
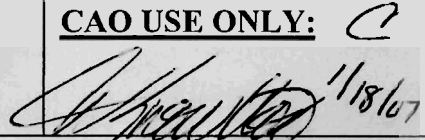


**EL DORADO COUNTY BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL
Meeting of January 30, 2007**

AGENDA TITLE: U.S. Highway 50 / Missouri Flat Road Interchange Phase 1A Project – Construction Responsibility and Reimbursement Agreement (County AGMT 06-1260), and Utility Agreement (County AGMT 06-1259, Caltrans 2400.2), between the County of El Dorado and El Dorado Irrigation District, Project #71317

DEPARTMENT: Transportation	DEPT SIGNOFF: 	CAO USE ONLY: 
CONTACT: Elizabeth B. Diamond/Adam Bane <i>AB</i>		
DATE: 12/22/06	PHONE: 5982/5983	

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:

The Department of Transportation (Department) recommends the Board of Supervisors:

Approve and authorize the Board Chairman to sign the Construction Responsibility and Reimbursement Agreement (County AGMT 06-1260), and Utility Agreement (County AGMT 06-1259, Caltrans 2400.2) for Relocation/Replacement of El Dorado Irrigation District (EID) Facilities to accommodate the construction of the U.S. Highway 50 / Missouri Flat Road Interchange Phase 1A Project #71317.

CAO RECOMMENDATIONS: *Recommend approval. Laura A Hill 1/18/07*

Financial impact? Yes No Funding Source: Gen Fund Other

BUDGET SUMMARY:

Total Est. Cost	\$932,000.00
Funding	
Budgeted	_____
New Funding	_____
Savings	_____
Other *	\$932,000.00
Total Funding	\$932,000.00
Change in Net County Cost	0

Other: EID Funding

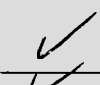
CAO Office Use Only:

4/5's Vote Required Yes No

Change in Policy Yes No

New Personnel Yes No

CONCURRENCES:

Risk Management 

County Counsel _____

Other _____

***Explain** Will be appropriated in 07/08 budget.

BOARD ACTIONS:

Vote: Unanimous _____ Or _____

Ayes: _____

Noes: _____

Abstentions: _____

Absent: _____

I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors

Date: _____

Attest: Cindy Keck, Board of Supervisors Clerk

By: _____

BOARD OF SUPERVISORS
 2007 JAN 18 11:12:53



MAINTENANCE DIVISION:
2441 Headington Road
Placerville CA 95667
Phone: (530) 642-4909
Fax: (530) 642-9238

RICHARD W. SHEPARD, P.E.
Director of Transportation

Internet Web Site:
<http://co.el-dorado.ca.us/dot>

MAIN OFFICE:
2850 Fairlane Court
Placerville CA 95667
Phone: (530) 621-5900
Fax: (530) 626-0387



January 8, 2006

Board of Supervisors
330 Fair Lane
Placerville, California 95667

Title: U.S. Highway 50 / Missouri Flat Road Interchange Phase 1A Project – Construction Responsibility and Reimbursement Agreement (County AGMT 06-1260), and Utility Agreement (County AGMT 06-1259, Caltrans 2400.2), between the County of El Dorado and El Dorado Irrigation District, Project #71317

Meeting Date: January 30, 2007

District/Supervisor: District III – Supervisor Sweeney

Dear Members of the Board:

Recommendations:

The Department of Transportation (Department) recommends the Board of Supervisors:

Approve and authorize the Board Chairman to sign the Construction Responsibility and Reimbursement Agreement (County AGMT 06-1260), and Utility Agreement (County AGMT 06-1259, Caltrans 2400.2) for Relocation/Replacement of El Dorado Irrigation District (EID) Facilities to accommodate the construction of the U.S. Highway 50 / Missouri Flat Road Interchange Phase 1A Project #71317.

Reasons for Recommendations:

The El Dorado County Department of Transportation is moving towards construction of the U.S. Highway 50 / Missouri Flat Road Interchange Project. The construction of the interchange requires the relocation of El Dorado Irrigation District's (EID) existing waterline facilities which are in conflict with the new interchange improvements.

EID has requested the necessary waterline relocation work be included in County's construction bid package, award documents, and construction contract for the Project. The Department of Transportation recommends the inclusion of EID's work into the County's construction package in order to better coordinate the construction of the project, shorten the duration of construction and reduce the costs to both the County and EID that would be associated with preparing and administering two separate construction contracts.

As the U.S. Highway 50 / Missouri Flat Road Interchange Project is a cooperative effort between El Dorado County and Caltrans, two separate agreements for EID's utility relocation are required, both of which are included within this item. The Utility Agreement (AGMT 06-1259) defines the scope, cost responsibility, the general conditions of the work to be performed,

and will satisfy the Caltrans format and policies procedures which are required under the Cooperative Agreement between El Dorado County and Caltrans. The Construction Responsibility and Reimbursement (AGMT 06-1260) will set forth the terms and conditions by which the utility work will be incorporated into the County construction package as well as the method by which EID will reimburse the County for construction, inspection and administrative costs.

Fiscal Impact:

The total construction cost associated with the EID work under both Agreements is estimated at \$672,000. EID shall be responsible for one hundred percent (100%) of the actual costs associated with the installation and/or relocation of all EID facilities. EID will also pay the County an additional 26% of the direct construction costs as reimbursement for indirect construction items, inspection, testing, construction management and other related costs bringing the total estimate amount to be funded by EID to approximately \$932,000 inclusive of a 10% contingency. This cost of the work and anticipated revenue has been included in the budget for the Missouri Flat Interchange Phase 1A project.

Net County Cost:

There is no net cost to the County General Fund associated with this agenda item.

Action to be Taken Following Approval:

- 1) The EID Board of Director's are scheduled to act on the Agreements at a January 2007 meeting. Following their approval, EID will return two executed original Construction Responsibility and Reimbursement Agreements (County AGMT 06-1260) and six executed original Utility Agreements (County AGMT 06-1259, Caltrans 2400.2) to the Department for further processing.
- 2) The Department will forward the executed original Agreements to the Board Clerk who will have the Board Chairman sign both sets of original Agreements.
- 3) The Board Clerk will retain an original of each Agreement, and return an executed original of the Construction Responsibility and Reimbursement Agreement and five executed originals of the Utility Agreement to the Department for further processing.

Sincerely,



Richard W. Shepard, P. E.
Director of Transportation

RWS: ED:mdp
Attachment(s)

ASSIGNMENT SENT TO TRISH 12/22/06

Contract #: 71317
Item: EID Utility Agreement

Resubmit

1-16-07

ATTORNEY *PEB*

DEPT./INDEX NO. *306500*

CONTRACT ROUTING SHEET

BY: *[Signature]* PROCESSING DEPARTMENT: Transportation CONTRACTOR: El Dorado Irrigation District
 Department: Transportation Name: El Dorado Irrigation District
 Dept. Contact: Liz Diamond / Adam Bane
 Phone: x5982 / x5983 (respectively) Address: 2890 Mosquito Road
 Department Head [Signature] Placerville, CA 95667
 Signature: [Signature] Phone: 530-622-4513
 Tim C. Prud'el
 Contract Services Officer *1/16/07*

CONTRACTING DEPARTMENT: Transportation
 Compliance with Human Resources requirements? Yes: N/A No:
 Compliance verified by: Contract Notification Sent - HR response received
OK per

COUNTY COUNSEL: (must approve all contracts and MOUs)
 Approved: Disapproved: Date: 1/16/07 By: [Signature]
 Approved: Disapproved: Date: By:

Please forward to Risk Management upon approval.

Index Code: <u>305100</u>	User Code: <u>71317</u>
---------------------------	-------------------------

RISK MANAGEMENT:
 Approved: ✓ Disapproved: Date: 1/17/07 By: [Signature]
 Approved: Disapproved: Date: By:

OTHER APPROVAL (Specify department(s) participating or directly affected by this contract).
 Department(s):
 Approved: Disapproved: Date: By:
 Approved: Disapproved: Date: By:

EL DORADO COUNTY COUNSEL

JAN 15 PM 2:11

RECEIVED
HUMAN RESOURCES DEPT
JAN 12 54 PM

UTILITY AGREEMENT

RW 13-5 (REV 4/2000)

UTILITY AGREEMENT NO.
2400.2

<u>Dist</u> 03	<u>Co</u> ED	<u>Rte</u> 50	<u>KP (P.M.)</u> 23.8/24.7 (14.7/15.3)	<u>EA</u> 370001
Federal Aid No.:				
Owner's File: Caltrans Agreement No. 2400.2				
FEDERAL PARTICIPATION: On the Project <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
On the Utilities <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

UTILITY AGREEMENT NO.: 2400.2 DATE: 1/16/2007

The County of El Dorado, hereinafter called "County", acting on behalf of the State of California through the Department of Transportation, hereinafter called "State," proposes to reconstruct the US 50/Missouri Flat Road interchange in the County of El Dorado, reconstruct the interchange ramps, widen Missouri Flat Road from 0.12 km north of Prospector's Plaza Drive to 0.14 km south of Perks Court, and El Dorado Irrigation District (EID) hereinafter called "Owner," owns and maintains underground water facilities within the limits of County's project which requires relocation to accommodate County's construction.

It is hereby mutually agreed that:

I. WORK TO BE DONE

"In accordance with Notice to Owner No. 2400.2 dated 12/8/2006, County shall relocate Owner's waterline and waterline appurtenances as shown on Owner's Plan No. 71317, dated 1/9/07, which plans are included in County's Plans for the improvement of the US 50/Missouri Flat Road Interchange Project which, by this reference, are made a part hereof.

Deviations from the Owner's plan described above initiated by either the County or the Owner, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the County and acknowledged by the Owner, will constitute an approved revision of the Owner's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to receipt by the Owner of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner. Owner shall have the right to inspect the work by County's contractor during construction. Upon completion of the work by County, Owner agrees to accept ownership and maintenance of the constructed facilities and relinquishes to County ownership of the replaced facilities.

II. LIABILITY FOR WORK

The existing facilities described in Section I. above will be relocated at 100% Owner's expense and 0% County expense for the costs of relocating the Owner's facilities that lie within the State's right of way access control that is designated as a freeway (U.S. Route 50)

The existing facilities described in Section I. above will be relocated at 100% Owner's expense and 0% County for the expense of relocating the Owner's facilities that lie within the County's right of way per County Encroachment Permit.

III. PERFORMANCE OF WORK

Owner agrees that the herein-described work to be performed by the County's Contractor, stated herein as per the Construction Responsibility and Reimbursement Agreement between Owner and County, attached hereto as Exhibit AA.

"The existing facilities described in Section I. above will be relocated at 0% County expense and 100% Owner expense in accordance with the attached Exhibit AA.

IV. GENERAL CONDITIONS

If County's project, which precipitated this Agreement, is canceled or modified so as to eliminate the necessity of work by Owner, County will notify Owner in writing and County and Owner each reserve the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

Owner shall submit a Notice of Completion to the County within 30 days of the completion of the work described herein.

It is understood that said highway is a Federal aid highway and accordingly 23 CFR 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the County and the Owner pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by the applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645.

UTILITY AGREEMENT

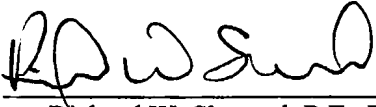
RW 13-5 (REV 4/2000)

UTILITY AGREEMENT NO.
2400.2

THE ESTIMATED COST TO EID FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 931,489.00

FUND TYPE	STATE EA	AMOUNT
Design Funds		\$ 0
Construction Funds		\$ 0
COUNTY R/W Funds	370001	\$ 931,489.00

Requesting County Department Concurrence:

By: 
 Richard W. Shepard, P.E., Director,
 County of El Dorado
 Department of Transportation

Dated: 1/17/07

Reviewed & Approved on: _____
Date

By: _____
EID General Counsel's Office



IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:

Cindy Keck
Clerk of the Board of Supervisors

By: _____

Dated: _____

Deputy Clerk

-- UTILITY COMPANY --

EID

By: _____

Dated: _____

Ane D. Deister, General Manager
"EID"

Date: 01-16-07

**CONSTRUCTION RESPONSIBILITY AND REIMBURSEMENT AGREEMENT
BETWEEN THE COUNTY OF EL DORADO AND THE EL DORADO IRRIGATION DISTRICT
FOR THE U.S. HIGHWAY 50 / MISSOURI FLAT ROAD
INTERCHANGE PHASE 1A PROJECT**

PROJECT #71317

The County of El Dorado, a political subdivision of the State of California (hereinafter "County"), and the El Dorado Irrigation District, a special district created pursuant to State law (hereinafter "EID"), hereby agree to the following Construction Responsibility and Reimbursement Agreement (hereinafter "Agreement") terms set forth below.

County and EID recognize that County plans to make improvements to the U.S. Highway 50/Missouri Flat Road Interchange (hereinafter referred to as "the Project"), and that existing EID facilities, including a segment of the existing 8" and 12" EID water line, approximately 3626 feet in length, is located within the Project boundaries within Missouri Flat Road from north of Prospector's Plaza, in County's road right-of-way as authorized by an encroachment permit. The water line must be relocated and/or replaced and appurtenances raised to grade to accommodate the aforesaid Project as a condition of the encroachment permit, at the sole cost of EID.

EID has requested that County include the installation of replaced EID facilities and/or the relocation of its affected facilities, as detailed in Exhibit A, titled "Water Relocation Map," incorporated herein and made by reference a part hereof, in County's construction bid package, award documents, and construction contract for the Project, and County has agreed to do so under the terms and conditions of this Agreement.

Contemporaneously herein, County and EID have entered into a Caltrans standard Utility Agreement providing for additional terms and conditions of the relocation work to be done. The parties intend the Utility Agreement and this Agreement to be complementary, and to describe and provide for the relocation work. Each agreement is intended to be read in conjunction with the other, and a requirement in one document is as binding as though occurring in both agreements.

A. LIABILITY FOR WORK

Cost for facilities shall be allocated between EID and County as follows:

1. In accordance with Notice to Owner No. 2400.2 dated December 8, 2006, County has requested and EID has agreed to the abandonment, relocation, and installation of the EID Water Line and waterline appurtenances as shown on EID Plan No. 71317 dated January 9, 2007, and incorporated by reference herein as Exhibit "D", and as described in the Water Relocation Map, Exhibit "A", and as further described herein (hereinafter

cumulatively referred to as the "EID Relocation Work"). County and EID agree that EID shall be responsible for one hundred percent (100%) of the actual costs associated with the EID Relocation Work. The initial estimate of the cost of the work by the EID Engineer is set forth in Exhibit B, marked "EID Sole Cost (Water Line) Cost Estimate, which is incorporated herein and made by reference a part hereof, and which is currently estimated at \$931,489.00 (see Exhibit C, marked "Cost Estimate Summary", incorporated by reference herein and made a part hereof). These amounts include a 10% contingency in addition to the EID's Engineer's Estimate (see Exhibit B). Actual costs for the EID Relocation Work may be more or less than this initial estimate.

2. As the work progresses, County shall submit invoices to EID, no more frequently than monthly, with supporting documentation indicating the percentage of the work completed since the previous submittal and the amount of costs then due and owing. The invoices submitted by County to EID will include an accounting of any amount retained by County from the contractor. EID will not be liable for payment of any retention amount shown on the invoices until County pays retention either to the contractor or subcontractor(s) or into an escrow account as provided under the Public Contract Code, whichever occurs first. EID shall make payment of the amount indicated on the invoice within thirty (30) calendar days of receiving each invoice, unless an invoice is challenged in accordance with subsection (3) herein below, in which case EID shall make payment of that portion of the invoice which is not in dispute within thirty (30) calendar days of receiving the invoice.
3. In the event that EID challenges any portion of, or any line item shown on, the invoice from County, then EID shall notify County of such challenge, the basis therefore, and provide adequate justification for the challenge, within ten (10) calendar days of receiving said invoice; If the payment of, or adjustment to, any amount challenged by EID cannot be resolved by the parties within thirty (30) calendar days of notification to County of the challenged amount, then both parties mutually agree to resolve the dispute in accordance with the dispute resolution provisions set forth in the County's construction contract.
4. The final invoice sent by County to EID shall include and clearly indicate any adjustments made throughout the Project, including the total amount of retention due from all previous invoices, and indicate the final payment required. County shall submit the final invoice no later than sixty (60) calendar days after final payment to County's contractor has been made. EID shall pay the final invoice within thirty (30) calendar days of receipt of invoice, subject to the provisions of Section B-3 of this Agreement regarding submittal by County to EID of as-built drawings.

B. Work to be Done

1. In order for County to include the EID Relocation Work in the County's bid package, EID shall provide material specifications to County for the work. EID shall include design drawings, specifications and estimates to County for review and incorporation into County's construction contract documents. EID is solely responsible for its -relocated facilities after construction and its acceptance of the facilities. Three copies of the construction bid package/contract prepared by County will be provided to EID. County bid plans and specifications that incorporate EID's various utility designs, prepared by County shall be reviewed and approved by EID prior to advertising for bids. EID shall be solely responsible for content accuracy, adequacy, and clarity of the bid plans and specifications pertaining to EID relocation work. EID shall have ten (10) working days to review and approve the bid plans and specifications. In addition to content accuracy, adequacy, and clarity, EID review shall include the following scope:
 - a. Conformance of removal and relocation design with EID, and applicable Caltrans, standards, standard drawings and standard specifications; and conformance with El Dorado County Department of Transportation standards and with the plans, details and specifications for the Project entitled Highway 50 / Missouri Flat Road Interchange Project #71317
 - b. Ability of relocation design to meet the same performance standards as the existing EID facility.

EID's authorized representative may review the lowest responsible, responsive bidder's documents and may provide recommendations, if any, to County within forty-eight (48) hours of bid opening. Notwithstanding that review, County shall have sole authority to reject any or all construction bids, resolve any bid protests, and/or to award the construction contract for the entire work.

2. EID shall provide, at EID's sole expense, one or more inspectors for all work involving, pertaining to, or affecting EID facilities to ensure construction is completed in accordance with EID standards and applicable EID standard drawings and technical specifications.
3. County shall provide EID with a set of as-built drawings. At the conclusion of the final cost accounting, EID shall retain no more than five percent (5%) of the EID reimbursable portion of the total cost associated with EID facilities until as-built drawings are provided and approved by EID.
4. County shall be solely responsible for all items of contract administration for the County's Project, such as surveying and contractor correspondence, except as specified in Sections A-1, B-2, B-9 and D-2 herein.

5. All EID Relocation Work, inclusive of all extra work and additional work as set forth in Section B(9) herein, performed shall be in conformance with all applicable Caltrans, El Dorado County Department of Transportation and EID standards and with the plans, details and specifications for the Project entitled Highway 50 / Missouri Flat Road Interchange Project #71317. County will provide and EID shall execute a County and the State of California's Department of Transportation Standard Encroachment permit for the Project mentioned in this Agreement.
6. County's contractor shall provide written guarantee of its work for one (1) year from acceptance by County. The guarantee shall inure to both County's and EID's benefit.
7. County shall provide in the Project bid specifications for the Project that the selected contractor shall add EID as an additional insured on contractor's general liability insurance policy for the Highway 50 / Missouri Flat Road Interchange Project #71317.
8. It is understood that the County's Project is a federal-aid highway and accordingly, 23 CFR 645 is hereby incorporated into this Agreement with the understanding that provisions governing reimbursement procedures are applicable to the relationship between the County, the State of California, and the United States.
9. It is understood that time is of the essence and that County would be harmed by delays to the Project. In order to avoid delays, the County and EID agree that the County must maintain administrative control of the Project. To protect the County from unnecessary Project delays arising from the EID work, County and EID agree that changes to the EID work on the Project will be handled in the following manner:
 - a. **Extra Work Required:** As used in this section, "extra work" means work that is not foreseen at the time the Project is bid, and is not anticipated in the bid documents, but must be necessarily performed in order to address conflicts, changed or differing conditions, or otherwise necessary in order to complete the Project. Any and all extra work required shall be at EID's sole expense or to EID's sole credit. EID, at its sole expense, will be responsible for designing and inspecting all facets of any extra work on, related to, or caused by EID facilities.

In the event that a contract change order ("CCO") is required, the County will notify EID on the next working day from notification from the County's contractor, and within five (5) calendar days will prepare a CCO. EID will then have five (5) calendar days to review, approve, and return the CCO to the County or return it to the County for modification. If EID fails to return the submitted CCO to the County as approved within five (5) days, then the County will take one of the following actions:

- i. The contract change order will be executed by the County per the terms, conditions, and price shown on the contract change order that had been

submitted to EID. EID will be required to reimburse the County, in accordance with Section A(1), Liability For Work, for the cost of the CCO.

- ii. The County will direct the contractor to perform the work on a force account basis in accordance with Caltrans Standard Specification 9-1.03. For extra work performed at force account, EID shall be responsible for inspecting the extra work and tracking the time that the contractor's forces spend pursuing the extra work. On each day that extra work is performed at force account, an EID inspector will prepare and sign a work report that details the labor, equipment, and materials that were used during that day's force account work. Said reports shall be given to County's Resident Engineer for payment processing. EID will be required to reimburse the County, in accordance with Section A(1), Liability For Work, for the cost of the force account work.
- iii. The County will direct the Contractor to stop work on the Contract only to the extent reasonably deemed necessary by the County. EID will then be responsible for justified costs associated with Project delay arising from the EID work. Such delay costs include but are not limited to right of way delays, extended Contractor overhead, additional water pollution control costs due to the Project extending into winter, and equipment rental. EID will be required to reimburse the County, in accordance with Section A(1), Liability For Work, for all said delay costs.

When the County submits a CCO to EID for EID's review and approval, the CCO will clearly state which of the actions listed above the County intends to take should EID fail to return the CCO to the County within the time specified above. In the event that the CCO exceeds one hundred thousand dollars (\$100,000), County shall only execute actions ii, or iii above.

It is agreed that all increases or decreases in justified costs associated with CCOs related to EID work may include but are not limited to direct construction costs, extended contractor overhead, additional water pollution control costs due to CCOs extending the Project into winter, dust control, and equipment rental.

- b. **Additional Work:** As used in this section, "additional work" means work that is not foreseen at the time the Project is bid, and is not necessary work for the Project but may be desirable for the benefit of the EID facilities. Any and all additional work requested by EID shall be at EID's sole expense. EID, at its sole expense, will be further responsible for designing and inspecting all facets of any additional work requested by EID. In the event that EID desires additional work to be performed by the County's contractor, EID shall address its request to the County. If a price for additional work can be directly negotiated between EID and County's contractor,

then the additional work will be in accordance with contract change order for the negotiated cost. If the County's contractor and EID cannot agree to a negotiated price, EID may request that the work be performed on a force account basis in accordance with Caltrans Standard Specification 9-1.03. For additional work performed at force account, EID shall be responsible for inspecting the additional work and tracking the time that the contractor's forces spend pursuing the additional work. On each day that EID work is performed at force account, an EID inspector will prepare and sign a work report that details the labor, equipment, and materials that were used during that day's force account work. Said reports shall be given to County's Resident Engineer for payment processing. Before any additional work may commence, County must write and execute the CCO for EID's additional work, at EID's direct negotiated price or at force account, whichever is applicable. EID will then have five (5) calendar days to review, approve, and return the CCO to the County. If EID fails to return the CCO as approved to the County within five (5) calendar days, then the County shall have no obligation to compel the contractor to perform the additional work.

It is agreed that all increases or decreases in justified costs associated with CCOs related to additional EID work may include but are not limited to direct construction costs, extended contractor overhead, additional water pollution control costs due to CCOs extending the Project into winter, dust control, and equipment rental.

- c. **EID Forces:** EID may alternatively request of County that EID use its own forces to perform additional work, as that term is defined hereinabove. The determination of whether to allow the additional work to be done by EID forces shall be within County's sole discretion. In the event County determines to allow EID to perform the additional work, EID shall comply with all conditions of County's standard encroachment permit, inclusive of indemnity and insurance, and shall provide proof of insurance meeting those requirements in advance of the commencement of the work. All additional work performed by EID shall comply with the requirements of this Agreement, with the Project construction schedule and be coordinated with County's contractor work. Any and all of the County's contractor justified extra work, claims or delay costs arising from or caused by EID's force work shall be EID's sole responsibility.

C. Duty of Cooperation, Defense and Indemnity of Contractual Claims

1. County has agreed to include the EID Relocation Work within its Project on condition that EID remain solely responsible for the design, operation, inspection, relocation and maintenance of its facilities, and solely responsible for all actual costs associated therewith, and so long as the performance of the EID Relocation Work does not result in any delays to the County's Project. Accordingly, EID shall fully cooperate with County in the timely response to all inquiries, notices, and contractual claims asserted by the

County's contractors and subcontractors as they pertain to the EID Relocation Work. Further, EID shall fully cooperate and assist County in the resolution and/or settlement of all claims from the County's contractor and subcontractors as it relates to the EID Relocation Work. EID shall reimburse County for any amounts paid by County to the County's contractor as a result of the settlement or resolution of said claims.

2. As between EID and County, EID shall bear the sole and exclusive responsibility for any and all errors and omissions, costs associated with delays, claims, penalties, fines, damages, and liabilities of whatever kind or nature arising from the construction of the EID Relocation Work, whether to the County's contractor or utility performing work in the Project area. Therefore, to the fullest extent allowed by law, EID shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all fines, penalties, liability, claims, losses, delays, damages or expenses, including reasonable attorney's fees, and economic or consequential losses, which are claimed to or in any way arise out of or are connected with the construction of EID's Relocation Work, inclusive of the design, plans and specifications, excepting only the sole or active negligence, or willful misconduct, of the County. Notwithstanding the above, in the event it is ultimately determined that the claim or liability is the result of the joint negligence of County and EID, EID'S obligation to indemnify the County shall be reduced to the extent of County's negligence. However, EID's obligation to defend and indemnify County, except for County's sole and active negligence, shall apply in the first instance and until a determination of respective negligence is made. A determination made of respective liability between the two parties may be made either by agreement between County and EID, or by a court of competent jurisdiction and County shall make any reimbursements required as a result of that determination. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under the attorney-client privilege.

General Provisions.

1. County shall disclose to its contractor for the Project the horizontal and vertical locations of EID facilities as provided by EID to County. The County's construction contract for the Project -shall require the contractor to indemnify and save harmless and defend, including attorneys fees and expenses, EID, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which arise or are claimed to arise from the negligence or willful misconduct of the contractor, its subcontractor(s), or the agents, servants or employees of any of them.

2. EID shall reimburse County for EID's portion of Flagging Traffic, Traffic Control system, Water and Dust Pollution Control Measures, County Construction Management Costs (which include Inspections, Soils Testing and Surveying) and Mobilization, for the placement of EID's facilities by County's contractor as outlined in this Agreement. All the above listed costs will be calculated at a total of twenty-six percent (26%) of EID's direct construction contract costs related to those facilities detailed in Exhibit A. Listed below is a percentage breakdown of EID's cost responsibilities:

Flagging Traffic	2%
Traffic Control Systems	2%
Water and Dust Pollution	1%
Construction Management	13%
Mobilization	8%
	26% Total

See Exhibit B for EID's cost percentage and estimated costs for above items.

EID shall reimburse County for County Construction Management costs for any extra or additional work as defined in Section B(9) above, at a rate of eight (8%) of the direct construction cost of the extra or additional work. Any additional flagging, traffic control, water and dust pollution control measures or mobilization required by the extra or additional work shall be included in the direct construction contract cost of the CCO and no additional reimbursement will be added thereto.

3. County shall maintain all books, documents, papers, accounting records, and other evidence pertaining to direct construction costs incurred by County related to those facilities detailed in Exhibit A, and shall make such materials available for inspection at County's offices at reasonable times during this Agreement, the EID facility abandonment and relocation construction contract period, and for three years from the date of final payment. In order to provide complete information for an audit, the Project billings must show separate detailed and itemized line items of work performed by County's contractor.
4. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado
 Department of Transportation
 2850 Fairlane Court
 Placerville, CA 95667

With a Copy to:

County of El Dorado
 Department of Transportation
 2850 Fairlane Court
 Placerville, CA 95667

Attn.: Liz Diamond,
Deputy Director of Transportation

Attn.: Tim C. Prudhel
Contract Services Officer

County of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, CA 95667

Attn.: Adam Bane,
Senior Civil Engineer

or to such other location as County directs.

Notices to EID shall be in triplicate and shall be addressed as follows:

TO EID:

With a Copy to:

El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
Attn.: Steve Setoodeh,
Director Facilities Management

El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
Attn.: Michael Brink,
Senior Engineer

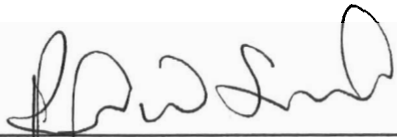
El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
Attn.: Brian Mueller,
Co-Manager, Drinking Water Division

or to such other location as EID directs.

5. The County Officer or employee with responsibility for administering this Agreement is Elizabeth B. Diamond, Deputy Director, West Slope Engineering and Project Delivery, Department of Transportation, or successor.
6. The EID Officers or employees with responsibility for administering this Agreement are Brian Mueller, Co-Manager, Drinking Water Division, and Michael Brink, Senior Engineer, Wastewater/Recycled Water Division, El Dorado Irrigation District, or successors.
7. The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

8. This Agreement and the attached Exhibits, together with the Caltrans standard Utility Agreement, contain all of the terms of agreement between County and EID. All modifications or amendments to this Agreement must be in writing and signed by both parties.
9. Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.
10. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Requesting Department Concurrence:

By: 
Richard W. Shepard, P.E.
Director of Transportation

Dated: 1/17/07

Reviewed & Approved on: _____
Date

By: _____
EID General Counsel's Office

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
Cindy Keck
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

-- EL DORADO IRRIGATION DISTRICT --

By: _____
Ane D. Deister, General Manager
"EID"

Dated: _____