

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF EL DORADO AND THE
CAPITAL SOUTHEAST CONNECTOR JOINT POWERS AUTHORITY**

THIS MEMORANDUM OF UNDERSTANDING, is made and entered into this ___ day of _____, 2017, at Sacramento, California, by and between the Capital SouthEast Connector Joint Powers Authority (the “JPA”)¹ and the County of El Dorado (“County”).

RECITALS

WHEREAS, the County has been involved in the development of the Capital SouthEast Connector Project (“Connector Project”) since its initiation at the Sacramento Area Council of Governments and assisted in the development of the Joint Exercise of Powers Agreement establishing the JPA as it exists today;

WHEREAS, the Connector Project will connect the County with other business and housing centers in the region, providing economic development opportunities to the County;

WHEREAS, based on the County’s participation in the JPA, the Connector Project is a symbol of regional cooperation and collaboration, which may increase the likelihood that the Connector Project will receive funding that it would not otherwise be eligible to receive;

WHEREAS, the JPA prepared and approved a Mitigated Negative Declaration for Segments D3 and E1 of the Connector Project;

WHEREAS, the County of El Dorado recorded a Notice of Determination for Segment D3 and E1 of the Connector project in compliance with Section 21108 or 21152 of the Public Resources Code on January 25, 2016;

WHEREAS, the JPA has entered into a contract with Dokken Engineering for final design and right of way acquisition for Segment D3, with the option to obtain final design and right of way acquisition services for Segment E1 in El Dorado County;

WHEREAS, sufficient Measure A funds are available for final design and right of way acquisition costs for Segment D3 in Sacramento County, but the JPA is not permitted to utilize Measure A funds for these services for Segment E1 in El Dorado County; and

WHEREAS, at a budget workshop and hearing of the County Board of Supervisors on April 26, 2016, and May 17, 2016, respectively, the County determined

¹ The full legal name of the Capital SouthEast Connector Joint Powers Authority is the “Elk Grove – Rancho Cordova – El Dorado Connector Authority.”

that it would be willing to contribute up to \$225,000 to the JPA to allow for the preparation of final design documents for Segment E1 of the Connector Project; and

WHEREAS, on September 27, 2016, the County Board of Supervisors adopted the County budget for Fiscal Year 2016-17, which included funding in the amount of \$225,000 for final design for Segment E1; and

WHEREAS, on December 9, 2016, the Board of the JPA authorized the Executive Director, with the assistance of counsel, to negotiate and execute a Memorandum of Understanding with the County of El Dorado to receive funding for Segment E1.

NOW, THEREFORE, the County and the JPA agree as follows:

1. Incorporation: The forgoing recitals are true and correct, and are incorporated herein.
2. Term: The term of this MOU shall begin on the effective date of this MOU, and shall terminate on January 1, 2019, unless extended by written agreement of the parties.
3. Use of Funds: The JPA agrees to use all funds conveyed to the JPA by the County under this MOU for the sole purpose of obtaining final design services for Segment E1 of the Connector Project. During the final design process, the County shall have the opportunity to provide input through its participation in scheduled project development team meetings. In exchange for the contribution of up to \$225,000, as set forth in Section 4, below, the JPA will produce and provide the County, in hard copy and electronic form suitable to the County, with:
 - a) A full-size (22" x 34") set of engineering plans, consistent with the JPA's Mitigated Negative Declaration, and drafted in compliance with the State of California Department of Transportation Plans Preparation Manual, in imperial units, plotted on bond paper.
 - b) A set of Special Provisions that consist of marked-up Caltrans Standard Special Provisions, with new provisions and inserts clearly marked. The basis of the contract specifications shall be the Caltrans 2015 Standard Specifications. Required environmental commitments and mitigation measures will be included. The format will be consistent with the Caltrans Ready-to-List Guide. "Boilerplate" provisions specific to the County contract bidding requirements, contract award, and acceptance will not be included.
 - c) An itemized engineer's construction estimate in a format consistent with the State of California Department of Transportation Ready-to-List Guide.
4. Payment of Funds: The County shall pay the JPA an amount not to exceed two-hundred and twenty-five thousand dollars (\$225,000) for final design services for Segment E1 of the Connector Project, in three installments, as follows:

- a) Upon the execution of this Agreement, the JPA shall provide the County with an invoice in an amount not to exceed \$75,000.
- b) On October 1, 2017 the JPA shall provide the County with an invoice in an amount not to exceed \$75,000.
- c) On October 1, 2018 the JPA shall provide the County with an invoice in an amount not to exceed \$75,000.
- d) The County agrees to pay the JPA within thirty (30) days of receipt of each invoice. JPA invoices shall be in a format suitable to the County and shall contain information specified by the County.
- e) During the term of this Agreement, the JPA agrees to provide the County with quarterly statements reflecting the expenditure of funds contributed by the County since the prior statement. The quarterly statement shall be supported by invoices from Dokken Engineering detailing work provided to date.

5. Records: The JPA shall maintain financial and project records that fairly reflect the activities of the JPA and its consultants pertaining to the final design services. Upon reasonable request by the County, the JPA shall make available for inspection and audit by the County, all books, financial records, program information, and other records pertaining to the operation of the JPA in relation to the final design services.

6. Retention of Records/Audit: For the purpose of determining compliance with Public Contract Code Section 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the MOU pursuant to Government Code Section 8546.7; JPA and County shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the MOU, including but not limited to, the costs of administering the MOU. All parties shall make such materials available at their respective offices at all reasonable times during the MOU period and for three (3) years from the date of final payment under the MOU. The state, State Auditor, COUNTY, and documents of JPA and its certified public accountants (CPA) work papers that are pertinent to the MOU.

7. Indemnification: The JPA and the County shall each defend, indemnify, and hold harmless each other, as well as their respective officers, agents, and employees, from any claim, loss, or liability, arising out of or connected with any acts or omissions of that party or its officers, agents, consultants, contractors, or employees when performing activities or obligations required of that party under this MOU.

8. Contract Administrator: The County officer or employee with responsibility for administering this Agreement is John Kahling, Deputy Director, Engineering, Community Development Services, Transportation Department, or successor.

9. Notices: All notices required by this MOU shall be in writing and shall be delivered in person or by certified mail to the other party at the address set forth below. Either party may change its address or point of contact by notifying the other party of the change.

Capital SouthEast Connector JPA
Derek Minnema
10640 Mather Blvd., Ste 120
Mather, CA 95655

El Dorado County
Clerk of the Board of Supervisors
330 Fair Lane
Placerville, CA 95667

10. Fiscal Considerations: The parties to this MOU recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this MOU to the contrary, County shall give notice of cancellation of this MOU in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this MOU. Upon the effective date of such notice, this MOU shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this MOU may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

11. Amendment/Termination: Except as otherwise provided herein, this MOU may only be modified or terminated in writing, and with the prior written consent of both parties.

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS
MEMORANDUM OF UNDERSTANDING AS OF THE DATE HEREIN ABOVE
APPEARING:

COUNTY OF EL DORADO

Shiva Frentzen
Chair, Board of Supervisors

APPROVED AS TO FORM:


Michael J. Ciccozzi
County Counsel

**ELK GROVE – RANCHO CORDOVA –
EL DORADO CONNECTOR AUTHORITY**



Derek Minnema
Executive Officer

APPROVED AS TO FORM:



Renne Sloan Holtzman Sakai
Legal Counsel to the JPA