

District Agreement No. 07-5045

COOPERATIVE AGREEMENT

THIS AGREEMENT, ENTERED INTO AND EFFECTIVE ON _____, 2020, is between the State of California, acting by and through its Department of Transportation, referred to herein as "CALTRANS," and the

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

RECITALS

1. Under California Streets and Highways Code (SHC) Section 93, CALTRANS is authorized to construct, maintain and direct State Highway traffic on to detours as may be necessary to facilitate movement of traffic where State Highways are closed or obstructed by construction or otherwise. SHC Section 93 also provides that if requested by a local agency, CALTRANS shall restore the local highway to its former condition and reimburse the local agency for all reasonable additional expenses incurred in maintaining said highway during the period of the detour if such additional expenses were caused by said detour.
2. CALTRANS' project included performing State Highway System (SHS) improvement consisting of bridge rehabilitation on State Route 18 (SR 18), referred to herein as "Bridge Rehabilitation Project". In order to construct said improvement, CALTRANS closed SR 18, which required a detour of State highway traffic onto COUNTY maintained highways, namely Oasis Road, between its intersection with SR 138 and SR 18, and Phelan Road, between its intersection with SR 138 and Los Banos Avenue, referred to herein as "COUNTY HIGHWAYS" or "DETOURS".
3. In anticipation of increased traffic caused by the detouring of SHS traffic onto DETOURS, CALTRANS installed signage and striping on DETOURS.
4. The payment of COUNTY's PROJECT WORK, as defined in Section 1, Article 1 below, cost is CALTRANS' contribution in lieu of CALTRANS obligations to perform the COUNTY PROJECT WORK itself under SHC Section 93.
5. COUNTY will invoice CALTRANS for \$671,000, more particularly described in Exhibit A – Funding Summary, attached hereto and made a part of this Agreement.
6. PARTIES hereto intend to define herein the terms and conditions of restoration and maintenance of DETOURS.

SECTION I

COUNTY AGREES:

1. To perform all necessary work to restore COUNTY HIGHWAYS to the condition that existed before CALTRANS detoured SHS traffic onto DETOURS. This work shall be referred to in this Agreement as "COUNTY PROJECT WORK." COUNTY agrees to accept the total payment of \$671,000 as CALTRANS' full contribution towards COUNTY PROJECT WORK in lieu of any CALTRANS obligation to perform any part of the COUNTY PROJECT WORK itself under SHC Section 93. COUNTY also agrees that the payment of \$671,000 shall constitute full payment of any reasonable additional expenses incurred by COUNTY in maintaining said COUNTY HIGHWAYS during the period of the DETOUR and payment of this sum shall relieve CALTRANS of any further liability or obligation to perform any COUNTY PROJECT WORK or pay any further amounts pursuant to SHC Section 93.
2. To invoice CALTRANS for \$671,000 in accordance with the invoicing articles in Exhibit A – Funding Summary.
3. To designate the following COUNTY representative through whom all communication between COUNTY and CALTRANS, relative to this Agreement, shall be channeled. The COUNTY's Interim Director or Director of the Department of Public Works has the discretion and authority to designate and change the COUNTY representative. As of the effective date of this Agreement, the COUNTY representative shall be:

Sundaramoorthy (Sri) Srirajan, M.S., P.E., Engineering Manager
825 E. Third Street
San Bernardino, CA 92415
(909) 387-8166

SECTION II

CALTRANS AGREES:

1. To request approval of the California Transportation Commission (hereafter referred to as CTC) vote for Supplemental Funds in the amount of \$671,000, as shown in Attachment A, which represents the estimated total amount COUNTY agreed cost of work pursuant to this Agreement, with the expectation that the CTC will determine that this or some other allocation is in the best interest of the public to allow COUNTY to perform COUNTY PROJECT WORK.
2. To pay COUNTY the cost of performing COUNTY PROJECT WORK not to exceed the estimated \$671,000 in accordance with the invoicing articles in Exhibit A – Funding Summary. The payment of those CTC allocated funds by CALTRANS to COUNTY will represent CALTRANS' final and only payment for the purpose of reimbursing the

COUNTY the cost of COUNTY PROJECT WORK or any additional expenses incurred in maintaining the COUNTY HIGHWAYS pursuant to SHC Section 93.

3. To provide the following State representative through whom all communication between CALTRANS and COUNTY, relative to this Agreement, shall be channeled.

Mohammed Chowdhury, CALTRANS Project Manager
100 South Main Street, Suite 100
Los Angeles, CA 90012
213-897-5916

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, the State Budget Act and the allocation of resources by the California Transportation Commission.
2. COUNTY and CALTRANS fully understand that the proposed funds for reimbursing COUNTY for the cost of COUNTY PROJECT WORK have not yet been programmed by the CTC and the parties further agree to proceed with this Agreement subject to the programming of those proposed funds by the CTC.
3. CALTRANS payment to COUNTY under this Agreement represents CALTRANS' cash contribution towards COUNTY PROJECT WORK, in lieu of performance of all of its obligations under SHC 93 including, but not limited to, COUNTY's effort towards project development, construction and maintenance of DETOURS and reimbursing COUNTY for all reasonable additional expenses incurred by COUNTY in the said maintenance of DETOURS and upon completion of such usage, the costs of restoring the detour to its former condition, excluding the removal of DETOUR signage/striping and re-application of striping to restore original flow of traffic.
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 State or COUNTY HIGHWAYS and public facilities different from the standard 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 or under this agreement. It is understood and agreed that COUNTY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of 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 or 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 or under this agreement. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless COUNTY and all of 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 or assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS and/or its agents under this Agreement.
7. This Agreement will terminate upon payment by CALTRANS to COUNTY for COUNTY PROJECT WORK as described in this Agreement, except that the indemnification, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement.
8. The Recitals of this Agreement are incorporated into the Agreement by this reference.

SIGNATURES

PARTIES are empowered by the law to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

This AGREEMENT may be executed and delivered in counterparts, and by each PARTY in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

COUNTY OF SAN BERNARDINO

By: _____
Gloria Roberts
Acting District 07 Director

By: _____
Chairman, Board of Supervisors

CERTIFIED AS TO FUNDS:

ATTEST:

By: _____
Vickie Murphy
District Budget Manager

By: _____
Lynna Monell
Clerk of the Board

APPROVED AS TO FORM:

By: _____
Scott M. Runyan
Deputy County Counsel

Exhibit A – Funding Summary

Cost: CONSTRUCTION CAPITAL

COUNTY will invoice CALTRANS for one-time full payment not to exceed Six Hundred Seventy One Thousand Dollars (\$671,000) to be paid to COUNTY no later than forty five (45) days after execution of this AGREEMENT.

ATTACHMENT A

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

Gavin Newsom, Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 7
100 S. MAIN STREET, SUITE 100
LOS ANGELES, CA 90012
PHONE (213) 897-0362
FAX (213) 897-0360
TTY 711
www.dot.ca.gov



Making Conservation
a California Way of Life.

Date: March 4, 2020

Brendon Biggs
Director, Department of Public Works, San Bernardino County
825 East Third Street, San Bernadine, CA 92415

Dear Mr. Biggs

This letter is in response to your letter dated July 31, 2019, regarding County of San Bernardino's demand for compensation for the road damage in connection with the State Route 18 bridge rehabilitation project. Streets and Highways Code section 93 authorizes Caltrans to construct and maintain detours, including by directing traffic onto local highways, where state highways are closed or obstructed by construction or other reasons. Upon request, Caltrans is required to restore the local highway to its "former condition" and shall reimburse the appropriate local agency for any additional expenses to maintain the detour highway if those additional expenses are caused solely by use of the local highway as a detour.

In accordance with that statutory requirement, Caltrans is willing to increase its contribution offer to \$671,000. This amount represents the fair amount to restore the detour routes to their former conditions, which you acknowledge were in poor condition before the detour.

To address the specific damage claims, Caltrans's is only responsible for its proportional share of damage to the wheel paths is consistent with the type of damage reasonably related to the detour. Assuming a wheel path of 8 feet per lane, Caltrans should be responsible for no more than a partial width repair, which is a proven strategy for both rigid and flexible pavement. Based on prior discussions, Caltrans suggests that cold plane and replacement of 0.2' of damaged areas is appropriate.

The County's demand includes estimate for a wide variety of costs, none of which are reasonably related to the detours. Those unrelated costs include but are not limited to costs for water pollution control program, mobilization, traffic control system, painting and traffic striping, pavement markings, and curb ramps. These are costs that the County would incur irrespective of the detour-related damage repairs

From reviewing available information, Oasis Road was at least 50% damaged before the detour. After the detour, while Oasis Road remained damaged, the damage was confined to the structure section of the roadway. The detour on Oasis was four miles. Based on the above, Caltrans proposes contributing to repair damages to Oasis Road, calculated as follows:

4 miles x 50% x 5,280 feet = 10,560 feet
With at 8 feet Cold plan area = $10,560 \times 8 \times 2 / 9 = 18,775$ SQY for both directions
18,775 at \$3.50 per SQY = \$65,710

*"Provide a safe, sustainable, integrated and efficient transportation system
to enhance California's economy and livability"*

Mr. Brendon Biggs
Date March 2, 2020
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Rubberized Hot Mix Asphalt at 0.2 feet thick:
 $168,960 \text{ square feet} \times 0.2 = 33,792 \text{ cubic feet}$
 $33,792 \text{ cubic feet} \times 160 \text{ pounds per cubic foot} = 5,406,702 \text{ pounds, or } 2,705 \text{ tons}$
 $2,705 \text{ tons at } \$110 \text{ per ton} = \$297,550$

As for Phelan Road, at least 80% of the road was damaged before the detour. The Phelan Road detour section was 12.5 miles with one lane in each direction, except for the section of Phelan Road between La Banos Avenue and US Highway 395 is two lanes in each direction. Based on the above, Caltrans proposes contributing to repair damages to Oasis Road, calculated as follows:

$12.5 \text{ miles} \times 80\% \times 5280 \text{ feet} = 52,800 \text{ feet}$
Width at 8 feet
 $\text{Cold plane area} = 52,800 \times 8 \times 2 / 9 = 93,870 \text{ SQY for both directions.}$
 $93,870 \text{ at } \$3.50 \text{ per SQY} = \$65,710$

Rubberized Hot Mix Asphalt at 0.2 feet thick:
 $844,800 \text{ square feet} \times 0.2 = 168,960 \text{ cubic feet}$
 $168,960 \text{ cubic feet} \times 160 \text{ pounds per cubic foot} = 27,033,600 \text{ pounds, or } 13,517 \text{ tons}$
 $13,517 \text{ tons at } \$110 \text{ per ton} = \$1,486,870$

Based on a review of available information, Caltrans estimates that the detour pavement sections were damaged no more than 35% by the detours. As such, Caltrans's 35% share of the total repair cost of \$1,915,840, as calculated above, is \$670,544.

In light of the above, Caltrans is willing to increase its contribution offer to \$671,000 and asks that the County execute a cooperative agreement so that both parties can move forward with this matter.

If you should have any further questions or concerns regarding this matter, please contact Nader Gobran, District Material Engineer, at (213) 897- 0470.

Sincerely



Robert So
Deputy District Director
Program/Project Management

CC: (i) Nader Gobran, (ii) Derek Higa, (iii) Gerrel Kam, (iv) Osama Megalla and
(v) Mohammed Chowdhuy