

12-16-14 #7

03-ED-50 PM R9.11/12.5
HOV Lanes
EA No. 03-3A713
District Agreement 03-0470

COOPERATIVE AGREEMENT

This agreement ("Agreement"), effective on the initial date of authorization by the COUNTY OF EL DORADO's Board of Supervisors, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

COUNTY OF EL DORADO, a political subdivision
of the State of California, referred to herein as "COUNTY".

RECITALS

1. CALTRANS and COUNTY, collectively referred to as PARTNERS, are authorized to enter into a cooperative agreement for improvements to the SHS per Streets and Highways Code sections 114 and 130.
2. On February 13, 2007 COUNTY intended to construct High Occupancy Vehicle (HOV) and bus lanes in the median of United States Highway 50 (US 50) between Ponderosa Road and Greenstone Road (PM 9.11 to 12.5) within COUNTY, referred to herein as "PROJECT".
3. On February 13, 2007, the County's Board of Supervisors ratified written authorization from the then Chair, Supervisors Helen K. Baumann, that authorized CALTRANS to begin concurrent work on the environmental work and the design work.
4. In accordance with the COUNTY's authorization, CALTRANS has performed at COUNTY's request a portion of Project Approval and Environmental Document (PA&ED), and, Plans, Specification and Estimate (PS&E) activities, referred to herein as "WORK".
5. In 2008, the COUNTY'S Capital Improvement Program was reevaluated and a determination made that the Project was no longer a time sensitive priority and as a result the COUNTY directed CALTRANS to stop work on the Project.
6. Upon the cessation of WORK, the parties have continuously engaged in the evaluation of what tasks were completed by each party and the costs attributable to that completed WORK. The WORK completed by CALTRANS is as follows:

<u>PA&ED</u>	<u>Percent Completed</u>
Traffic Study	100
Natural Environmental Study-biological study	100
Cultural Resources Study	100
Air, Noise, Community Impact Assessment (CIA)	40
Visual, Hazardous Waste	40
Floodplain/Hydrology studies	40

<u>PS&E:</u>	<u>Percent Completed</u>
Engineering and Photogrammetric Surveys	100
Prepared Base Maps and Plan Sheets	100

7. CALTRANS has stopped WORK per COUNTY's request and PARTNERS have agreed that upon execution of this Agreement COUNTY will reimburse CALTRANS the amount of \$590,165, which represents the full amount of accrued WORK costs incurred by CALTRANS for PROJECT.
8. Upon execution of this Agreement, the parties will continue the stop work directive and any future completion of PROJECT PA&ED and PS&E R/W and construction will be the subject of a separate future cooperative agreement(s) to cover the responsibilities and funding for the Project.
9. The terms of this Agreement shall supersede any inconsistent terms of any prior memorandum of understanding agreement, or other writing relating to WORK.

SECTION I

STATE AGREES

1. Upon execution of this Agreement, to invoice COUNTY the amount of \$590,165 which represents the full amount of accrued WORK costs incurred by CALTRANS for PROJECT.

SECTION II

COUNTY AGREES:

1. To reimburse CALTRANS a fixed amount of \$590,165 of local funds in a single lump sum payment for accrued WORK.
2. To pay CALTRANS within 45 calendar days of receipt of invoice.

SECTION III

IT IS MUTUALLY AGREED:

1. All obligations of CALTRANS under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).

2. The cost of any engineering support performed by CALTRANS under this Agreement includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds are subject the current Program Functional Rate. Local funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and the Administration Rate are adjusted periodically.
3. All administrative draft and administrative final reports, studies, materials, and documentation relied upon, produced, created or utilized for WORK will be held in confidence to the extent permitted by law, and where applicable, the provisions of California Government Code section 6254.5(e) shall govern the disclosure of such documents in the event said documents are shared between the Parties. Parties will not distribute, release, or share said documents, where exempt from disclosure under the provisions of California Government Code section 6254.5(e), with anyone other than employees, agents, and consultants who require access to complete the Work described herein this Agreement without the written consent of the party authorized to release them, unless required or authorized to do so by law.
4. Nothing within the provisions of this Agreement is intended to create rights in third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation, or maintenance of the SHS and public facilities different from the standard of care imposed by law.
5. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by COUNTY and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon COUNTY under this Agreement. It is understood and agreed that COUNTY will fully defend, indemnify and save harmless CALTRANS and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, but not limited to, tortious, contractual, inverse condemnation or other theories and assertions of liability occurring by reason of anything done or omitted to be done by COUNTY and/or its agents under this Agreement.
6. Neither COUNTY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS and/or its agents, under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this Agreement. It is understood and agreed that CALTRANS will fully defend, indemnify and save harmless COUNTY and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, but not limited to, tortious, contractual, inverse condemnation or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS and/or its agents under this Agreement.
7. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

8. This Agreement will terminate upon receipt of the full payment from COUNTY to CALTRANS.
However, all indemnification provisions will remain in effect until terminated or modified in writing by mutual agreement.
9. The County administrator that has the responsibility for this Agreement is Adam Bane, Supervising Civil Engineer, or successor, of the Community Development Agency.

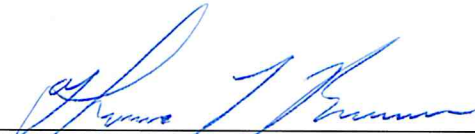
SIGNATURES


PARTIES declare that:

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

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

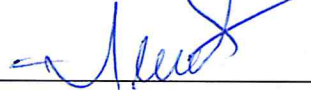
COUNTY OF EL DORADO
Requesting Department Concurrence:

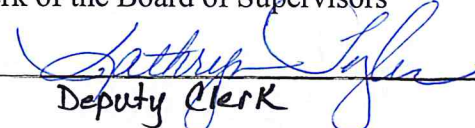
By: 
 THOMAS L. BRANNON
 Deputy District Director,
 D3 Programming & Project Management

By:  12-16-14
 NORMA SANTIAGO,
 Chair, Board of Supervisors

Approved as to form and procedure:

Attest:
 JAMES S. MITRISIN
 Clerk of the Board of Supervisors


By: 
 Attorney
 Department of Transportation Attorney

By: 
 Deputy Clerk

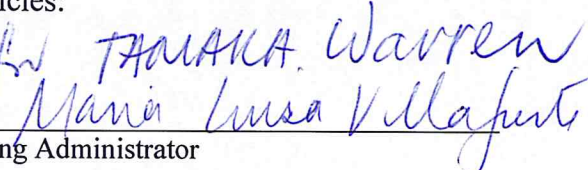
District Project Control Officer

Requesting Department Concurrence:

By: 

By: 
 STEVEN M. PEDRETTI
 Director, Community Development Agency

Certified as to financial terms and policies:

for THANAKA Warren
 By: 
 Accounting Administrator