freeway for falsework erection and removal, and the TMP Data Sheet effort is anticipated to be minimal.

Task 4.8 Engineer's Estimate

CONSULTANT will develop a preliminary engineer's estimate for the project. The estimate will be in Caltrans estimate format using escalation cost factors and included in the Project Report. All estimates in the PSR/PDS will be order of magnitude only.

Task 4.9 Preliminary Hydrology/Drainage Report

CONSULTANT will research existing improvement plans and drainage maps to obtain pertinent drainage information and plot said information on a tributary map. Consultant will determine the limits and characteristics of watersheds, existing and future drainage facilities, and existing and future developments affecting the project limits. The information will be included in the hydrology study and considered in the preliminary design of drainage facilities. Analyze existing drainage systems for their ability to accommodate future design flows and propose drainage modifications/improvements for the project in accordance with Caltrans requirements. It is assumed that the downstream systems will have capacity to handle any additional flow expected from this project.

Task 4.10 Storm Water Data Report (SWDR)

CONSULTANT will identify potential storm water quality impacts and develop options to avoid, reduce or minimize the potential for storm water quality impacts. CONSULTANT will verify that the programmed project includes sufficient right-of-way and budget for required storm water controls and identify project-specific permanent and temporary Best Management Practices (BMPs) that may be required to mitigate impacts. Drainage areas and total disturbed area will be defined, as will existing drainage site conditions, site permeability, soil texture, existing vegetation and groundwater. At this phase, it is assumed that a SWDR will be sufficient for both agencies and that a City Water Quality Technical Report will not be required.

Evaluation Documentation Form

CONSULTANT will determine hydraulic conditions, disturbed soil areas, local pollution control requirements and total maximum daily loads (TMDLs) within the project vicinity.

Site Data and Storm Water Quality Design Issues

CONSULTANT will define site data and storm water quality design issues in accordance with checklists SW-1, SW-2 and SW-3 from the Caltrans Project Planning and Design Guide:

- Receiving water bodies/303(d) list/Pollutants of Concern
- Regional Water Quality Control Board (RWQCB) special requirements/concerns
- Local agency requirements/concerns
- Project design considerations (climate, soil, topography, geology, groundwater, right of way requirements, slope stabilization)
- Right-of-way BMP costs and funding
- Measures for avoiding or reducing potential storm water impacts

Design Pollution Prevention BMPs

CONSULTANT will describe proposed design pollution prevention BMPs to be used on the project in accordance with checklists DPP-1, Parts 1-5:

- Downstream effects related to potentially increased flow
- Slope/Surface protection systems
- Concentrated flow conveyance systems
- Preservation of existing vegetation

Permanent Treatment BMPs

CONSULTANT will describe proposed permanent treatment BMPs to be used on the project in accordance with checklists T-1, Parts 1-7:

- Biofiltration Swales/Strips
- Dry weather diversion
- Infiltration basins
- Detention basins
- Gross solids removal devices
- Traction sand traps
- Media filters
- Multi-chamber treatment train
- Wet basins

Construction Cost Information

CONSULTANT will prepare a summary of construction costs associated with storm water pollution prevention.

After review of the Draft SWDR by the CITY and Caltrans, comments will be incorporated and a Final SWDR submitted.

Task 4.11 Preliminary Environmental Study form (PES) – NOT REQUIRED

Based on direction from Caltrans staff on June 10, 2011, it has been determined that completion of a PES form will not be required.

Task 5 Geotechnical Studies**Task 5.1 Research and Preliminary Foundation Report**

CONSULTANT will begin the investigation by reviewing available geologic and geotechnical literature pertaining to the project site. CONSULTANT will review published soil and geologic data as available from appropriate public agencies. The review will include a review of reports and geologic maps prepared by the California Geological Survey, the U.S. Geological Survey, and other government agencies. CONSULTANT will also review Caltrans reports and documents pertaining to the existing structure, if available for review. A geologic/geotechnical reconnaissance by a California Certified Engineering Geologist and/or a California Registered Geotechnical Engineer will be performed along the full length of the proposed improvements, to observe and check for geological conditions and features that could impact design, construction and cost of the proposed improvements.

Task 5.2 Field Investigation and Utility Clearance

Prior to the field investigation, CONSULTANT will submit a plan showing locations of the proposed borings along with a completed application package to Caltrans District 11 Permit Office to obtain an Encroachment Permit. Consultant will obtain a City of San Diego excavation encroachment permit for borings performed within City right-of-way. Consultant will obtain a San Diego County Department of Environmental Health boring permit. Following Caltrans appraisal, and prior to drilling, CONSULTANT will contact Underground Service Alert (USA) to identify potential conflicts between our planned boring locations and existing underground utilities. Traffic control will be required for drilling within portions of the existing right-of-way. CONSULTANT will drill and log up to six geotechnical borings for evaluation of subsurface conditions to support preliminary foundation studies and pavement design. One boring will be drilled in the area of one of the future abutments. The borings will be drilled to depths of 15 to 30 feet for the ramps, and 70 to 100 feet at the abutments, or to practical refusal, whichever occurs first. The location of the borings will be determined following our literature review and site reconnaissance. The borings will be drilled with a truck-mounted drill rig using hollow-stem auger and/or mud rotary drilling techniques. The sampling interval in the borings will be every 5 feet. The number of blows necessary to drive a Standard Penetration Test (SPT) sampler and/or a California-type sampler will be recorded and an engineer or geologist will maintain a log of the borings and will obtain

samples for visual examination, classification, and laboratory testing. Groundwater, if encountered, will be measured in the open borehole at the time of drilling. Upon completion, the borings will be grout as required by the San Diego County Department of Environmental Services. A pavement condition survey will be completed for the arterial road.

Task 5.3 Laboratory Testing

Laboratory testing will be performed on selected samples obtained during field exploration to assess the physical characteristics of the subsurface materials. The testing will include moisture/density, gradation, plasticity index, sand equivalent, consolidating/collapse potential, direct shear strength, maximum density/optimum moisture content, R-value and corrosion potential. The testing program may be modified based on the actual subsurface materials encountered during exploration.

Task 5.4 Geotechnical Design Report

CONSULTANT will prepare a Geotechnical Design Report for design and construction of embankments and pavement structural sections in general accordance with California Test Method CAL-130, and will present the data obtained during field exploration and laboratory testing, as well as conclusions and recommendations pertaining to the following:

- Project description including proposed improvements, climatic conditions, terrain and surface drainage, and land use.
- Discussion of geotechnical settings including regional geology, subsurface soil and groundwater conditions.
- Recommendations for design of retaining walls, including foundation type, allowable capacity and lateral pressures.
- Recommendations for construction of roadway and embankment foundations and estimated settlement.
- Evaluation of gross and surficial stability of the proposed fill slopes.
- Earthwork considerations, including excavation characteristics and erosion controls.
- Collapse, expansive and corrosion potentials of the subgrade soils and recommended mitigation measures, if necessary.
- Earthquake considerations including seismic design criteria for fill embankment, and seismic hazards including the potential for liquefaction, ground rupture due to surface faulting and seismically induced settlement.
- Recommendations for pavement structural design based on traffic indices assumed or provided by the client.
- Discussion of materials available including local and commercial sources and materials specifications.
- Results of arterial road pavement deflection study.
- Results of pavement condition survey.
- Logs of Test Borings (LOTB).

After review by the CITY and Caltrans, CONSULTANT will incorporate comments into a final Geotechnical Design Report.

Task 5.5 Structures Foundation Report

CONSULTANT will prepare a Structures Foundation Report in accordance with Caltrans Guidelines for Foundation Investigations and Reports, and will include the following:

- Seismic design recommendations including recommended acceleration response spectra in accordance with the current Caltrans Seismic Design Criteria.
- Recommendations for design and construction of shallow or deep foundations including recommended bearing capacities, lateral resistance, and total and differential settlements.
- Overall stability analyses of footings, slope and foundation materials; evaluation for static and pseudo-static conditions.
- Construction considerations.

The conclusions and recommendations pertaining to design and construction of foundation systems will be presented in a Structure Foundation Report with a site map showing boring locations.

Task 5.6 Hazardous Waste Initial Site Assessment (ISA)

The purpose of the ISA is to review potential hazardous material/waste impacts associated with the proposed project. Information developed during the ISA will be used to evaluate human health risk during construction, long-term risk to human health, and the environment following construction, and possible legal or logistical implications associated with contaminated sites along the alignment. CONSULTANT will prepare an ISA in accordance with Caltrans' Preparation Guidelines for Initial Site Assessments. CONSULTANT will conduct an agency records search to identify hazardous waste sites located within the project study area and classified as a hazardous waste site under State law. The records search will also identify business types located within the project study area that would be likely to store, transfer, or utilize large quantities of hazardous materials. This information will be obtained from records maintained by the State of California Department of Health and Regional Water Quality Control Board, and other appropriate agencies. CONSULTANT will conduct a visual survey of the project area via available public access to identify obvious areas of hazardous waste contamination. If hazardous waste sites are identified within the project study area, CONSULTANT will evaluate the potential impact to the project and identify subsequent procedures to determine the extent of contamination and remediation requirements. Potential hazardous waste sites located within the project area will be evaluated using information available from local and/or State agencies. Historic land use information for the project study area will be requested from the CITY to evaluate whether previous uses may have resulted in hazardous waste contamination. CONSULTANT will prepare an ISA. After review by the CITY and Caltrans, CONSULTANT will incorporate comments into a final ISA.

Task 6 Draft and Final Project Study Report/Project Dev. Support (PSR/PDS)

Using data obtained in tasks 3 through 5 above, CONSULTANT will prepare a draft and final PSR/PDS using the most current Caltrans guidelines (currently September 30, 2011). This document will function as the Project Initiation Document (PID) for Caltrans reimbursement on the project. The draft PSR/PDS will be submitted for one review cycle (30-60 days) for comment by the CITY and Caltrans. Revisions will be made based on comments and a final PSR/PDS will be submitted for approval by the agencies (within 30 days). The content of the PSR/PDS will include:

1. Introduction
2. Background
3. Purpose and Need
4. Traffic Engineering Performance Assessment (TEPA) - using data from existing traffic studies by Urban Systems Associates or as provided by the City or Caltrans. No new forecast traffic modeling will be completed for this document.
5. Deficiencies
6. Corridor and System Coordination
7. Alternatives (all cost estimates will be Order of Magnitude)
8. Right of Way - Assumed that City and Caltrans personnel will assist with the completion of the Conceptual Cost Estimate Request checklist and the information needed to complete.
9. Stakeholder Involvement

10. Environmental Determination/Documentation-
The preliminary environmental analysis report (PEAR) will be prepared (with assistance from City staff) and summarized
11. Funding
12. Schedule
13. FHWA Coordination (If necessary)
14. District Contacts
15. Project Reviews
16. Attachments

Task 7 Project Report (PR)

CONSULTANT will prepare a Draft and Final PR using the latest Caltrans Guidelines (Currently 4/26/2011). The Draft PR will be submitted for review and comment by the CITY and Caltrans and will accompany the Draft Environmental Document (DED). Following public circulation of the DED, consideration of public comments and the selection of a preferred alternative, the Draft PR will be revised to create the Final PR. The following sections will be included in the Draft and Final PR:

Introduction Section

Develop a short introduction that discusses project limits, purpose, cost, program, fiscal year and Project Development Category.

Recommendation Section

Develop a three or four sentence section recommending that the DED be approved and publicly circulated. For the Final PR a recommendation will be made that the project be approved using the preferred alternative and that the project proceed to the design phase. For the Final PR, a statement will be prepared that attests that the local affected agencies have been consulted, their views considered and that the local agencies are in agreement with the report.

Background Section

Briefly discuss the project history, summarize any community interaction and issues from previous studies, and describe the existing facility.

Need and Purpose Section

Complete a Need and Purpose Section that provides a discussion of why the project is needed and the objectives of the project. Key issues that have an impact on the need and purpose will be highlighted. This section will discuss applicable program objectives such as the Regional Transportation Plan and other planning documents. Impacts on state, regional, and local planning, including transit service will be discussed. Discussions of existing and forecasted traffic data (as available), traffic levels of service, traffic capacity, land use, and summarized safety and accident reports will be included.

Deficiencies

Complete a Deficiencies section that provides a concise discussion of the data that supports the purpose and need of the project as well as identifying data that is important to the scoping of the project.

Corridor and System Coordination

This section will address the Corridor and System plan consistency with the proposed project.

Alternatives Section

The Project Alternatives Section will document both Non-feasible (rejected) Alternatives and Feasible Alternatives. The draft PR will discuss the "No-build" Alternative and the Build Alternative. The preferred alternative will be identified in the final PR after the environmental circulation. Proposed engineering features of the project will be discussed.

Considerations Requiring Discussion

This section will summarize considerations relating to hazardous waste, value analysis, resource conservation, right of way issues, environmental issues, air quality conformity and Title VI of the Civil Rights Act.

Other Considerations

Summarize considerations relating to public hearing, freeway agreement, permits, Cooperative Agreements, Transportation Management Plan, accommodation of oversize loads and water resources.

Community Involvement

Discuss any types of public involvement activities that were used to develop the purpose and need statement or during the project development.

Environmental Determination/Document

Discuss the appropriate environmental document and required processing.

Funding

Identify the potential sources of funding and project funding eligibility to fully fund the project.

Schedule

Include a copy of the schedule for project along with milestones.

FHWA Coordination

Discuss coordination with FHWA, if any.

Project Personnel

Include a list of project development team members and stakeholders. The contact list will include names and contact telephone numbers.

Project Reviews

Summarize major reviews and dates of review.

Task 8 General Environmental Studies

CONSULTANT will prepare technical studies to support the Environmental Document (ED). It is assumed that an Initial Study (IS) leading to a Mitigated Negative Declaration (MND) will be the appropriate level of environmental clearance. The City of San Diego will serve as the lead agency for the California Environmental Quality Act (CEQA) and will be responsible for preparation of the environmental document, along with all distribution, processing, and approval. Consultant will prepare the following Technical Studies will be prepared in support of the project.

Task 8.1 Noise Study

CONSULTANT will prepare a noise analysis and report for the proposed project. The focus will be on long-term traffic noise levels. However, construction noise will also be estimated. The study will begin with a Draft Noise Analysis Workplan submittal to the City and Caltrans. After Workplan acceptance, project work will commence with a site visit to determine ambient noise levels and identify sensitive noise receptors. The focus of this field assessment will be on traffic noise along Torrey Meadows Drive and the potential impacts of

changes in traffic volume on this roadway resulting from construction of the proposed bridge. Ambient noise measurements will be taken. Sound-level data will be collected over a 10- to 15- minute period at two locations throughout the day. In addition, continuous 24-hour noise monitoring will be conducted at these locations.

The Impact analysis will be based on a comparison of traffic noise levels along Torrey Meadows Road with and without the bridge. Due to the analysis requirements of Caltrans in processing an encroachment permit, the noise analysis will utilize the following planning and report guidelines: Caltrans Traffic Noise Analysis Protocol (CaTNAP), Technical Noise Supplement (TeNS), and FHWA practices. To facilitate its use by both agencies, the report will contain discussions of significance thresholds, impacts and mitigation requirements in accordance with the requirements of each.

Once the post-project noise levels have been determined, the noise analysis will assess the ability of existing noise walls to meet the applicable requirements of the City and Caltrans. If additional noise attenuation is required, CONSULTANT will determine the additional noise attenuation that would be required to meet the respective standards including a preliminary estimate of the location and height of the additional attenuation and preliminary cost allowances per Caltrans requirements.

CONSULTANT will summarize the results of the noise analysis in a Caltrans Noise Study Report (NSR) Format (note this format includes the elements required in the City of San Diego format).

Task 8.1.1 Noise Abatement Decision Report (NADR)

It is assumed that Noise Abatement Decision Report is not required on this project.

Task 8.2 Air Quality/Greenhouse Gas Analysis

Air Quality

CONSULTANT will prepare an air quality analysis for the proposed project addressing project impacts related to criteria air pollutants. Existing air quality conditions will be described based on the most current three years of air quality data from the nearest monitoring station operated by the San Diego Air Pollution Control District (SDAPCD). The analysis will contain a discussion of the air quality regulations, including Ambient Air Quality Standards, Regional Transportation Improvement Program (RTIP), and Air Quality Management Plan (AQMP) that are applicable to the project.

The air quality analysis will address potential short- and long-term impacts related to the proposed bridge. The analysis of construction impacts will focus on fugitive dust during grading, emissions produced from heavy equipment, worker commutes, and haul trucks required for the delivery of building materials. Estimates of emissions produced from both heavy equipment and dust from grading during the construction effort will be based on methodology provided with the Roadway Construction Emissions Model, distributed by the California Air Resources Board (CARB). Additionally, volatile organic compounds (VOCs) produced from paving activities will be addressed. Emissions from these construction activities will be calculated and compared with City of San Diego's *CEQA Significance Determination Threshold* procedures to assess their significance. Construction and operational emissions associated with the proposed project using the Caltrans guidance will be provided as an appendix to the air quality report.

As it is not anticipated that the bridge would not be a "traffic generator", the focus of the long-term air quality analysis will be on the effect the new bridge would have on the

distribution of future local traffic due to the ability of local residents to cross over SR-56 at Torrey Meadows Drive. To this end, the analysis will focus on changes in vehicle miles traveled (vmt) and vehicle hours traveled (VHT [delays data]) with and without the proposed bridge. CALINE4 model and CARB emission factors will be used to estimate CO concentrations along any roadways which may experience substantially higher traffic volumes due to the redistribution of traffic resulting from the bridge. CO modeling would focus on existing, completion year (opening day), and/or design horizon year conditions as modeled in the traffic analysis. Up to three intersections will be assessed.

A qualitative evaluation of potential health risks and objectionable odors associated with the proposed project on nearby sensitive receptors (i.e., residences, hospitals, schools, parks) will be written in accordance with the recommendations found in the City of San Diego's *CEQA Significance Determination Threshold* procedures and *CARB Air Quality and Land Use Handbook: A Community Health Perspective*. A detailed hazardous air pollutants/odor dispersion and health risk assessment modeling analyses will not be conducted as part of this task.

As necessary, the analysis will identify mitigation measures to reduce air quality impacts. Mitigation measures for short-term construction-related impacts will center on equipment limitations and controls, dust control measures, and low VOC types of paving material. Mitigation measures for long-term impacts will be identified to reduce emissions of criteria pollutants and hazardous air pollutants using the available information from EPA, SDAPCD, and CARB.

Greenhouse Gas Emissions

CONSULTANT will prepare an analysis of greenhouse gas (GHG) emissions for incorporation into the environmental document. The analysis will present an overview of climate change science, predicted emissions and impacts globally and within California, of the current regulatory regime in California and the U.S. (including a summary of the City's policy framework for controlling and reducing GHG emissions by the milestone year 2020), and of expected future actions of the state/CARB in regulation of GHG emissions. This GHG background will also present the cumulative context for assessment of climate change by presenting an overview of global, state, and regional (San Diego County area) emissions. Significance thresholds for evaluating the Specific Plan's potential contribution to global climate change will be established based on discussions with City staff, using the goals identified in Assembly Bill 32 (AB32) and the CARB's *Interim GHG Significance Threshold Guidance for Industrial, Commercial and Residential Projects* as a guide. In addition, the analysis will employ the City's screening threshold of 900 metric tons of GHG emissions per year.

CONSULTANT will estimate the short- and long-term GHG emissions related to the project. The analysis will include the primary sources of GHG emissions (as applicable): construction activity, vehicular traffic, generation of electricity, natural gas consumption/combustion, solid waste generation, and water usage.

CONSULTANT will evaluate the project's contribution of GHG and assess the project's consistency with City's General Plan and Caltrans' Climate Action strategies. To serve as a basis for determining if the project would not meet goals established by AB 32, the analysis will estimate project contributions based on two scenarios. The first scenario will represent the "business as usual" condition which would occur in the absence of mitigation and adherence to new GHG regulations. A second scenario would evaluate GHG emissions with

Implementation of project-specific mitigation measures and adherence to new GHG regulations. The potential GHG emissions from construction activities will be evaluated and specific measures to reduce or minimize construction GHG emissions will be discussed. For the operational impacts, the CT-EMFAC model will be utilized to estimate the GHG emissions for the existing and design-year for both no-build and build scenarios. The existing and design-year VMT and VHT for both no-build and build alternative scenarios will be obtained from the traffic technical study.

In addition to identifying impacts associated with the project's GHG emissions, CONSULTANT will qualitatively discuss potential impacts of climate change on the environment within the project area, including the potential changes in hydrology (precipitation, flooding events, etc.), public health (heat stress, increased ozone, etc.), and water supply (changes in Sierra snowpack, availability of water, etc.).

CONSULTANT will review and identify feasible GHG strategies from the City's General Plan and assess the conformity of the proposed project with applicable goals and objectives. If a significant a GHG emissions impact is identified, CONSULTANT will identify measures, if available, to reduce the impact to less than significant levels.

Task 8.3 Visual Technical Study Memorandum

A Visual Impact Assessment (VIA) will be prepared for the project in accordance with the objectives and methods described in *Visual Impact Assessment for Highway Projects* (FHWA 1981), using the Caltrans SER boilerplate format for a VIA Memorandum. The VIA Memorandum will consider the objectives of the City and Caltrans to analyze the project impacts on visual resources including how the proposed bridge including noise barriers will fit into the existing landscape and community. The analysis will include a map of the viewshed of the proposed project and a discussion of the project features visible from Key Observation Points (KOPs). The VIA Memorandum will include written recommendations for mitigation or offset measures for any potential impacts. A total of two (2) visual simulations, consisting of existing and proposed key views from each direction of SR-56, will be prepared and included in the VIA Memorandum. The key view points, as determined by the project team, will be used in preparing the visual simulations.

Task 8.4 Paleontology Study

It is assumed that Paleontological studies are not required on this project.

Task 8.5 Biological Survey Report

CONSULTANT will conduct a biological survey and prepare a brief letter report for the proposed project. CONSULTANT will review existing biological documents and conduct an in-house database search for sensitive species known to occur within the project area, and prepare field maps. CONSULTANT will conduct a site visit to confirm the anticipated absence of sensitive vegetation. CONSULTANT will evaluate the potential direct and/or indirect impacts associated with construction and/or operation of the bridge. The analysis will include consideration of City MHPA adjacency guidelines.

CONSULTANT will summarize the results of the literature review and field work in a letter report. The report will describe the survey methods employed, and provide information documenting the absence of significant biological resource impacts related to construction of the proposed bridge. It is assumed that a full Natural Environment Study (NES) is not required.

Task 8.6 Community Impact Checklist

It is assumed that a Community Impact Analysis is not required on this project.

Task 8.7 Cultural Resources Survey

CONSULTANT will conduct a literature review to assess the potential for prehistoric resources to occur within the Impact area of the proposed bridge. A records search from the South Coastal Information Center for the project area and a one-mile radius (per City Historical Resource Guidelines) will be obtained. In addition, CONSULTANT will view historic maps, aerial photographs and past cultural resource reports completed in the area to assess the potential for historic archaeological resources. A Sacred Lands File Check will be requested from the Native American Heritage Commission. Based on the results of the literature review, a field survey will be conducted of the disturbance area to determine if prehistoric resources occur or have the potential to occur within the disturbance area. If the potential exists for significant cultural resources, mitigation measures will be recommended for construction monitoring. The results of the literature review and field survey will be summarized in a "negative report" in accordance with City of San Diego requirements as well as a negative Archaeological Survey Report (ASR) and Historic Properties Survey Report (HPSR) in accordance with Caltrans requirements.

Task 9 CEQA-Only Environmental Document

CONSULTANT will provide support to City in its efforts to prepare and process the necessary environmental documentation. This work will include document review, impact assessment, mitigation measure development, and interpretation of technical information prepared by CONSULTANT. City of San Diego Development Services Department (DSD) will be responsible for the following tasks:

Task 9.1 Prepare Draft IS/MND for Approval to Circulate (One Copy for Signature)**Task 9.2 Public Review****Task 9.3 Prepare Draft Response to Comments****Task 9.4 Prepare an Administrative Final MND****Task 9.5 Prepare Final MND****Task 9.6 Environmental Commitments Record****Task 10 Permitting and Agreements****Task 10.1 Caltrans Encroachment Permit for Engineering Work**

CONSULTANT will obtain a Caltrans Encroachment Permit for topographic surveying, potholing, geotechnical exploration, and site visits during the design phase. This encroachment permit will cover CONSULTANT and the sub-consultants performing the work as well. Consultant will obtain a City of San Diego excavation encroachment permit will be obtained for borings performed within City right-of-way. Consultant will obtain a San Diego County Department of Environmental Health boring permit.

Task 10.2 Waste Discharge Permit

CONSULTANT will prepare a Notice of Intent in accordance with the National Pollution Discharge Elimination System (NPDES) general construction activity stormwater discharge permit. NPDES requirements are from the State Water Resources Control Board (SWRCB) and are related to this project because there will be over one acre of ground disturbance. With these NPDES requirements, specific mitigation measures, including BMPs specified in Caltrans' *Storm Water Quality Handbook - Planning and Design Guide*, will be identified for any potentially significant water quality impacts that may occur during construction.

Roadway and Structures PS&E

It is assumed that the roadway and structures plans will be prepared in Caltrans format. Submittals will be reviewed by the City and State as required. A single design package will be approved for advertisement and award. Subsequent to Final Plans, the area within the City's right-of-way will be separated out on to City of San Diego "D" sheets for As-Built approval.

Task 11 Draft and Final Roadway PS&E

Roadway plans will undergo 30%, 65%, 90%, 100% submittals for plans, specifications, and estimates. The plans will be prepared in Caltrans format and will be submitted to the City for review and comment, and Caltrans for approval. Each submittal will include increasing levels of detail for the plans and estimates as appropriate, and will be revised based on comments received from City and Caltrans staff.

Task 11.1 Prepare Draft Roadway Plans - Prepare plans and estimates for draft PS&E circulation. It is important to the successful completion of this task that the consultant coordinates closely with Caltrans District 11. The roadway plans will include the following sheets as a minimum:

Title Sheet (1)

CONSULTANT will prepare the project title sheet in accordance with Caltrans policies and procedures.

Typical Cross Section Sheets (2)

CONSULTANT will prepare typical section sheets.

Key Map and Line Index Sheet (1)

CONSULTANT will prepare a key map and line index sheet.

Roadway Layout Sheets (2)

CONSULTANT will prepare layout sheets.

Profile and Super elevation Sheets (2)

CONSULTANT will prepare profile and super-elevation sheets.

Construction Detail Sheets (3)

CONSULTANT will prepare construction detail sheets.

Contour Grading Sheets (2)

CONSULTANT will prepare contour grading sheets.

Summary of Quantities Sheets (2)

CONSULTANT will prepare summary of quantities sheets.

Retaining Wall Plan Sheets (3)

CONSULTANT shall prepare retaining wall plan sheets.

Select Standard Plans (1)

CONSULTANT will determine standard plans needed for the project and prepare a list of the plan sheets.

Stage Construction, Detour and Traffic Handling Plans (5)

CONSULTANT will coordinate with Caltrans Construction and Traffic Operations Divisions to prepare stage construction, detour and traffic handling plans.

Water Pollution Control Plans

CONSULTANT will prepare water pollution control plans and reports in coordination with Caltrans' Environmental Division NPDES Branch. The Storm Water Data Report prepared in Task 4.10 will be the basis for the plan preparation.

- ***Temporary Water Pollution Control Sheets (4)***

CONSULTANT will prepare plans for temporary water pollution control facilities.

Design of these facilities will include current Best Management Practices and will conform to the requirements of Caltrans and the Regional Water Quality Control Board.

- **Permanent Water Pollution Control Sheets (3)**
CONSULTANT will prepare plans for permanent erosion control facilities. Design of these facilities will include current Best Management Practices and will conform to the requirements of Caltrans and the Regional Water Quality Control Board.

Hydrology & Hydraulics Report

- **Hydrology & Hydraulics Report**

Update the preliminary Hydrology and Hydraulics Report prepared in Task 4.9 to include any additional information from the design.

Storm Water Data Report (SWDR)

Update the SWDR created in Task 4.10 to include any additional project-specific permanent and temporary Best Management Practices (BMPs) that may be required to mitigate impacts discovered during design.

Water Quality Technical Report (WQTR)

If required by the City, use the information from the SWDR to prepare a WQTR to satisfy City storm water requirements.

Task 11.2 Prepare Draft Planting Plans

Draft Landscape and Planting plans, specifications, and estimates will be prepared as part of the PS&E submittal process. The plans will include the design and preparation of the planting and irrigation improvements within the project limits. Plans will be prepared in accordance with Caltrans Standards. The plans will include the following sheets:

Plant List (1)

CONSULTANT will prepare the plant list, indicating the plant botanical and common names, sizes, quantities, amendment and fertilizer application rates for each, erosion control materials, planting setbacks and clearances, and plan symbols representing each.

Planting and Irrigation Details (2)

CONSULTANT will prepare the planting and irrigation details, indicating the typical installation requirements for plant materials and irrigation components, including standard irrigation controls.

Irrigation Schedules (1)

CONSULTANT will prepare irrigation schedules indicating the irrigation emission devices, the characteristics for each product, specific materials requirements, and components legend.

Planting Removal Plans (2)

CONSULTANT will prepare planting removal plans indicating the limits of existing plant materials to be removed, existing trees or large shrubs to remain, and area, tree and shrub removal quantities.

Irrigation Removal Plans (2)

CONSULTANT will prepare irrigation removal plans indicating the existing irrigation components to be removed, to remain, or salvaged. Quantities for items to be removed will be provided.

Planting Plans (2)

CONSULTANT will prepare planting plans indicating the plant and erosion control locations, types, and quantities, and graphic symbol representative for each.

Irrigation Plans (2)

CONSULTANT will prepare irrigation plans indicating diagrammatic locations, types, and sizes of proposed irrigation materials, including points of connection, automated irrigation controllers, remote control valves, master valves, conduit, piping and emission devices. Existing irrigation systems will be inventoried and notes provided on the plans indicating repairs due to roadway excavation.

Task 11.3 Draft Traffic Plans

CONSULTANT will coordinate with the City Traffic Department and Caltrans District 11 Traffic Design Branch to prepare traffic design plans for the project, including Signing and Pavement Delineation, Construction Area and Traffic Electrical plans. This task includes:

Prepare Signing and Pavement Delineation Sheets

- *Pavement Delineation Sheets (5)*
- *Sign Sheets (2)*

Prepare Construction Area Sign Sheets (1)**Prepare Traffic Electrical Sheets****Lighting and Sign Illumination Sheets (4)**

CONSULTANT will prepare lighting plans. The sheets will include work necessary to install freeway lighting circuits and service connections to support a lighting system.

Task 11.4 Prepare Transportation Management Plan (TMP)

Coordinate with Caltrans District 11 Traffic Branch to update the preliminary TMP prepared during the Project Report Phase.

Task 11.5 Prepare Draft Utility Plans

CONSULTANT will coordinate with Agency Utilities staff and Franchise utility agencies to prepare utility relocation plans for the project if required. Work includes preparation of utility plans for utility relocation installation/relocation to be done by the project contractor. It will also include reviewing plans from utilities for relocation work done by the utility provider to verify there are no conflicts with their plans and the project's subsequent construction. The following sheets will

- *Utility Sheets (2)*
- *Utility Detail Sheets (1)*

Task 11.6 Prepare Draft Drainage Plans

CONSULTANT will prepare drainage plan, profile, and detail sheets and will include the following:

- *Drainage Plan Sheets (2)*
- *Drainage Profile Sheets (2)*
- *Drainage Detail Sheets (2)*

Task 11.7 Prepare Draft Water Plans

CONSULTANT will prepare water plan, profile, and detail sheets for a new 16-inch water main in the proposed Torrey Meadows Drive Overcrossing. On the north side of the bridge, the new 16-inch water main will connect to the two existing 16-inch water mains in Torrey Meadows Drive. On the south side of the overcrossing, the new 16-inch water main will connect to the existing 8-inch water main cross at the intersection of Torrey Meadows Drive and Primrose Lane. This scope assumes that there is no need for a pressure reducing station or related design. It also assumes that the lines are on the same pressure gradient

and that a water study is not required.

- *Water Plan Sheets (2)*
- *Water Profile Sheets (2)*
- *Water Detail Sheets (1)*

Task 11.8 Draft Specifications

CONSULTANT will modify Caltrans special provisions to prepare construction specifications for the project including:

- Roadway Specifications
- Structures Specifications
- Highway Planting Specifications
- Electrical Specifications
- Utility Specifications
- Hydraulic Specifications
- Water Pollution Control Specifications
- Erosion Control Specifications
- Potable Water Specifications

The special provisions for the project will be based on Caltrans' Standard Special Provisions and Standard Specifications. Specifications will be modified as appropriate to meet City standards and requirements. The special provisions will be prepared, signed and stamped by a Professional Engineer registered in the State of California with the submittal of the Draft PS&E. Improvements outside the State Right of Way may use local standard specifications, as appropriate. This task does not include preparation of front-end documents (Sections 1-9) to be prepared by Caltrans.

Task 11.9 Prepare Draft PS&E Quantities and Estimates

CONSULTANT will prepare project quantity sheets and Basic Engineering Estimating System (BEES) estimates for PS&E draft circulation. A list of roadway contract items with item descriptions, item numbers, and units of pay, and item pay codes will be prepared. This task includes:

Roadway Quantities Sheets

Roadway Quantity Sheets (1)
CONSULTANT will prepare roadway quantity sheets.

Planting (Irrigation) Quantities (1)

CONSULTANT will prepare a landscaping quantity sheet.

Drainage Quantities (1)

CONSULTANT will prepare drainage quantity sheets.

Traffic Quantities

CONSULTANT will prepare the following traffic quantity sheets.

Pavement Delineation Quantities (1).

Sign Quantities (1).

Construction Area Sign Quantities (1).

Stage Construction/Traffic Handling Quantities (1).

Electrical Quantities (1)

Utility Quantities (1) Temporary Water Pollution Control Quantities (1)

Erosion Control Quantities (1)

Task 11.10 Incorporate Draft Structures PS&E

Incorporate 95% Structures plan sheets from Task 12.5 and the structures estimate with the Roadway 95% plans for PS&E draft circulation.

Task 11.11 Review and Update Project Information for PS&E Package

Conduct reviews and update project information during the production of the PS&E package. This subtask includes the Constructability Review. The reviews and updates are an ongoing process so that reports and analyses, i.e., the Storm Water Data Report, are ready for PS&E draft circulation.

Constructability Review Meeting

CONSULTANT will attend a constructability review meeting.

Safety Review Meeting

CONSULTANT will attend a Plan Safety Review meeting.

Engineer's Estimate

CONSULTANT will prepare an Engineers Estimate of construction costs, based on detailed quantity takeoffs and current unit prices. The estimate will be completed in the BEEs format.

Task 12 Structure Design

This task will be made up of the following subtasks. Each subtask will be identified and tracked in the Progress Report. The end product of the task is to provide Structure Plans and Specifications for draft PS&E district circulation.

Task 12.1 Structures Hydraulics Report

It is assumed that a structure Hydraulics Report is not required on this project.

Task 12.2 Draft General Plans

This task includes preliminary design, plan sheets, quantities, estimates, specifications, Type Selection, constructability review. Also included are any updates to the plans, quantities, estimates and specifications resulting from review of the preliminary work and distribution of the approved General Plans to HQ DES and District Design representatives.

Structures Type Selection Package

CONSULTANT will produce, submit and present a Type Selection Package for the bridge. Consultant will schedule, hold, run and document a Type Selection Meeting in Sacramento, to discuss and provide information on foundation and falsework requirements, proposed seismic design criteria, aesthetics, traffic handling, and other pertinent information related to bridge design, construction and maintenance. General Plans will be developed and submitted with the Type Selection package per the Office of Special Funded Projects (OSFP) Procedures Manual. The Type Selection Package will contain:

- General Plans, General Plan Estimate, Vicinity Map, Type Selection Memo, and supporting documentation.
- After receiving written approval of the proposed General Plan and structure type, the Consultant will furnish OSFP with 15 Copies of the Type Selection Report; 1 Copy Bridge Site Data Submittal form and attachments; 2 Copies Draft Foundation Plan; 40 Copies Approved General Plan.

Task 12.3 Draft Structures Plans

Following the approval of the General Plans, structure plans and structural design calculations will be prepared by CONSULTANT. Plans and calculations will conform to Caltrans' requirements. In close coordination with the City and Caltrans, CONSULTANT will assemble the calculations and plans into the 65% submittal. CONSULTANT will use Microstation for plan preparation.

Task 12.4 Structures Independent Check

CONSULTANT will conduct an Independent Bridge Check by a registered engineer, completely Independent from the bridge designer. The Independent check will begin as soon as the 65% plans are completed for the structures. Checking will include the preparation of an Independent set of structural design check-calculations and review of the PS&E.

Task 12.5 95% Structures Plans Special Provisions and Cost Estimate

CONSULTANT will revise the 65% submittal from the comments received by the Independent Design Check and the reviewers of the 65% submittal and prepare the 95% PS&E. The 95% PS&E will be submitted to the City and Caltrans for review and comment. This submittal will include:

- 95% Structure Plans
- Design Calculations
- Check Design Calculations
- Edited Structure Special Provisions
- Checked Quantities Calculations
- Supporting Reports

Task 12.6 Final Structures PS&E Package

Submit Final PS&E - The Final Structure PS&E will incorporate applicable comments on the 95% Structure PS&E received from the City, Caltrans, and other affected agencies.

Task 13 Circulate, Review and Prepare Final District PS&E Package

Once the draft PS&E package is complete, it must undergo review again by Caltrans District staff, Headquarters Structures, and the District Safety Review Committee and Constructability Review Committees. This task is meant to address changes to the PS&E package resulting from these reviews and final right of way negotiations. CONSULTANT will revise the complete plans, specifications and estimate package under this task to obtain Caltrans District 11 approval to advertise the project for construction. This task will be made up of the following sub tasks.

Task 13.1 Circulate and Review Draft District PS&E Package

CONSULTANT will provide support for the Caltrans District 11 circulation of the draft PS&E package, including preparation of plan sets for distribution. This sub task also includes preparation of plan sets and submittal for Plan Safety Review and a final Constructability Review. Plans will demonstrate conformity with environmental commitments, and geotechnical, materials and structural section reports. A review of the final TMP, and permit approvals are also part of this sub task.

A review of the Structures PS&E will be performed by Headquarter Division of Engineering Services (HQ DES), including review of the draft Structures PS&E package, Hydraulic Report, Foundation Report and Type Selection Report.

Task 13.2 Updated PS&E Package

CONSULTANT will update PS&E deliverables as a result of the comments from the Caltrans District 11 draft PS&E circulation, Plan Safety Review and Constructability review. This sub task also includes updates necessary during Caltrans Headquarter's Office Engineer review prior to Ready to List. The following sub tasks are included as part of this task:

Updated Roadway PS&E

Updated Highway Planting Plan

Updated Traffic PS&E

Updated Hydraulic PS&E

Updated Technical Reports**Updated Utility PS&E****Updated Electrical PS&E****Task 13.3 Final PS&E Package**

CONSULTANT will complete the process requirements, and assist in ensuring that District and HQ Office Engineer requirements of completeness, quality and consistency have been met and submitted to the HQ Office Engineer for processing. The end product will be the Final PS&E package that is complete, bid-able, and buildable. This task includes efforts required to prepare final plans for incorporation into the final PS&E package. The activities include:

- Review and incorporate District and Structures comments on plan sheets.
- Review and incorporate District and Structures comments on specifications.
- Review and incorporate District and Structures comments on estimate.
- Update quantities and estimate for contract bid items.

This sub task also includes constructability review of final documents and concurrence by Caltrans Structures project development team that approved recommendations have been incorporated in the final Structures PS&E.

Task 13.4 Geotechnical Information Handout

CONSULTANT will prepare the Geotechnical Information Handout.

Task 13.5 Materials Information Handout

CONSULTANT will prepare the Materials Information Handout, if required.

Task 13.6 Construction Staking Package and Control

CONSULTANT will provide project cross sections for contractor review and construction staking notes for the work. Cross sections and staking notes will be provided in accordance with Caltrans District 1.1 standard requirements. The cross sections do not need to be complete prior to Ready to List, but must be available for contractor review during advertisement. Staking notes must be provided when the PS&E is submitted to Caltrans Headquarter (HQ) for review.

Task 13.7 Resident Engineer's Pending File

CONSULTANT will prepare the Resident Engineer (RE) and Structures Engineer (SE) Pending File. The documents in the file will be pertinent to the project work and provide the RE/SE with relevant information for use during construction. Included are the Environmental Commitments Record, quantities and cost estimates for each item, cross sections, "as-builts", slope staking notes, grid grades, and structures 4-scales when requested by construction. This sub task does not need to be complete prior to Ready to List, but must be available for contractor review during advertisement. Correspondence and project history information will be compiled into project binders in accordance with the Caltrans standard filing system.

ASSUMPTIONS

This scope of work and the associated budget are predicated on the following assumptions. Should these assumptions be later found to be incorrect, (this scope is not for a contract between City and Consultant) the scope of work and budget may need to be adjusted accordingly.

- City of San Diego will be responsible for preparing and processing all CEQA documentation with the exception of related technical studies explicitly identified in this scope of work.
- Technical environmental reports will be formatted pursuant to City of San Diego guidelines and significance thresholds unless specifically noted.

- No collection or testing of prehistoric resources located within the disturbance area will be conducted as part this scope of work.
- NEPA clearance is not anticipated because the original freeway was cleared with a CEQA-only ED, there are no known federal-level impacts, and there is no federal funding involved.
- Only one "Build" alternative is under consideration, i.e. the overcrossing with approaches on curved alignment between two existing cul-de-sacs. The PR/ED will also address the "No-Build" scenario.
- Field work and technical studies can be completed during normal working hours and the City or Caltrans will provide the CONSULTANT with permits to enter any areas needed to be accessed. This scope of work does not include additional studies that are sometimes needed for projects, depending on the project features, complexity and impacts, such as:
 - FHWA New or Modified Access Report
 - Noise Abatement Decision Report
 - Pavement Life Cycle Cost Analysis
 - Design Exception Fact Sheets
 - Paleontological Resource Study
 - Community Impact Assessment
- The City and Caltrans will not require technical report documentation, including a Community Impact Assessment, for issues such as right-of-way acquisition, changes to community character, or impacts to the bicycle path under Section 4(f) of the U.S. Department of Transportation Act of 1966.
- The project budget is based on an overall schedule of twenty-four months, eight PDT meetings and three community meetings.
- The proposed project is not trip-generating; therefore, the traffic study methodology will be based on redistribution of traffic that would occur with construction of the new overcrossing. Analysis of freeway segments or ramp capacities is excluded.
- It is assumed that the project is non-controversial, geometric design options are limited, and changes to the documents which affect the Final PR will be minimal. Significant changes would warrant a change in scope and budget.
- The Initial Site Assessment does not include an assessment for asbestos-containing building materials, radon, lead-based paints, lead in drinking water, PCB's, molds and mildews, wetlands, threatened or endangered species or other relevant environmental concerns. However, TYLI's subconsultant Kleinfelder can perform these services at additional cost, if requested.
- The community meetings will be held in an open house format, and do not include transcription services, translation services, or complete documentation of public comments. Any significant verbal public comments will be noted, and comment forms will be provided to the public for them to submit their comments in writing. Meetings will be organized and notices published by the City.
- Once the Geometric Approval Drawing is approved it is assumed no geometric changes beyond the scope of normal design practice will occur. If any design features are added or alignments adjusted this will be considered out of scope.
- This scope of work constitutes our current understanding of the project. Other tasks not specifically addressed in this proposal are excluded, but can be negotiated if desired. Certain assumptions have been made in preparing the scope of work and

fee estimate. To the extent possible, they are stated herein and are reflected in the estimated fees. If the actual total effort required is substantially different from that estimated, as based on Consultants' understanding of the project, the field investigations proposed and the assumptions presented herein, it is anticipated that will revise the scope, schedule, and budget will be revised accordingly.

- Existing design drawings, "as-built" drawings, design plans, reports and specifications for planned, existing, adjacent and affected facilities will be made available to Consultant by the City and Caltrans. The Consultant is entitled to rely on the information provided on these documents as accurate for the continuation of the design process.
- Existing geotechnical engineering reports prepared either for the existing facilities or specifically for the project will be furnished by the City or Caltrans for Consultant's use in preparing the plans and specifications. Consultant will coordinate with the geotechnical engineer as appropriate regarding the technical findings and recommendations.
- Any existing utilities, which must be crossed for construction, will be assumed to be structurally competent unless Consultant is directed otherwise by the City. Design of other utility relocations not specifically listed herein is not included in the fee.
- Within reason National, State and Local Standards referenced in the contract plans and specifications will be those issued, approved and printed as of the date of this proposal.
- PS&E Submittals will be on 1/2 size sheets (11x17) unless otherwise specified.
- Adequate utility and property records are available, and will be furnished by City or the utility owner/operators. Consultant will rely upon such records without independent verification except where potholing is explicitly scoped. Consultant cannot be held liable for consequences arising from the discovery during construction of undocumented or incorrectly located buried utilities.
- Application for, processing, payment of any fees associated with, and obtaining any regulatory permits applicable for this project is excluded unless specifically included in Consultant's scope and budget.
- Material availability studies are not a part of this scope of work unless specifically stated otherwise.
- City and Caltrans will review and comment on draft documents within the assumed review periods listed in the project schedule after approval of the project schedule at the project kick-off meeting. Consultant will not be responsible for the effect of review period delays on the project schedule.
- This scope of work does not include sound walls design and plans.
- This scope of work does not include a water study nor plans or design for a pressure reducing station. City to provide pressure class required for waterline design.
- Unless specifically stated otherwise, reproduction of bid documents will be by the City or Caltrans.

EXHIBIT D

EXHIBIT D
PROJECT SCHEDULE

TORREY MEADOWS DRIVE - SCHEDULE

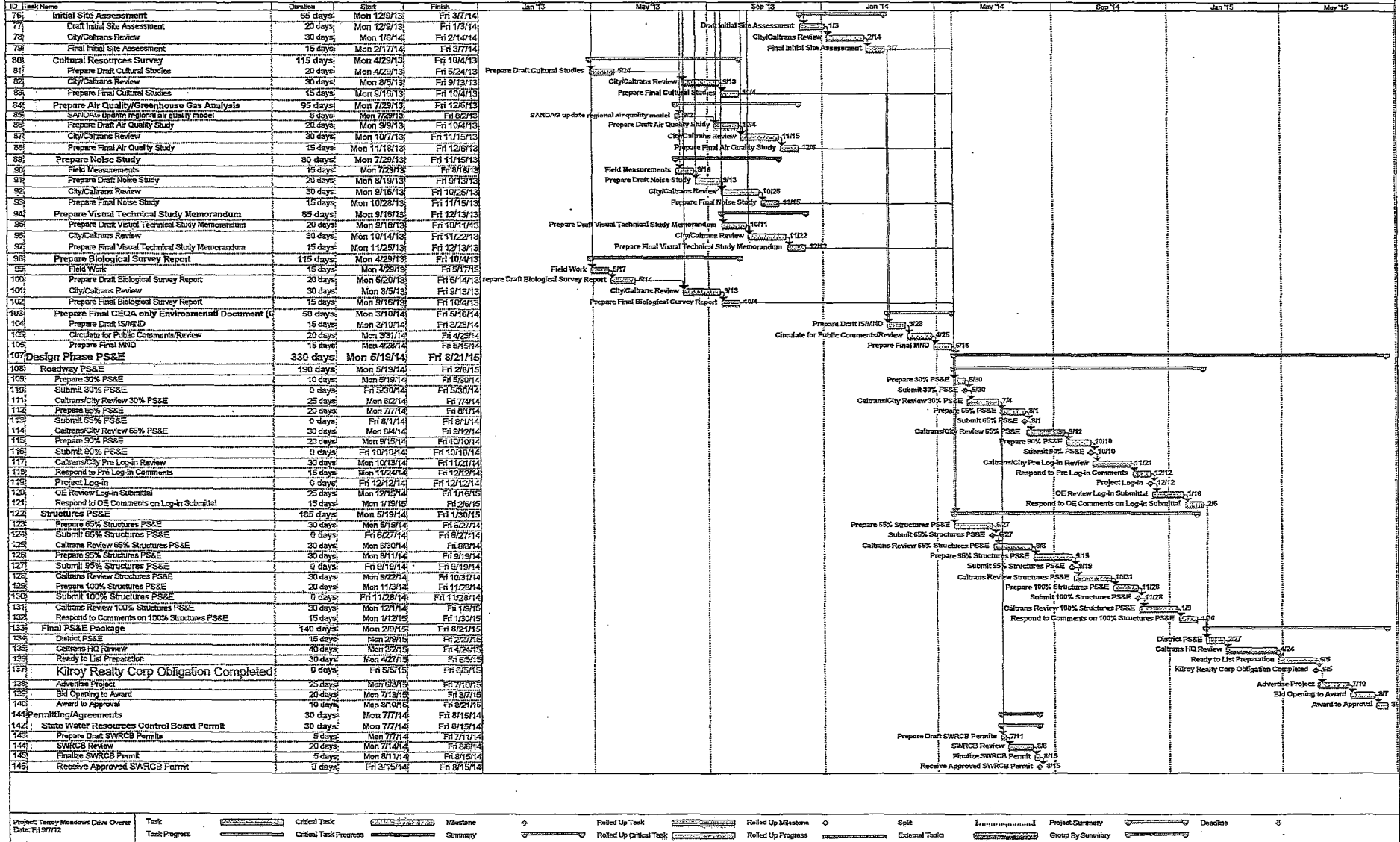
ID	Task Name	Duration	Start	Finish	Jan '13	May '13	Sep '13	Jan '14	May '14	Sep '14	Jan '15	May '15
1	Torrey Meadows Drive Overcrossing - PID Phase	115 days	Mon 2/18/13	Fri 7/26/13								
2	Reimbursement Agreement NTP - PID PHASE	0 days	Mon 2/18/13	Mon 2/18/13								
3	Caltrans Open R Phase EA (COOP Approved)	5 days	Mon 2/18/13	Fri 2/22/13								
4	Prepare Draft PSRP/PDS	25 days	Mon 2/18/13	Fri 3/29/13								
5	Caltrans/City Review	40 days	Mon 4/1/13	Fri 5/24/13								
6	Prepare Final PSRP/PDS	15 days	Mon 5/27/13	Fri 6/14/13								
7	Caltrans/City Review and Approval of PSRP/PDS	30 days	Mon 6/17/13	Fri 7/26/13								
8	Torrey Meadows Drive Overcrossing - PA/ED Phase	325 days	Mon 2/18/13	Fri 5/16/14								
9	Reimbursement Agreement NTP - PA/ED PHASE	0 days	Fri 7/26/13	Fri 7/26/13								
10	Caltrans Open Zero Phase EA (COOP Approved)	5 days	Mon 7/22/13	Fri 8/2/13								
11	Utility Coordination	225 days	Mon 2/18/13	Fri 12/27/13								
12	Utility Mapping	180 days	Mon 2/18/13	Fri 10/25/13								
13	Develop preliminary existing utility alignments	15 days	Mon 2/18/13	Fri 3/8/13								
14	Develop Existing Utility Profiles	15 days	Mon 3/11/13	Fri 3/29/13								
15	Determine Utility Conflicts	15 days	Mon 4/1/13	Fri 4/19/13								
16	Utility Company Review	30 days	Mon 4/22/13	Fri 5/31/13								
17	Prepare Conceptual Relocation Plans	30 days	Mon 6/3/13	Fri 7/12/13								
18	Utility Company Review relocation plans	30 days	Mon 7/15/13	Fri 8/23/13								
19	Revise Utility Plans per Owner Comments	15 days	Mon 8/26/13	Fri 9/13/13								
20	Utility Companies Sign Conceptual Relocation Plans	15 days	Mon 9/16/13	Fri 10/4/13								
21	Prepare Utility Certification	15 days	Mon 10/7/13	Fri 10/25/13								
22	Relocation Coordination	150 days	Mon 6/3/13	Fri 12/27/13								
23	Utility Company Prepare Relocation Plan	30 days	Mon 6/3/13	Fri 10/4/13								
24	City/Caltrans/TYLN Review Relocation Plans	30 days	Mon 11/18/13	Fri 11/15/13								
25	Utility Company Relocators	30 days	Mon 11/18/13	Fri 12/27/13								
26	Right of Way	210 days	Mon 2/18/13	Fri 12/18/13								
27	Develop existing Right of Way/Parcel Mapping	10 days	Mon 2/18/13	Fri 3/1/13								
28	Prepare RAW data sheet	10 days	Mon 4/8/13	Fri 4/19/13								
29	Prepare plats	15 days	Mon 4/22/13	Fri 5/10/13								
30	Prepare legal	15 days	Mon 4/22/13	Fri 5/10/13								
31	Caltrans/City Review	30 days	Mon 5/27/13	Fri 6/21/13								
32	Finalize/Approve Easement	15 days	Mon 6/24/13	Fri 7/2/13								
33	Prepare Right of Way Certification	15 days	Mon 7/15/13	Fri 8/2/13								
34	Prepare Appraisal	40 days	Mon 6/24/13	Fri 8/16/13								
35	Prepare Acquisition	60 days	Mon 8/5/13	Fri 12/6/13								
36	Preliminary Engineering	211 days	Mon 2/18/13	Mon 12/9/13								
37	Topographic Mapping	20 days	Mon 2/18/13	Fri 3/15/13								
38	Preliminary Geometrics	15 days	Mon 3/18/13	Fri 4/5/13								
39	Approve APE	15 days	Mon 4/8/13	Fri 4/25/13								
40	Geotechnical Studies	165 days	Mon 2/18/13	Fri 10/11/13								
41	Geotechnical Field work (Caltrans/City ROW)	15 days	Mon 2/18/13	Fri 3/8/13								
42	Laboratory work (Caltrans/City ROW)	20 days	Mon 3/11/13	Fri 4/5/13								
43	Geotechnical Design Report	130 days	Mon 4/8/13	Fri 10/4/13								
44	Prepare Draft Geotechnical Design Report	20 days	Mon 4/8/13	Fri 5/3/13								
45	Caltrans/City Review	30 days	Mon 5/13/13	Fri 6/13/13								
46	Final Geotechnical Design Report	15 days	Mon 5/13/13	Fri 10/4/13								
47	Structure Foundation Report	70 days	Mon 4/8/13	Fri 7/12/13								
48	Draft Structure Foundation Report	20 days	Mon 4/8/13	Fri 5/3/13								
49	Caltrans Review	30 days	Mon 5/6/13	Fri 6/14/13								
50	Final Structure Foundation Report	20 days	Mon 6/17/13	Fri 7/12/13								
51	Preliminary Foundation Report	30 days	Mon 7/29/13	Fri 9/6/13								
52	Prepare Preliminary Foundation Report	30 days	Mon 7/29/13	Fri 9/6/13								
53	Traffic Studies - Urban Systems Inc. (Optional - if nec)	80 days	Mon 7/29/13	Fri 11/15/13								
54	Draft Traffic Studies Report	30 days	Mon 7/29/13	Fri 8/29/13								
55	Caltrans/City Review	30 days	Mon 9/9/13	Fri 10/18/13								
56	Final Traffic Study Report	20 days	Mon 10/21/13	Fri 11/15/13								
57	Geometric Approval Drawing	175 days	Mon 4/8/13	Fri 12/6/13								
58	Prepare GAD	20 days	Mon 4/8/13	Fri 5/3/13								
59	Caltrans/City Review	30 days	Mon 5/6/13	Fri 6/14/13								
60	GAD Meeting	1 day	Mon 6/17/13	Mon 6/17/13								
61	Finalize GAD	15 days	Mon 5/13/13	Fri 12/6/13								
62	Receive GAD Approval	0 days	Fri 12/6/13	Fri 12/6/13								
63	Type Selection	66 days	Mon 5/13/13	Mon 12/9/13								
64	Structure Advance Planning Study	20 days	Mon 9/9/13	Fri 10/4/13								
65	Submit APS	0 days	Fri 10/4/13	Fri 10/4/13								
66	Caltrans Review	30 days	Mon 10/7/13	Fri 11/15/13								
67	Prepare Type Selection Package	15 days	Mon 10/7/13	Fri 10/25/13								
68	Type Selection Meeting	1 day	Mon 12/9/13	Mon 12/9/13								
69	Type Selection Approval	0 days	Mon 12/9/13	Mon 12/9/13								
70	Draft Project Report (PR)	140 days	Mon 4/8/13	Fri 11/18/13								
71	Prepare Draft PR document	20 days	Mon 4/29/13	Fri 5/3/13								
72	Caltrans/City Review	30 days	Mon 5/27/13	Fri 6/13/13								
73	Final Draft PR document	15 days	Mon 5/13/13	Fri 5/16/13								
74	Caltrans Concurrence of Draft PR	10 days	Mon 10/7/13	Fri 10/18/13								
75	Environmental Technical Studies	275 days	Mon 4/29/13	Fri 5/16/14								

Project: Torrey Meadows Drive Overcrossing Date: 9/7/12

Task Progress: Critical Task Progress Summary

Legend: Critical Task, Milestone, Rolled Up Task, Rolled Up Milestone, Split, Project Summary, Deadline

TORREY MEADOWS DRIVE - SCHEDULE



Project: Torrey Meadows Drive Overcrossing
 Date: Fri 9/7/12

Legend:
 Task Progress: [Progress Bar]
 Critical Task Progress: [Critical Task Progress Bar]
 Critical Task: [Critical Task Icon]
 Milestone: [Milestone Icon]
 Rolled Up Task: [Rolled Up Task Icon]
 Rolled Up Milestone: [Rolled Up Milestone Icon]
 Split: [Split Icon]
 External Task: [External Task Icon]
 Project Summary: [Project Summary Icon]
 Group by Summary: [Group by Summary Icon]
 Deadline: [Deadline Icon]

Torrey Meadows Drive Overcrossing at SR-56 Project Design
Estimated Cost

EXHIBIT E

BUDGET BREAKDOWN BY MAJOR TASK			
Major Tasks	Fee	Other Direct Costs	Totals
Project Management	\$99,766		\$99,766
R/W Mapping and Utility	\$104,774	\$8,130	\$112,904
Preliminary engineering	\$61,800	\$4,325	\$66,125
Geotechnical	\$81,040	\$28,280	\$109,320
Project Study Report/Project Dev. Support (PSR/PDS)	\$35,025		\$35,025
Environmental Studies and Project Report (PR)	\$130,710	\$4,280	\$134,990
Permitting and Agreement	\$10,270		\$10,270
PS&E Roadway & Structure	\$497,390	\$13,210	\$510,600
Traffic Study	\$25,300		\$25,300
Total Major Tasks			\$1,104,300
Optional Tasks*			
Potholing	\$6,500		\$6,500
Title Reports	\$7,000		\$7,000
Generate Easement Plats & Legals	\$15,000		\$15,000
Appraisals	\$25,000		\$25,000
Project Contingency	\$84,700		\$84,700
Total Optional Tasks			\$138,200
Total Major & Optional Tasks			\$1,242,500
Developer Administrative Cost (5% of Major Tasks)		\$55,215	\$55,215
Total Major & Optional Tasks, and Developers Administration Costs			\$1,297,715
*These items are Optional Tasks and will be eligible for reimbursement if authorized by the City Engineer in writing and based on actual costs incurred and review by E&CP.			
Project Design includes: Approval Environmental Document (Preliminary Assessment/Environmental Document), Plan Specifications & Estimates.			

EXHIBIT F

Procedure for Processing Change Orders

1. **Forms Required.** All Change Orders shall be in writing on the appropriate City form and must be approved or rejected by City in writing as provided in Section 3, below, and delivered to Subdivider.
2. **Written Approval of Change Orders.** Change Orders that will not result in an increase in the Estimated Cost may be approved by the RE. If a requested Change Order would result in an increase in the Estimated Cost, approval of the Change Order shall require City Council approval.
3. **Process for Approval of Change Orders.** Subdivider shall notify the RE in writing of the need for a Change Order. A Change Order must indicate whether the change will result in any change to the Estimated Cost, Project Schedule, or Project quality established during the design and submittal review process.
 - 3.1 ***Resident Engineer Approval.*** If the Change Order request does not result in an increase in the Estimated Cost, the RE shall either approve or reject the Change Order in writing within fourteen (14) calendar days of receiving Subdivider's written notice, provided Subdivider has submitted complete documentation substantiating the need for such Change Order. If City fails to respond to Subdivider's written notice within the fourteen (14) calendar days, the Change Order request shall automatically be deemed denied.
 - 3.2 ***City Council Approval.*** For Change Orders not subject to Section 3.1, above, City Council approval is required. In such cases, once a Change Order is preliminarily approved by the appropriate City staff, City staff shall process the Change Order along with any required amendments to the Financing Plan and this Agreement as a 1472 (Request for Council Action). At a hearing on such Request for Council Action, City Council may either approve or reject such Change Orders. Council Approval shall not be subject to the fourteen (14) calendar day response time set forth above in Section 3.1. Furthermore, nothing in this Agreement shall compel the City Council to take any particular action.

EXHIBIT G

Consultant Provisions

1. **Third Party Beneficiary.** The City of San Diego is an intended third party beneficiary of this contract. In addition, it is expected that upon completion of design and payment in full to Consultant by Subdivider, the City will become the owner of the Project design and work products, and City shall be entitled to enforce all of the provisions of this contract as if it were a party hereto. Except as expressly stated herein, there are no other intended third party beneficiaries of this contract.
2. **Competitive Bidding.** Consultant shall ensure that all design plans and specifications prepared, required, or recommended under this Agreement allow for competitive bidding. Consultant shall design such plans or specifications so that procurement of services, labor or materials are not available from only one source, and shall not design plans and specifications around a single or specific product, piece of major equipment or machinery, a specific patented design, or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by the City of San Diego. Consultant shall submit this written justification to the City of San Diego prior to beginning work on such plans or specifications. Whenever Consultant recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the Project.
3. **Professional Services Indemnification.** Other than in the performance of design professional services which shall be solely as addressed in Sections 4 and 5 below, to the fullest extent permitted by law, Consultant shall defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, agents, departments, officials, and employees [Indemnified Parties] from and against all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Consultant or its subcontractors, agents, subagents and consultants), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any services performed under this Agreement by Consultant, any subcontractor, anyone directly or indirectly employed by them, or anyone they control. Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the active negligence, sole negligence or willful misconduct of the Indemnified Parties. As to Consultant's professional obligations, work or services involving this Project, Consultant agrees to indemnify and hold harmless the City of San Diego, and its agents, officers and employees from and against any and all liability, claims, costs, and damages, including but not limited to, attorney's fees, losses or payments for injury to any person or property, caused directly or indirectly from the negligent acts, errors or omissions of Consultant or Consultant's employees, agents or officers. This indemnity obligation shall apply for the entire time that any third party can make a claim against, or sue the City of San Diego for liabilities arising out of Consultant's provision of services under this Agreement.
4. **Indemnification for Design Professional Services.** To the fullest extent permitted by law (including, without limitation, California Civil Code section 2782.8), with respect to the performance of design professional services, Design Professional shall indemnify and hold harmless the City, its officers, and/or employees, from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Design Professional or Design Professional's officers or employees.
5. **Design Professional Services Defense.** Parties will work in good faith to procure applicable insurance coverage for the cost of any defense arising from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of Design Professional or Design Professional's officers or employees.
6. **Enforcement Costs.** Consultant agrees to pay any and all reasonable costs the City of San Diego may incur to enforce the indemnity and defense provisions set forth in this Agreement.

7. **Professional Liability Insurance.** For all of Consultant's employees who are subject to this Agreement, Consultant shall keep in full force and effect, errors and omissions insurance providing coverage for professional liability with a combined single limit of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate. Consultant shall ensure both that (1) this policy's retroactive date is on or before the date of commencement of the work to be performed under this Agreement; and (2) this policy has a reporting period of three (3) years after the date of completion or termination of this Agreement. Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increases the City of San Diego's exposure to loss.
8. **Commercial General Liability [CGL] Insurance.** Consultant shall keep in full force and effect, during any and all work performed in accordance with this Agreement, all applicable CGL insurance to cover personal injury, bodily injury and property damage, providing coverage to a combined single limit of one million dollars (\$1,000,000) per occurrence, subject to an annual aggregate of two million dollars (\$2,000,000) for general liability, completed operations, and personal injury other than bodily injury. Contractual liability shall include coverage of tort liability of another party to pay for bodily injury or property damage to a third person or organization. Contractual liability limitation endorsement is not acceptable.
9. **Insurance Policy Requirements.** Except for professional liability insurance and Workers Compensation, the City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be named as additional insureds. Additional insured status must be reflected on additional insured endorsement form CG 20 10, or equivalent, which shall be submitted to the City of San Diego. Further, all insurance required by express provision of this agreement shall be carried only by responsible insurance companies that have been given at least an "A" or "A-" and "VII" rating by AM BEST, that are licensed to do business in the State of California, and that have been approved by the City of San Diego. The policies cannot be canceled, non-renewed, or materially changed except after thirty (30) calendar days prior written notice by Consultant or Consultant's insurer to the City of San Diego by certified mail, as reflected on an endorsement that shall be submitted to the City of San Diego, except for non-payment of premium, in which case ten (10) calendar days notice must be provided. Before performing any work in accordance with this Agreement, Consultant shall provide the City of San Diego with all Certificates of Insurance accompanied with all endorsements.
10. **Workers Compensation.** For all of the Consultant's employees who are subject to this Agreement and to the extent required by the State of California, the Consultant shall keep in full force and effect, a Workers Compensation policy. That policy shall provide a minimum of one million dollars (\$1,000,000) of employers liability coverage, and the Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City of San Diego and its respective elected officials, officers, employees, agents and representatives.
11. **Compliance Provision.** Consultant agrees, at its sole cost and expense, to perform all design, contract administration, and other services in accordance with all applicable laws, regulations, and codes, including, but not limited to, the Americans with Disabilities Act of 1990 [ADA] and title 24 of the California Code of Regulations as defined in Section 18910 of the California Health and Safety Code [Title 24]. Further, Consultant is responsible as designer and employer to comply with all parts of the ADA and Title 24.
12. **Maintenance of Records.** Consultant shall maintain books, records, logs, documents and other evidence sufficient to record all actions taken with respect to the rendering of services for the Project, throughout the performance of the services and for a period of five (5) years following completion of the services for the Project. Consultant further agrees to allow the City of San Diego to inspect, copy and audit such books, records, documents and other evidence upon reasonable written notice. In addition, Consultant agrees to provide the City of San Diego with complete copies of final Project design and construction plans and Project cost estimate.

EXHIBIT H

Design and Construction Standards

1. **Laws.** Subdivider shall comply with all local, City, County, State, and Federal laws, codes and regulations, ordinances, and policies, including, but not limited to, the following:
 - A. *Permits.* Development Services Department permits, hazardous material permits,
 - B. *Building Codes.* State and local Building Codes
 - C. *The Americans with Disabilities Act [ADA] and Title 24 of the California Building Code [Title 24].* It is Subdivider's sole responsibility to comply with all ADA and Title 24 regulations. See Subdivider Certification attached as Exhibit I.
 - D. *Environmental.* Subdivider shall complete all environmental measures required by the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA), and the local jurisdiction, including but not limited to, implementation of mitigation measures, and conducting site monitoring.
 - E. *Air, Water, and Discharge.* Subdivider shall comply with the Clean Air Act of 1970, the Clean Water Act, and San Diego Municipal Code Chapter 4, Article 3, Division 3 (Stormwater Management and Discharge Control).
 - F. *ESBSSA.* Subdivider shall comply with the Essential Services Building Seismic Safety Act, SB 239 & 132.
 - G. *City Directives.* Subdivider shall comply immediately with all directives issued by City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations.
2. **Standard Specifications.** Subdivider shall comply with the most current editions of the following reference specifications when designing and constructing the Project, including:
 - A. *Greenbook.* Standard Specifications for Public Works Construction, including the Regional and City of San Diego Supplement Amendments.
 - B. *DOT.* California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Work Zones.
3. **City Standards.** Subdivider's professional services shall be provided in conformance with the professional standards of practice established by City. This includes all amendments and revisions of these standards as adopted by City. The professional standards of practice established by City include, but are not limited to, the following:
 - A. *City of San Diego's Drainage Design Manual.*
 - B. *City of San Diego's Landscape Technical Manual produced by the Planning Department.*
 - C. *City of San Diego's Street Design Manual.*
 - D. *City of San Diego's Manual of Preparation of Land Development and Public Improvement Plans.*
 - E. *City of San Diego's Technical Guidelines for Geotechnical Reports.*
 - F. *City of San Diego Standard Drawings including all Regional Standard Drawings.*

G. *City of San Diego Data Standards for Improvement Plans.*

EXHIBIT I

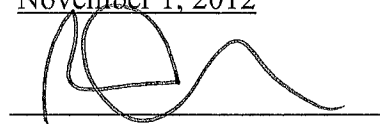
Certification for Title 24/ADA Compliance

Project No. T-9, Torrey Meadows Drive (Formerly Street 'B') Overcrossing Design Work

I HEREBY WARRANT AND CERTIFY that any and all plans and specifications prepared for **Project No. T-9, Torrey Meadows Drive (Formerly Street 'B') Overcrossing Design Work** by T.Y. Lin International c/o **Kilroy Realty Corporation** shall meet all current California Building Standards Code, California Code of Regulations, Title 24 and Americans with Disabilities Act Accessibility Guidelines requirements, and shall be in compliance with the Americans with Disabilities Act of 1990.

Dated: November 1, 2012

By:



Robert C. Little
Vice President Development

EXHIBIT J

Approval of Design, Plans, and Specifications

UNLESS OTHERWISE DIRECTED BY THE CITY, SUBDIVIDER SHALL OBTAIN APPROVAL OF DESIGN, PLANS, AND SPECIFICATIONS IN THE MANNER IDENTIFIED BELOW:

1. **City Approval.** Subdivider shall obtain City approval of the design, in writing, at schematic design, 60% Design, and 90% Design.
 - A. *Condition Precedent.* City approval of the Schematic Design Documents is a condition precedent to authorization to proceed with subsequent work on the Project. City will notify Subdivider in writing within four weeks after receipt of Design Documents of approval, or of request for modifications. If modifications are requested, Subdivider shall modify and resubmit Schematics for City approval.
 - B. *Sixty (60) Percent Design.* At 60% design, City will notify Subdivider in writing within eight weeks after receipt of Design Documents at each required stage of design, of approval, or of request for modifications. If modifications are requested, Subdivider shall modify and resubmit Design Documents for City approval.
 - C. *Ninety (90) Percent Design.* At 90% design, City will notify Subdivider in writing within ten weeks after receipt of design documents at each required stage of design, of approval, or of request for modifications. If modifications are requested, Subdivider shall modify and resubmit Design Documents for City approval.
2. **Submittal of Plans, Specifications, and Budget.** Within six (6) months of City Council approval of this Agreement, Subdivider shall deliver to City complete Plans and Specifications, Estimated Costs, and bid documents, consistent with the Schematic Drawings, for the design and construction of the Project.
3. **Citywide Review of 100% Plans and Specifications.** City agrees to review the Plans and Specifications and provide City's written comments to Subdivider within ninety (90) calendar days of the date such Plans and Specifications are delivered to City in accordance with the notice provisions in Article XIV. Plans and Specifications shall include City's standard drawings and specifications as described in Exhibit H. If requested by City, Subdivider shall make changes to the Plans and Specifications, but Subdivider shall not be responsible for implementing such changes if they would increase the Estimated Cost by more than 5%. In such a case, the changes to the Plans and Specifications shall be considered additive or deductive bid alternates to the Project.
4. **Final Approval and Permit Review.** City approval of the Plans and Specifications is a condition precedent to authorization to proceed with subsequent work on the Project. Approval and permit review will require a minimum of ninety (90) calendar days from the date that the Plans and Specifications were submitted to the City review, if no changes are required, or ninety (90) days from the date the requested changes are submitted to the City.

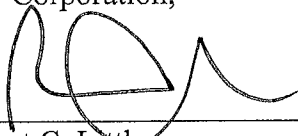
EXHIBIT K

Notification of Reimbursable Project

Pursuant to Section 6.1.1 of the "Reimbursement Agreement" [Agreement], adopted pursuant to Resolution No. _____ and executed on _____, 2012, **Kilroy Realty Corporation** hereby notifies the City of San Diego that work will begin on the following Project, **Torrey Meadows Drive (Formerly Street 'B') Overcrossing Design Work**, also known as **Project No. T-9** in the **Torrey Highlands Public Facilities** Financing Plan on or about **February 18, 2013**.

Kilroy Realty Corporation,

By:



Robert C. Little
Vice President Development

Dated: November 1, 2012

EXHIBIT L

Certification for a Drug-Free Workplace

PROJECT TITLE:

Project No. T-9, Torrey Meadows Drive (Formerly Street 'B') Overcrossing Design Work

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

Kilroy Realty Corporation

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this Project contains language that indicates the Subconsultants/Subcontractors agreement to abide by the provisions of Sections 2.A(1) through (3) of Council Policy 100-17 as outlined.

Signed:  _____

Name: Robert C. Little

Title: Vice President Development

Date: November 1, 2012

EXHIBIT M

Typical Insurance Provisions

1. Types of Insurance. At all times during the term of this Agreement, Subdivider shall maintain insurance coverage as follows:
 - 1.1 Commercial General Liability. Subdivider shall provide at its expense a policy or policies of Commercial General Liability [CGL] Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad and which shall cover liability arising from premises and operations, XCU (explosions, underground, and collapse) independent contractors, products/completed operations, personal injury and advertising injury, bodily injury, property damage, and liability assumed under an insured's contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the CGL Insurance limiting the scope of coverage for either "insured vs. insured" claims or contractual liability. Subdivider shall maintain the same or equivalent CGL Insurance as described herein for at least ten (10) years following substantial completion of the work. All costs of defense shall be outside the policy limits. The Policy shall provide for coverage in amounts not less than the following: (i) General Annual Aggregate Limit (other than Products/Completed Operations) of two million dollars (\$2,000,000); (ii) Products/Completed Operations Aggregate Limit of two million dollars (\$2,000,000); (iii) Personal Injury Limit one million dollars (\$1,000,000); and (iv) Each Occurrence one million dollars (\$1,000,000).
 - 1.2 Commercial Automobile Liability. For all of Subdivider's automobiles used in conjunction with the Project including owned, hired and non-owned automobiles, Subdivider shall keep in full force and effect, a policy or policies of Commercial Automobile Liability Insurance written on an ISO form CA 00 01 12 90 or a later version of this form or equivalent form providing coverage at least as broad in the amount of one million dollars (\$1,000,000) combined single limit per occurrence, covering bodily injury and property damage for owned, non-owned and hired automobiles ["Any Auto"]. All costs of defense shall be outside the policy.
 - 1.3 Architects and Engineers Professional Liability. For all of Subdivider's employees who are subject to this Agreement, Subdivider shall keep in full force and effect, or Subdivider shall require that its architect/engineer(s) of record keep in full force and effect errors and omissions insurance providing coverage for professional liability with a combined single limit of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) annual aggregate. Subdivider shall ensure both that (i) this policy retroactive date is on or before the date of commencement of the Project; and (ii) this policy has a reporting period of three (3) years after the date of completion or termination of this Contract. Subdivider agrees that for the time period defined above, there will be no changes or endorsements to the policy that increases the City's exposure to loss.
 - 1.4 Worker's Compensation. For all of Subdivider's employees who are subject to this Contract and to the extent required by the State of California, Subdivider shall keep in full force and effect, a Workers' Compensation Insurance and Employers' Liability Insurance to protect Subdivider against all claims under applicable state workers' compensation laws. The City, its elected officials, and employees will not be responsible for any claims in law or equity occasioned by the failure of the Subdivider to comply with the requirements of this section. That policy shall provide at least the Statutory minimums of one million dollars (\$1,000,00) for Bodily Injury by Accident for each accident, one million dollars (\$1,000,000) for Bodily Injury by Disease each employee, and a one million dollars (\$1,000,000) for Bodily Injury by Disease policy limit. Subdivider shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.
 - 1.4.1 Prior to the execution of the Agreement by the City, the Subdivider shall file the following signed certification:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance, in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of the Contract."

- 1.5 **Builder's Risk.** To the extent commercially available, Subdivider shall provide a policy of "all risk" Builders Risk Insurance. Subdivider shall add City and its respective elected officials, officers, employees, agents, and representatives to the policy as additional named insureds or loss payees, to the extent such insurance is commercially available. Subdivider shall also add its construction contractor, and the construction contractor's subcontractors to the policy as additional named insureds or loss payees, to the extent such insurance is commercially available. The insurance may provide for a deductible which shall not exceed fifty thousand dollars (\$50,000). It shall be Subdivider's responsibility to bear the expense of this deductible. The Builders Risk coverage shall expire at the time such insured property is occupied by City, or a Notice of Completion is filed, whichever occurs first.
2. **Endorsements Required.** Each policy required under Section 1, above, shall expressly provide, and an endorsement shall be submitted to the City, that:
- 2.1 *Additional Insureds.* Except as to Architects and/or Engineers professional liability insurance and Workers Compensation, the City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be named as additional insureds.
- 2.1.1 *Commercial General Liability.* The policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents, and representatives. The coverage for Projects for which the Engineer's Estimate is one million dollars (\$1,000,000) or more shall include liability arising out of: (i) Ongoing operations performed by you or on your behalf, (ii) Your products, (iii) Your work, including but not limited to your completed operations performed by you or on your behalf, or (iv) premises owned, leased, controlled, or used by you; the coverage for Projects for which the Engineer's Estimate is less than one million dollars (\$1,000,000) shall include liability arising out of: (i) Ongoing operations performed by you or on your behalf, (ii) Your products, or (iii) premises owned, leased, controlled, or used by you; Except that in connection with, collateral to, or affecting any construction contract to which the provisions of subdivision (b) of Section 2782 of the California Civil Code apply, these endorsements shall not provide any duty of indemnity coverage for the active negligence of the City of San Diego and its respective elected officials, officers, employees, agents, and representatives in any case where an agreement to indemnify the City of San Diego and its respective elected officials, officers, employees, agents, and representatives would be invalid under subdivision (b) of Section 2782 of the California Civil Code. In any case where a claim or loss encompasses the negligence of the Insured and the active negligence of the City of San Diego and its respective elected officials, officers, employees, agents, and representatives that is not covered because of California Insurance Code section 11580.04, the insurer's obligation to the City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be limited to obligations permitted by California Insurance Code section 11580.04.
- 2.1.2 *Commercial Automobile Liability Insurance.* Unless the policy or policies of Commercial Auto Liability Insurance are written on an ISO form CA 00 01 12 90 or a later version of this form or equivalent form providing coverage at least as broad, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Subdivider; except that in connection with, collateral to, or affecting any construction contract to which the provisions of subdivision (b) of Section 2782 of the California Civil

Code apply, this endorsement shall not provide any duty of indemnity coverage for the active negligence of the City of San Diego and its respective elected officials, officers, employees, agents, and representatives in any case where an agreement to indemnify the City of San Diego and its respective elected officials, officers, employees, agents, and representatives would be invalid under subdivision (b) of Section 2782 of the California Civil Code. In any case where a claim or loss encompasses the negligence of the Insured and the active negligence of the City of San Diego and its respective elected officials, officers, employees, agents, and representatives that is not covered because of California Insurance Code section 11580.04, the insurer's obligation to the City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be limited to obligations permitted by California Insurance Code section 11580.04.

- 2.2 *Primary and Non-Contributory.* The policies are primary and non-contributing to any insurance or self-insurance that may be carried by the City of San Diego, its elected officials, officers, employees, agents, and representatives with respect to operations, including the completed operations if appropriate, of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents, and representatives shall be in excess of Subdivider's insurance and shall not contribute to it.
- 2.3 *Project General Aggregate Limit.* The CGL policy or policies must be endorsed to provide a Designated Construction Project General Aggregate Limit that will apply only to the work performed under this Agreement. Claims payments not arising from the work shall not reduce the Designated Construction Project General Aggregate Limit. The Designated Construction Project General Aggregate Limit shall be in addition to the aggregate limit provided for the products-completed operations hazard.
- 2.4 *Written Notice.* Except as provided for under California law, the policies cannot be canceled, non-renewed or materially changed except after thirty (30) calendar days prior written notice by Subdivider to the City by certified mail, as reflected in an endorsement which shall be submitted to the City, except for non-payment of premium, in which case ten (10) calendar days notice shall be provided.
- 2.5 The words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" shall be deleted from all certificates.

RESOLUTION NUMBER R- 308126

DATE OF FINAL PASSAGE MAY 16 2013

RESOLUTION OF THE CITY COUNCIL TO AUTHORIZE A REIMBURSEMENT AGREEMENT WITH KILROY REALTY CORPORATION FOR TORREY MEADOWS DRIVE (FORMERLY STREET 'B') OVERCROSSING DESIGN WORK IN THE TORREY HIGHLANDS COMMUNITY, AND AUTHORIZE A COOPERATIVE AGREEMENT WITH THE STATE OF CALIFORNIA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION (CALTRANS).

WHEREAS, on October 16, 2008, City approved Neighborhood Use Permit No. 601521 for Santa Fe Summit II and III/Project No. 131969 recorded on February 25, 2009 as Document No. 2009-0093095 in the Office of the San Diego County Recorder, which authorizes development of four commercial office buildings, each approximately 120,000 to 150,000 gross square feet, not to exceed a total of 600,000 gross square feet, and three parking structures totaling approximately 280,175 square feet; and

WHEREAS, Kilroy Realty Corporation (Kilroy) plans to design the Torrey Meadows Drive, formerly Street "B," Overcrossing as Project No. T-9 in the Torrey Highlands Community in accordance with the Torrey Highlands Public Facilities Financing Plan; and

WHEREAS, on NOV 27, 2012, the City Council adopted Resolution No.

R-307857 approving the Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessment (FBA) as defined in San Diego Municipal Code section 61.2202(i), for Fiscal Year 2013 (Financing Plan), on file in the Office of the City Clerk as Document No. RR-307857. The Financing Plan identifies and includes the Torrey Meadows Drive, formerly Street "B," Overcrossing as Project No. T-9; and

WHEREAS, the Transportation Phasing Plan (TPP), which is an Appendix to the Financing Plan, allows Kilroy to proceed with the remaining 300,000 square feet of commercial

office space in exchange for Kilroy's agreement to complete the design of Project No. T-9 to the satisfaction of Caltrans and the City; and

WHEREAS, Project No. T-9 will cross over State Route 56 and therefore requires approval from Caltrans. A Cooperative Agreement with Caltrans is proposed for the Project Initiation Document phase work and oversight (Cooperative Agreement); NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor is authorized and directed to execute, for and on behalf of City, the Reimbursement Agreement for Torrey Meadows Drive (Formerly Street 'B') Overcrossing Design Work in the Torrey Highlands Community, on file in the Office of the City Clerk as Document No. RR-308126 (Agreement), under the terms and conditions set forth in the Agreement.

BE IT FURTHER RESOLVED, that the Mayor is authorized and directed to execute, for and on behalf of City, the Cooperative Agreement, on file in the Office of the City Clerk as Document No. RR- 308126⁻², under the terms and conditions set forth in the Cooperative Agreement.

BE IT FURTHER RESOLVED, that Council Policy 300-07, Consultant Services Selection, is waived with respect to TY Lin with whom Kilroy entered into a contract for the Project that is the subject of the Agreement prior to the effective date of the Agreement.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend an amount not to exceed One Million Two Hundred Ninety-Seven Thousand Seven Hundred Fifteen Dollars (\$1,297,715) as set forth in the Agreement, from the WBS S-10015, Torrey Meadows Drive (formerly Street "B") Overcrossing, Fund No. 400094, Torrey Highlands FBA, consistent with the timing established in the most recently adopted Financing Plan, and contingent upon the Chief Financial Officer furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend an amount not to exceed One Hundred Thousand Dollars (\$100,000) from the WBS S-10015, Torrey Meadows Drive (formerly Street "B") Overcrossing, Fund No. 400094, Torrey Highlands FBA, consistent with the timing established in the most recently adopted Financing Plan, and contingent upon the Chief Financial Officer furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

BE IT FURTHER RESOLVED, that the Chief Financial Officer, upon advice from the administering department, is hereby authorized to transfer excess funds, if any, to the appropriate reserves.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Hilda R. Mendoza
Deputy City Attorney

HRM:als
12/20/2012
04/29/2013 Cor. Copy
Or.Dept:Facilities Financing
Doc. No.: 352914_4

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 30 2013.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5/10/13
(date)


BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

Passed by the Council of The City of San Diego on APR 30 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 (Vacant)	<input 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"/>
Lorie Zapf	<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"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

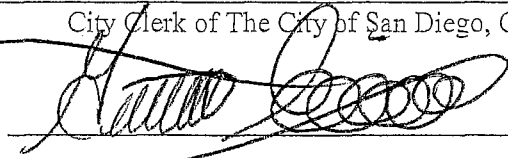
Date of final passage MAY 16 2013

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 308126

Passed by the Council of The City of San Diego on April 30, 2013 by the following vote:

YEAS: LIGHTNER, FACULCONER, GLORIA, DISTRICT 4 (VACANT),
KERSEY, ZAPF, SHERMAN, ALVAREZ, EMERALD.

NAYS: NONE.

NOT PRESENT: NONE.

VACANT: DISTRICT 4.

RECUSED: NONE.

AUTHENTICATED BY:

BOB FILNER

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Peggy Rogers, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-308126 approved by the Mayor of the City of San Diego, California on
May 16, 2013

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By:  Deputy