

015645

District Agreement #05-CA-0160  
05-SB-1-PM 20.86  
05-390-OJ3601  
Signal at Laurel Avenue

**COOPERATIVE AGREEMENT**

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON October 7, 2003 is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and

the CITY OF LOMPOC  
a municipal corporation  
of the State of California,  
referred to herein as "CITY"

**RECITALS**

1. STATE and CITY, pursuant to Streets and Highways Code Sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to State highways within the City of Lompoc.
2. STATE and CITY contemplate the installation of traffic control signals and safety lighting on Route 1 at Laurel Avenue, referred to herein as "PROJECT", and desire to specify the terms and conditions under which PROJECT is to be engineered, constructed, financed, and maintained. The estimated construction cost of PROJECT is \$132,000 as shown on Exhibit A, attached to and made a part of this Agreement.
3. STATE's and CITY's share of PROJECT maintenance responsibilities and electrical energy costs will be added to an existing STATE and CITY Master Maintenance Agreement for traffic signals and street lighting.

**SECTION I**

**STATE AGREES:**

1. To provide all necessary preliminary engineering, including, but not limited to, environmental compliance and approval of PROJECT, investigation of potential cultural resources and hazardous material sites, plans, specifications, and estimate (PS&E), and complete utility identification and location; to provide all necessary construction engineering services needed to complete PROJECT; and to bear STATE's share of the actual costs thereof. Estimates of such costs are shown on Exhibit A, attached to and made a part of this Agreement.
2. To construct PROJECT by contract in accordance with PS&E of STATE.
3. To pay an amount equal to fifty percent (50%) of the actual construction cost for PROJECT, which is estimated to be \$66,000, including \$20,000 for State-furnished materials. STATE's total obligation for the costs of PROJECT under this Agreement, excluding costs referred to in Article 18 of Section III of this Agreement, is estimated to be \$90,600, including a possible 10% bid overrun. Any expenditures by STATE above that estimated amount are subject to an approval and encumbrance of additional contract funds. STATE's contribution will be funded from the District's 2003/04 Minor B program.

4. Upon completion of PROJECT and all work incidental thereto, to furnish CITY with a detailed statement of the portion of the engineering and construction costs to be borne by CITY, including the resolution of any claims related to the construction contract which have been allowed to the construction contractor. STATE thereafter shall refund to CITY promptly after completion of STATE's final accounting of costs for PROJECT, any amount of CITY's deposit required in Article 1 of Section II of this Agreement remaining after actual costs to be borne by CITY have been deducted, or shall bill CITY for any additional amount required to complete CITY's financial obligations assumed pursuant to this Agreement.
5. To submit a final report of expenditures to CITY within one hundred twenty (120) days after completion and acceptance of the construction contract for PROJECT by STATE.
6. To furnish the traffic signal control equipment for PROJECT. This equipment shall consist of a signal controller unit, signal control cabinet, Light Emitting Diode (LED) signal modules and a battery back-up system. The estimated cost of this equipment is \$20,000, and the actual cost to STATE shall be credited to STATE's share of the cost of PROJECT, as shown on Exhibit A.
7. To operate the traffic control signals as installed and pay one hundred (100%) of the operation cost.

## SECTION II

### CITY AGREES:

1. To deposit with STATE within twenty five (25) days of receipt of billing therefor (which billing will be forwarded to CITY by STATE fifteen (15) days prior to STATE's bid advertising date of a construction contract for PROJECT), the amount of \$85,000, which figure represents CITY's estimated fifty percent (50%) proportionate share of the preliminary engineering, construction, right of way, and construction engineering costs required to complete PROJECT, as shown on Exhibit A. CITY's total obligation for said anticipated costs of PROJECT, excluding costs referred to in Article 18 of Section III of this Agreement, including preliminary and construction engineering and right of way activity costs, contingencies, and in the event bids received are 10% over the construction estimate, is estimated to be \$90,600.
2. CITY's share of the construction cost for PROJECT, estimated to be \$66,000, and \$71,600 in the event bids received are 10% over the construction estimate) shall be an amount equal to fifty percent (50%) of the total actual construction cost for PROJECT, including the cost of claims related to the construction contract, the cost of STATE's defense of any of those claims, the cost of material furnished by STATE, if any, and the costs referred to in Article 18 of Section III of this Agreement, as determined after completion of work on PROJECT and upon final accounting of costs for PROJECT.
3. CITY's share of the expense of preliminary engineering shall be an amount equal to fifty percent (50%) of STATE's actual costs for all of the preliminary engineering for PROJECT.
4. CITY's share of the expense of construction engineering shall be an amount equal to fifty percent (50%) of STATE's actual costs for all of the construction engineering for PROJECT.
5. To pay STATE upon completion of all work on PROJECT and within twenty five (25) days of receipt of a detailed statement made upon final accounting of costs therefor, any amount over and above the aforesaid advance deposit required to complete CITY's financial obligation assumed pursuant to this Agreement.

6. To provide electrical service for the intersection at the closest practical point.
7. At no cost to STATE, to provide prompt review and approvals, as appropriate, of submittals by STATE, and to coordinate in timely processing of PROJECT.

### SECTION III

#### IT IS MUTUALLY AGREED:

1. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the allocation of funds by the California Transportation Commission to STATE for the purposes of fulfilling STATE's obligations herein.
2. STATE shall not award a contract to construct PROJECT until after receipt of CITY's deposit required in Article 1 of Section II of this Agreement.
3. Should any portion of PROJECT be financed with Federal funds or State gas tax funds, all applicable laws, regulations, and policies relating to the use of such funds shall apply, notwithstanding other provisions of this Agreement.
4. After opening bids for the construction contract for PROJECT, CITY's estimate of cost will be revised based on actual bid prices. CITY's required deposit under Article 1 of Section II of this Agreement will be increased or decreased to match said revised estimate. If the estimated deposit increase or decrease is less than \$1,000, no refund or demand for additional deposit will be made until final accounting of costs for PROJECT.
5. After opening bids for the construction contract for PROJECT, and if bids indicate a cost overrun of no more than ten percent (10%) of the estimate will occur, STATE may award the contract.
6. If, upon opening bids, it is found that a cost overrun exceeding ten percent (10%) of the construction cost estimate for PROJECT will occur, STATE and CITY shall endeavor to agree upon an alternative course of action. If, after twenty-five (25) days, an alternative course of action is not agreed upon, this Agreement shall be deemed to be terminated by mutual consent pursuant to Article 8 of this Section III.
7. Prior to award of the construction contract for PROJECT, CITY may terminate this Agreement by written notice, provided CITY pays STATE for all costs related to PROJECT incurred by STATE prior to termination.
8. If termination of this Agreement is by mutual consent, STATE will bear fifty percent (50%) and CITY will bear fifty percent (50%) of all costs related to PROJECT incurred by STATE prior to termination, except that any utility relocation costs shall be prorated in accordance with STATE's/CITY's responsibility for utility relocation costs.
9. As part of its design responsibility, STATE will identify and locate all utility facilities within the area of PROJECT. Existing public and/or private utility facilities that conflict with the construction of PROJECT or will violate STATE's encroachment policy will be protected, relocated, or removed. STATE will make all necessary arrangements with the owners of such facilities for said protection, relocation, or removal in accordance with STATE's policy and procedure for those facilities located within the limits of work providing for the improvement to the State highway. The costs of the protection, relocation, or removal shall be apportioned between the owner of the utility facility and STATE/CITY in accordance with

STATE's policy and procedure. The share of the costs of protection, relocation, or removal to be borne by STATE and CITY shall be in the same proportionate manner as construction costs of PROJECT are shared as stipulated in Article 3 of Section I and Article 2 of Section II of this Agreement.

10. If any unforeseen existing public and/or private utility facilities conflict with the construction of PROJECT or will violate STATE's encroachment policy, STATE will make all necessary arrangements with the owners of such facilities for any required protection, relocation or removal. Relocation, protection, or removal performed under this Article shall meet all of the requirements of Article 9 of this Section III.
11. If cultural, archaeological, paleontological, or other protected resources are encountered during construction of PROJECT, STATE shall stop work in that area until a qualified professional can evaluate the nature and significance of the find, a plan is approved for the removal or protection of that resource, and responsibilities for costs thereof are determined.
12. Any hazardous material or contamination of an HM-1 category found within the existing State highway right of way during investigative studies requiring remedy or remedial action, as defined in Division 20, Chapter 6.8 et seq. of the Health and Safety Code, shall be the responsibility of STATE. Any hazardous material or contamination of an HM-1 category found within the local road right of way during investigative studies requiring the same defined remedy or remedial action shall be the responsibility of CITY. For the purpose of this Agreement, hazardous material or contamination of HM-1 category is defined as that level or type of contamination which State or Federal regulatory control agencies having jurisdiction have determined must be remediated by reason of its mere discovery, regardless of whether it is disturbed by PROJECT or not. If it is decided by STATE and CITY not to proceed with PROJECT, STATE shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the existing State highway right of way and CITY shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the local road right of way. If it is decided by said parties to proceed with PROJECT, STATE shall sign the HM-1 manifest for required remedy or remedial action within the existing State highway right of way and CITY shall sign the HM-1 manifest for required remedy or remedial action within the local road right of way. STATE and CITY shall share all costs for required remedy or remedial action in the same proportionate ratio as costs for signals and lighting are shared as specified in Sections I and II of this Agreement.
13. If hazardous material or contamination of an HM-1 category is not found within the existing State highway right of way until after construction of PROJECT has commenced, STATE shall sign the HM-1 manifest and if hazardous material or contamination of an HM-1 category is not found within the local road right of way until after construction of PROJECT has commenced, CITY shall sign the HM-1 manifest. STATE and CITY shall share the costs for required remedy or remedial action in the same proportionate ratios as stated above in Article 12 above of this Section III when it was decided to proceed with PROJECT but prior to construction. If STATE determines, in its sole judgment, that costs for remedy or remedial action within and outside the existing State highway right of way are increased due to construction of PROJECT, all additional costs identified by STATE shall be considered part of PROJECT costs.
14. The remedy or remedial action with respect to any hazardous material or contamination of an HM-2 category found within and outside the existing State highway right of way during investigative studies shall be the responsibility of STATE if PROJECT proceeds. For the purposes of this Agreement, any hazardous material or contamination of HM-2 category is defined as that level or type of contamination which said regulatory control agencies would have allowed to remain in place if undisturbed or otherwise protected in place had PROJECT not proceeded. STATE and CITY shall jointly sign the HM-2 manifest if PROJECT proceeds and HM-2 material must be removed in lieu of being treated in place. STATE and CITY shall share all costs for required remedy or remedial action in the same

proportionate ratio as costs for signals and lighting are shared as specified in Sections I and II of this Agreement.

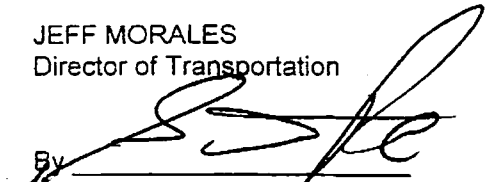
15. If hazardous material or contamination of an HM-2 category is not found within and outside the existing State highway right of way until after construction of PROJECT has commenced, STATE and CITY shall jointly sign the HM-2 manifest and share all costs for required remedy or remedial action in the same proportionate ratio as costs for signals and lighting are shared as specified in Sections I and II of this Agreement.
16. Locations subject to remedy or remedial action and/or protection include utility relocation work required for PROJECT. Costs for remedy and remedial action and/or protection shall include but not be limited to, the identification, treatment, protection, removal, packaging, transportation, storage, and disposal of such material.
17. The party responsible for the hazardous material cleanup shall be responsible for the development of the necessary remedy and/or remedial action plans and designs. Remedial actions proposed by CITY on the State highway right of way shall be pre-approved by STATE and shall be performed in accordance with STATE's standards and practices and those standards mandated by the Federal and State regulatory agencies.
18. The total obligations of the parties to this Agreement as specified in Article 3 of Section I and Article 1 of Section II do not include costs of claims related to the construction contract allowed, the costs of defense of those claims, and the costs of any unforeseen encounters of the type described in Articles 10 through 17 of this Section III. Additional costs and responsibilities for any required actions that exceed the budgeted costs of PROJECT shall be covered by amendment to this Agreement. STATE may be required to stop work on PROJECT until additional funding is secured and/or restore the site of PROJECT to a condition of safe operation, using any then unexpended funds for PROJECT, if those additional funds are not made available for PROJECT.
19. Upon completion of all work on PROJECT under this Agreement, ownership and title to materials, equipment and appurtenances (other than utilities) installed within the State highway right of way will automatically be vested in STATE and materials, equipment and appurtenances installed outside of the State highway right of way will automatically be vested in CITY or another responsible third party unless this Agreement expressly provides to the contrary. No further agreement will be necessary to transfer ownership as hereinbefore stated.
20. PROJECT maintenance responsibilities and expenses, including electrical energy costs, are covered in the existing Master Maintenance Agreement between STATE and CITY.
21. The cost of any engineering; any protection, removal, preservation, and curation of protected resources; and any identification, treatment, removal, packaging, transportation, and storage of any hazardous materials encountered on PROJECT shall include all direct and indirect costs (functional and administrative overhead assessment) attributable to all such work, applied in accordance with STATE's standard accounting procedures.
22. Nothing within the provisions of this Agreement is intended to create duties or obligations to or 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 State highways and public facilities different from the standard of care imposed by law.

23. Neither STATE nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
24. Neither CITY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction delegated to STATE under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, STATE shall fully defend, indemnify and save harmless CITY and all its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction delegated to STATE under this Agreement.
25. During the construction of PROJECT, STATE will furnish a representative to perform the functions of a Resident Engineer, and CITY may, at no cost to STATE, furnish a representative, if it so desires. While said representative and Resident Engineer will cooperate and consult with each other, the decisions of STATE's Resident Engineer shall prevail.
26. Execution of this Agreement by CITY grants to STATE the right to reasonably enter upon CITY-owned lands to construct PROJECT.
27. In the event actual costs of PROJECT are anticipated to exceed the cost estimates for PROJECT, the parties hereto agree to each exert its best efforts to proportionately increase its funding contributions by amendment to this Agreement to provide for those required costs.

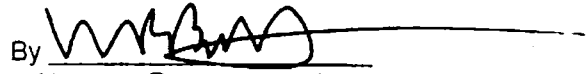
28. Those portions of this Agreement pertaining to the construction of PROJECT shall terminate upon completion and acceptance of the construction contract for PROJECT by STATE, or December 31, 2005, whichever is earlier in time. However, the ownership, operation, maintenance, indemnification, and claims clauses shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any claim related to the construction contract arising out of PROJECT be asserted against STATE, CITY agrees to extend the termination date of this Agreement and provide additional funding as required to cover CITY's proportionate share of costs or execute a subsequent Agreement to cover those eventualities.

STATE OF CALIFORNIA  
Department of Transportation.

JEFF MORALES  
Director of Transportation

By   
R. GREGG ALBRIGHT  
District Director

Approved as to form & procedure:

By   
Attorney, Department of  
Transportation

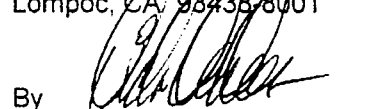
Certified as to financial terms & conditions:

By   
Accounting Administrator


Certified as to funds:

By   
District 5 Budget Manager

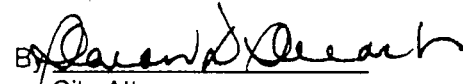
CITY OF LOMPOC  
P. O. Box 8001  
Lompoc, CA 93438-8001

By   
Mayor

Attest:

By   
City Clerk

Approved as to form & procedure:

By   
City Attorney

Approved as to content:

By   
City Engineer

**EXHIBIT A**

**ESTIMATE OF COSTS**  
**EA 0J3601**  
**Signal at Laurel Avenue**

Description	Total Cost	City Share (50%)	State Share (50%)
<b>Construction Costs -</b>			
Signals/Lighting	\$112,000	\$66,000	\$46,000
State Furnished Equipment*	<u>20,000</u>	<u>-0-</u>	<u>20,000</u>
<b>Subtotal</b>	<b>\$132,000</b>	<b>\$66,000</b>	<b>\$66,000</b>
<b>Total Construction Costs</b>	<b>\$132,000</b>	<b>\$66,000</b>	<b>\$66,000</b>
<b>Support Costs</b>			
Preliminary Engineering	\$17,000	\$8,500	\$8,500
Construction Engineering	17,000	8,500	8,500
R/W	<u>4,000</u>	<u>2,000</u>	<u>2,000</u>
<b>Subtotal</b>	<b>\$38,000</b>	<b>\$19,000</b>	<b>\$19,000</b>
<b>TOTALS</b>	<b>\$170,000</b>	<b>\$85,000</b>	<b>\$85,000</b>

Notes:

- Includes \$20,000 for signal controller assembly, battery back-up system and LED signal modules.
- In the event bids received are up to 10% over construction estimate, overrun will be calculated as follows:  $\$112,000 \times .10 = \$11,200/2 = \$5,600$ .

Therefore, each share could be increased by up to \$5,600 to award contract.