

**BEFORE THE BOARD OF DIRECTORS OF THE MOUNTAIN HOUSE
COMMUNITY SERVICES DISTRICT, COUNTY OF SAN JOAQUIN, STATE OF
CALIFORNIA**

RESOLUTION

R-04- 675

**RESOLUTION APPROVING THE COOPERATIVE AGREEMENT BETWEEN THE
STATE OF CALIFORNIA, AND THE MOUNTAIN HOUSE COMMUNITY
SERVICES DISTRICT FOR THE INTERSTATE 205-MOUNTAIN HOUSE
PARKWAY INTERCHANGE**

BE IT RESOLVED THAT the Board of Directors does hereby approve Agreement No. 10-200, a Cooperative Agreement, between the State of California, acting by and through its Department of Transportation (Caltrans), and the Mountain House Community Services District and does hereby authorize the General Manager to sign said agreement.

PASSED AND ADOPTED this 7th day of December, 2004, by the following vote of the Board of Directors of the Mountain House Community Services District, to wit:

AYES: Mow, Sieglock, Gutierrez, Marengo, Ornellas

NOES: None

ABSENT: None

Leroy Ornellas

LEROY ORNELLAS, PRESIDENT
Board of Directors of the Mountain
House Community Services District,
County of San Joaquin, State of
California

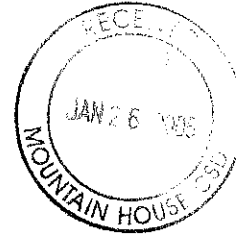
ATTEST: LOIS M. SAHYOUN
Secretary of the Board of Directors
of the Mountain House Community
Services District, County of San Joaquin,
State of California

By: LOIS M. SAHYOUN



DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048 (1976 E. CHARTER WAY)
STOCKTON, CA 95201 (95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 948-7765
FAX (209) 948-3820



*Flex your power!
Be energy efficient!*

January 25, 2005

Mountain House Community Services District
222 E Weber Ave, Room 3
Stockton, CA 95202
Att: Paul M. Sensibaugh

Mr. Sensibaugh:

Enclosed is the Mountain House Community Services District's copy of the fully executed and approved Cooperative Agreement # 10-200 (Document # 015974) dated January 1, 2002.

This Agreement provides for the modification of the existing interchange on Interstate Route 205 at Mountain House Parkway.

Please see that the appropriate person receives this executed copy.

Please acknowledge the receipt of this letter and your copy of the Agreement.

If you have any questions, please call me at (209) 948-7765

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Selsor".

Kathy Selsor
Cooperative Agreement Coordinator

015974

10-SJ-205 KP 2.25(PM 1.4)
Interstate 205/Mountain House Parkway
Interchange
10144 - 44260K
District Agreement No. 10-200

A-04-1120
(1217104)

COOPERATIVE AGREEMENT

THIS AGREEMENT, entered into effective on January 1, 2002, is between the **STATE OF CALIFORNIA**, acting by and through its Department of Transportation, referred to herein as **STATE**, and

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT,
a public corporation, referred to herein as **MHCS D**

RECITALS

1. STATE and MHCS D, pursuant to Streets and Highways Code section 130, are authorized to enter into a Cooperative Agreement for improvements to State highways within the County of San Joaquin.
2. MHCS D desires to modify the existing interchange on Interstate Route 205 (I-205) at Mountain House Parkway, referred to herein as "PROJECT", and is willing to fund one hundred percent (100%) of all PROJECT capital outlay and staffing costs, as shown in Exhibit A, attached to and made a part of this Agreement.
3. MHCS D desires to cause the preparation of the contract documents and cause the award and administration of the construction contract for PROJECT in order to bring about the earliest possible completion of PROJECT.
4. This Agreement will define the California Environmental Quality Act (CEQA) lead agency and CEQA responsible agency roles and responsibilities regarding environmental documents, studies, reports and compliance with both CEQA and the National Environmental Policy Act (NEPA).
5. Working under the consent and direction of STATE, MHCS D acted as CEQA lead to obtain necessary CEQA compliance. All necessary CEQA documents have been filed and approved.
6. STATE's funds will not be used to finance any of the capital or support costs for PROJECT.
7. The parties hereto intend to define herein the terms and conditions under which PROJECT is to be developed, designed, constructed, financed and maintained.

SECTION I**MHCS D AGREES:**

1. To fund one hundred percent (100%) of all preliminary and design engineering costs, including, but not limited to, costs incurred for the preparation of contract documents and for awarding the construction contract for PROJECT.
2. To have a Project Report (PR), including all necessary environmental documentation (ED), and detailed Plans, Specifications, and Estimate (PS&E) prepared, at no cost to STATE, and to submit each to STATE for STATE's review and concurrence at appropriate stages of development. The PR and the final PROJECT PS&E shall be signed by a Civil Engineer registered in the State of California.

3. To permit STATE to monitor and participate in the selection of personnel who will prepare the PR, conduct environmental studies and obtain approval for PROJECT, prepare the PS&E, provide right of way engineering services, and oversee the performance of all work on PROJECT.
4. To consider any request by STATE to discontinue the services of any personnel considered by STATE to be unqualified on the basis of credentials, professional expertise, failure to perform in accordance with this Agreement, and/or other pertinent criteria.
5. To make available to STATE, personnel who prepare the ED and PS&E, at no cost to STATE, through completion of construction of PROJECT to discuss problems which may arise during construction and/or to make design revisions for contract change orders. Said personnel shall be prohibited from working for the PROJECT construction contractor.
6. To make written application to STATE for necessary encroachment permits authorizing entry of MHCS D onto the State highway right of way to perform surveying and other investigative activities required for preparation of the PR, ED, and/or PS&E.
7. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
8. To identify and locate all high and low risk underground facilities within the area of PROJECT and to protect or otherwise provide for such facilities, all in accordance with STATE's "Manual on High and Low Risk Underground Facilities Within Highway Rights of Way". MHCS D hereby acknowledges receipt of STATE's "Manual on High and Low Risk Underground Facilities Within Highway Rights of Way".
9. To furnish evidence to STATE, in a form acceptable to STATE, that arrangements have been made for the protection, relocation, or removal of all conflicting facilities within the State highway right of way and that such work will be completed prior to the award of the contract to construct PROJECT or as covered in the PS&E for said contract. This evidence shall include a reference to all required State highway encroachment permits.
10. To require any utility owner and/or its contractor performing the protection or relocation work within the State highway right of way to obtain an encroachment permit from STATE prior to the performance of said work.
11. To provide, at no cost to STATE, survey and mapping services necessary to perpetuate existing Landnet and alignment monumentation in accordance with Sections 8771 and 8765 of the Business and Professions Code; and to permanently monument the location of all new roadway alignments, realignments, and right of way acquisitions. All of the above are to be shown on a Record of Survey filed with

the County Surveyor. MHCSD shall deliver one copy of any field notes, filed Corner Records, and the Record of Survey required for execution of the above obligation, to STATE's District 10 Survey Branch.

12. To prepare Right of Way Engineering Hard Copies, Right of Way Appraisal Maps, Record of Surveys, and Right of Way Record Maps in accordance with the State of California Right of Way Manual, Chapter 6 – Right of Way Engineering, the State of California Drafting and Plans Manual, the State of California Surveys Manual Chapter 10, applicable State laws, and other pertinent reference material and examples as provided by STATE.
13. To prepare all aerial photography and photogrammetric mapping in conformance to STATE's latest standards.
14. A copy of all original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become property of STATE. For aerial mapping, survey documents to be furnished are three sets of contract prints, with one set showing control, a complete photo index - two prints and a copy of the negative, and the original aerial photography negative.
15. To have all necessary Right of Way Maps and Documents used to acquire right of way by MHCSD, prepared by or under the direction of a person authorized to practice land surveying in the State of California. Each Right of Way Map and Document shall bear the appropriate professional seal, certificate number, expiration date of registration certification and signature of the licensed person in "Responsible Charge of Work".
16. To submit to STATE for review and acceptance all Right of Way Engineering Hard Copies and Right of Way Appraisal Maps with appurtenant back-up and reference data prior to preparation of legal descriptions and acquisition documents.
17. Personnel who prepare right of way maps, documents, and related materials shall be made available to STATE, at no cost to STATE, during and after construction of PROJECT until completion and acceptance by STATE of Right of Way Record Maps and Record of Surveys.
18. To acquire and furnish all right of way, if any, outside of the existing State highway right of way and to perform all right of way PROJECT activities, including eminent domain activities, if necessary, and to bear one hundred percent (100%) of the actual Right of Way Support and Capital costs. Right of way acquisition shall be performed in accordance with procedures acceptable to STATE and in compliance with all applicable State and Federal laws and regulations, subject to STATE oversight to assure that the work is acceptable for incorporation into the State highway right of way.
19. To utilize the services of a qualified public agency or a qualified consultant, as determined by STATE's District Division Chief of Right of Way, in all matters

related to the acquisition of right of way in accordance with STATE's procedures as published in STATE's current Right of Way Manual. Whenever personnel other than personnel of a qualified public agency are utilized, administration of the personnel contract shall be performed by a qualified Right of Way person employed or retained by MHCSO.

20. To certify legal and physical control of right of way ready for construction and that all right of way parcels were acquired in accordance with applicable State and Federal laws and regulations, subject to review and concurrence by STATE prior to the issuance of an encroachment permit for the construction of the PROJECT.
21. To deliver to STATE legal title to the right of way, including access rights, free and clear of all encumbrances detrimental to STATE's present and future uses not later than the date of acceptance by STATE of maintenance and operation of the highway facility. Acceptance of said title by STATE is subject to a review of a Policy of Title Insurance in the name of the State of California to be provided and paid for by MHCSO.
22. To obtain, at MHCSO's expense, all necessary permits and/or agreements from appropriate regulatory agencies. All mitigation, monitoring, and/or remedial action required by said permits shall constitute parts of the cost of PROJECT.
23. To pay one hundred percent (100%) of the actual costs of construction required for satisfactory completion of PROJECT, including changes pursuant to contract change orders concurred by the STATE representative and any State furnished material.
24. To award the construction contract for PROJECT in accordance with requirements of MHCSO's policies, procedures and statutory authority.
25. To construct PROJECT in accordance with plans and specifications of MHCSO to the satisfaction of and subject to the approval of STATE.
26. Contract Administration procedures shall conform to the requirements set forth in STATE's Construction Manual, Local Assistance Procedures Manual, and in the Encroachment Permit for the construction of PROJECT, including the State Labor Code and its prevailing wage provisions. Workers employed in the performance of work contracted for by MHCSO, and/or performed under encroachment permit, are covered by provisions of the Labor Code in the same manner as are workers employed by STATE's contractors. MHCSO shall obtain applicable wage rates from the State Department of Industrial Relations and shall adhere to the applicable provisions of the State Labor Code. Violations shall be reported to the State Department of Industrial Relations.
27. Construction within the existing or ultimate State highway right of way shall comply with the requirements in STATE's Standard Specifications and the Special Provisions for PROJECT, and in conformance with methods and practices specified in STATE's Construction Manual.

28. To provide all construction surveys. Whether MHCS D uses their own staff or hires another entity to perform construction surveys, all survey work shall conform to the methods, procedures and requirements of STATE's Surveys Manual and STATE's Staking Information Booklet.
29. Material testing and quality control shall conform to STATE's Construction Manual and STATE's Material Testing Manual, and shall be performed, at MHCS D's expense, by a certified material-tester acceptable to STATE. Independent assurance testing, specialty testing and off-site source inspection and testing shall be performed by STATE, at no cost to MHCS D except as noted herein. MHCS D shall reimburse STATE for any additional travel expenses incurred by STATE for off-site inspection and testing performed by STATE which is more than 300 airline miles from both Sacramento and Los Angeles. Approval of the type of asphalt and concrete plants shall be by STATE, at STATE's expense.
30. To furnish, at MHCS D's expense and subject to the approval of STATE, a field site representative who is a licensed Civil Engineer in the State of California, to perform the functions of a Resident Engineer. MHCS D may also furnish, at MHCS D's expense and subject to approval of STATE, a field structure representative who is a licensed Civil Engineer in the State of California. The Resident Engineer may be the structure representative if qualified and approved by the District Bridge Construction Engineer, in accordance with the Local Assistance Procedures Manual. If the plans and specifications for PROJECT were prepared by a private engineering company, the Resident Engineer shall not be an employee of that company. The Resident Engineer shall also be independent of the construction contractor.
31. To furnish, at MHCS D's expense, qualified support staff, subject to the approval of STATE, to assist the Resident Engineer in, but not limited to, construction surveys, soils and foundation tests, measurement and computation of quantities, testing of construction materials, checking shop drawings, preparation of estimates and reports, preparation of "As-Built" drawings, and other inspection and staff services necessary to assure that the construction is being performed in accordance with the plans and specifications. Said qualified support staff shall be independent of the design engineering company and construction contractor, except that the designer of PROJECT may check the shop drawings, do soils foundation tests, test construction materials, and do construction surveys.
32. To make progress payments to the contractor and pay all costs for required staff services as described in Section I, Articles 30 and 31.
33. To provide written notice to STATE requesting the ordering of any State-furnished materials as shown on the PROJECT PS&E within fifteen (15) days after issuance of an encroachment permit for construction.
34. To deposit with STATE within twenty-five (25) days of issuance of the encroachment permit for PROJECT construction, the amount of \$16,000, which amount represents the estimated cost of State-furnished materials as referred to in Section I, Article 23.

Upon receipt by STATE of MHCS D's payment for State-furnished materials, those materials will be ordered for MHCS D. Upon notice by STATE that State-furnished materials are available, MHCS D will take delivery of said State-furnished materials at District 10 maintenance warehouse located at 1604 South B Street, Building 1, 1976 E. Charter Way, Stockton, CA 95205.

35. 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 therefore, any amount over and above the aforesaid deposit for State-furnished materials required to complete MHCS D's financial obligation assumed pursuant to this Agreement.
36. To provide "As Built" plans within thirty (30) days of completion and acceptance of the PROJECT construction contract on a CD ROM in MicroStation (version 5.0 through 7.0) ".dgn" file format. All plans and ".dgn" files must be in compliance with the STATE's current CADD Users Manual and Plans Preparation Manual. The submittal must also include all contract records, including, but not limited to, survey documents and Records of Survey (including monument perpetuation per the Land Surveyor Act, Section 8771). STATE reserves the right to modify these requirements and STATE shall provide MHCS D advance notice of any such modification.
37. Upon completion of work under this Agreement, MHCS D shall assume maintenance and the expense thereof for any part of PROJECT located outside of the current State highway right of way until acceptance of any such part of PROJECT in to the State highway system by STATE, approval by the Federal Highway Administration (FHWA), if required, and conveyance of acceptable title to STATE.
38. To maintain, at no cost to STATE, landscaping within the State highway right of way installed by PROJECT.
39. To apply for necessary encroachment permits for required construction work within the State highway right of way, in accordance with the STATE's standard permit procedures, as more specifically defined in Section III, Articles 5, 6, 7, 8, 9 and 10 of this Agreement.
40. In recognition that construction work for PROJECT done on STATE's property will not be funded and paid by STATE, for the purposes of protecting stop notice claimants and the interests of STATE relative to the successful completion of PROJECT, MHCS D agrees to require the construction contractor to furnish both a payment and a performance bond, naming MHCS D as obligee with both bonds complying with the requirements set forth in Section 3-1.02 of STATE's current Standard Specifications prior to performing any construction work for PROJECT. MHCS D shall defend, indemnify, and hold harmless STATE and all its officers and employees from all claims by stop notice claimants related to the construction of PROJECT under the payment bond.

41. To provide a Construction Zone Enhancement Enforcement Program (COZEEP) by contracting directly with the California Highway Patrol (CHP) for all traffic restrictions as outlined in the current Caltrans Construction Manual.
42. To provide, at MHCS D's expense, a Public Outreach Program during the construction phase of PROJECT. MHCS D shall provide, at its own expense, a Public Information Officer to provide public outreach services such as, but not limited to: a) public notification prior to construction; b) arrangement of public meetings prior to and during construction; c) establishment of a telephone "hotline"; d) providing informational status mailers; and e) dialogue and contact with media staff to facilitate preparation of news articles. MHCS D shall work cooperatively with STATE to provide information and assist in addressing questions or concerns presented to STATE by public agencies, residents, businesses, schools, or other concerned individuals.
43. If MHCS D terminates PROJECT prior to completion of the construction contract for PROJECT, STATE may require MHCS D, at MHCS D's expense, to return the right of way to its original condition or to a condition of acceptable permanent operation. If MHCS D fails to do so, STATE reserves the right to finish PROJECT or place PROJECT in a condition of satisfactory permanent operation. STATE will bill MHCS D for all actual expenses incurred and MHCS D agrees to pay said expenses within thirty (30) days or STATE, acting through the State Controller, may withhold an equal amount from future apportionments due MHCS D.
44. If cultural, archaeological, paleontological or other protected resources are encountered during construction of PROJECT, MHCS D shall stop work in that area until a qualified professional can evaluate the nature and significance of the find and a plan is approved for the removal or protection of that material. The costs for any removal or protection of that material shall be covered as a cost of PROJECT contemplated by the Agreement.
45. To be responsible, at MHCS D's expense, for the investigation of potential hazardous material sites within and outside of the existing State highway right of way that would impact PROJECT as part of the responsibility for the ED for PROJECT. If MHCS D encounters hazardous material or contamination within the existing State highway right of way during said investigation; MHCS D shall immediately notify STATE and responsible control agencies of such discovery.
46. STATE's quality assurance activities referred to in Section II, Article 1 of this Agreement, do not include performance of any engineering services required for PROJECT. These services are to be performed by MHCS D. If MHCS D requests STATE to perform any of these services, MHCS D shall reimburse STATE for such services. An Amendment to this Agreement authorizing STATE's performance of such services shall be required prior to performance of any engineering work by STATE.

SECTION II**STATE AGREES:**

1. To provide quality assurance activities on all work on PROJECT done by MHCS D, including, but not limited to, oversight of MHCS D's investigation of potential hazardous material sites and all right of way activities undertaken by MHCS D or its designee, to provide prompt reviews and approvals, as appropriate, of submittals by MHCS D, and to cooperate in timely processing of PROJECT documents. STATE shall also provide a qualified representative of STATE who shall have authority to accept or reject work and materials or to order any actions needed for public safety or the preservation of property and to assure compliance with all provisions of the encroachment permits issued to MHCS D and MHCS D's contractor.
2. Upon proper application by MHCS D, to issue, at no cost to MHCS D, an encroachment permit to MHCS D authorizing entry onto the State highway right of way to perform survey and other investigative activities required for preparation of the PR, ED, and/or PS&E. If MHCS D uses consultants rather than its own staff to perform required work, the consultants shall also be required to obtain a separate encroachment permit. These permits will be issued at no cost upon proper application by the consultants.
3. To issue at no cost to MHCS D and the PROJECT construction contractor, upon proper application by MHCS D and the PROJECT construction contractor the necessary encroachment permits for required construction work within the State highway right of way, as more specifically defined in Section III, Articles 5, 6, 7, 8, 9 and 10 of this Agreement.
4. To provide, at MHCS D's expense, any State-furnished material, which cost is estimated to be \$16,000, as shown on the PROJECT PS&E. Subsequent to receipt of MHCS D's deposit pursuant to Section I, Article 34, and within five (5) days upon receipt by STATE of the MHCS D requested State-furnished materials, pursuant to Section I, Article 33, these materials will be made available to MHCS D.
5. Upon completion of PROJECT and all work incidental thereof, to furnish to MHCS D with a detailed statement of the actual cost of the State-furnished materials to be borne by MHCS D. STATE thereafter shall refund to MHCS D any amount of MHCS D's deposit required in Section I, Article 34, remaining after actual costs have been deducted, or to bill MHCS D for any additional amount required to complete MHCS D's financial obligation pursuant to this Agreement.
6. To submit to MHCS D itemized invoices of travel expenses incurred by STATE for inspection and testing referred to in Section I, Article 29, of this Agreement.
7. To assist MHCS D in a Public Outreach Program prior to and during the construction phase of PROJECT. STATE shall cooperate with MHCS D as necessary and assist in developing a strategy to structure the public outreach as set forth in Section I, Article 42, of this Agreement prior to construction commencing.

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 to STATE for the purposes of fulfilling STATE's obligations herein, State Budget Authority, and the allocation of resources by the California Transportation Commission.
2. The Project Study Report (PSR) for PROJECT, approved on April 27, 2004, is by this reference made an express part of this Agreement.
3. The basic design features of PROJECT shall comply with those addressed in the approved PSR, unless modified as required for environmental approval and/or FHWA approval of PROJECT.
4. The design, right of way acquisition, and preparation of environmental documents for PROJECT shall be performed in accordance with STATE's standards and practices current as of the date of execution of this Agreement. Any exceptions to applicable design standards shall first be approved by STATE via the processes outlined in STATE's Highway Design Manual and appropriate memorandums and design bulletins published by STATE. In the event that STATE proposes and/or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual section 82.5, "Effective Date for Implementing Revisions to Design Standards". STATE shall consult with MHCS D in a timely manner regarding effect of proposed and/or required changes on PROJECT.
5. Construction by MHCS D of improvements referred to herein which lie within the State highway right of way or which affect STATE's facilities, shall not be commenced until MHCS D's original contract plans involving such work and plans for utility relocations have been reviewed and accepted by signature of STATE's District Director of Transportation, or the District Director's delegated agent, and until an encroachment permit to MHCS D authorizing such work has been issued by STATE.
6. MHCS D shall obtain the aforesaid encroachment permit through the office of STATE's District Permit Engineer and MHCS D's application shall be accompanied by two (2) sets of full sized construction plans and five (5) sets of reduced construction plans of aforesaid STATE-accepted contract plans and seven (7) sets of specifications for PROJECT, one (1) copy of the approved Environmental Document and one (1) copy of all Environmental and Construction Permits. Receipt by MHCS D of the approved encroachment permit shall constitute MHCS D's authorization from STATE to proceed with work to be performed by MHCS D or MHCS D's representatives within the proposed State highway right of way or which affects STATE's facilities, pursuant to work covered by this Agreement. MHCS D's

authorization to proceed with said work shall be contingent upon MHCS D's compliance with all provisions set forth in this Agreement and said encroachment permit.

7. The PROJECT construction contractor shall also be required to obtain an encroachment permit from STATE prior to commencing any work within the State highway right of way or which affects STATE's facilities. The application by PROJECT construction contractor for said encroachment permit shall be made through the office of STATE's District Permit Engineer and shall include proof said contractor has payment and performance surety bonds covering construction of PROJECT.
8. MHCS D shall provide a right of way certification prior to the granting of said encroachment permit by STATE, to certify that legal and physical control of rights of way were acquired in accordance with the applicable State and Federal laws and regulations.
9. PROJECT construction contractor shall maintain in force, until completion and acceptance of the construction contract for PROJECT, a policy of Contractual Liability Insurance, including coverage of Bodily Injury Liability and Property Damage Liability, in accordance with Section 7-1.12 of STATE's Standard Specifications. Such policy shall contain an additional insured endorsement naming the State of California, its officers, agents, and employees as additional insureds. Coverage shall be evidenced by a Certificate of Insurance in a form satisfactory to STATE which shall be delivered to STATE before the issuance of an encroachment permit to the PROJECT construction contractor.
10. MHCS D shall execute necessary STATE provided maintenance and electrical agreements prior to STATE's issuance of an encroachment permit to the PROJECT construction contractor.
11. Prior to award of the construction contract for PROJECT, MHCS D may terminate this Agreement by written notice and shall reimburse STATE for all quality assurance costs incurred by STATE from January 2002 to the date of termination.
12. During the construction of PROJECT, representatives of MHCS D and STATE will cooperate and consult with each other, and all PROJECT work shall be accomplished according to the approved PS&E and STATE's applicable standards and practices. Satisfaction of these requirements shall be verified by STATE's representative who is authorized to enter MHCS D's property during construction for the purpose of monitoring and coordinating construction activities.
13. Changes to PROJECT PS&E made during construction shall only be implemented by contract change orders reviewed and concurred with by STATE's Representative. All changes affecting public safety or public convenience, all design and specification changes, and all major changes as defined in STATE's Construction Manual shall be approved by STATE in advance of performing work. Unless otherwise directed by

- STATE's representative, changes authorized as provided herein will not require an encroachment permit rider. All changes shall be shown on the "As Built" plans referred to in Section I, Articles 31 and 36 of this Agreement.
14. MHCS D shall provide a construction contract claims process acceptable to STATE and shall process any and all claims through MHCS D's claim process. STATE's representative will be made available to MHCS D to provide advice and technical input in any claim process.
 15. If any existing and/or private utility facilities conflict with PROJECT or violate STATE's encroachment policy, MHCS D shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or removal in accordance with STATE's policy and procedure for these facilities located within the limits of work providing for the improvement to the State highway. For those facilities located within the limits of work and outside of State right of way, the protection, relocation or removal of such facilities shall be done in accordance with MHCS D's policy. The cost of the protection, relocation, or removal shall be apportioned between the owner of the utility facility and MHCS D in accordance with STATE's policy and procedure. MHCS D shall require any utility owner performing relocation work in the State highway right of way to obtain an encroachment permit from STATE prior to the performance of said relocation work. The requirements of the most current version of STATE's "Policy on High and Low Risk Underground Facilities within Highway Rights of Way" shall be fully complied with. Any relocated or new facilities shall be correctly shown and identified on the "As-Built" plans referred to in Section I, Articles 31 and 36 of this Agreement.
 16. Pursuant to the authority contained in section 591 of the Vehicle Code, STATE has determined that within such areas as are within the limits of PROJECT and are open to public traffic, MHCS D shall comply with all of the requirements set for in Division 11, 12, 13, 14, and 15 of the Vehicle Code. MHCS D shall take all necessary precautions for safe operation of MHCS D's vehicles, the construction contractor's equipment and vehicles and/or vehicles of personnel retained by MHCS D and for the protection of the traveling public from injury and damage from such vehicles or equipment.
 17. Any hazardous material or contamination of an HM-1 category found within the existing State highway right of way 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 a HM-1 category found within the local road right of way requiring the same defined remedy or remedial action shall be the responsibility of MHCS D. 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 MHCS D decides to not 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 MHCS D shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the local road right of way. If MHCS D and STATE decide 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, except that if STATE determines, in its sole judgment that STATE's cost for remedy or remedial action is increased as a result of MHCS D's decision to proceed with PROJECT, that additional cost identified by STATE shall be deemed a part of the costs of PROJECT. MHCS D shall sign the HM-1 manifest and pay all costs for required remedy or remedial action within the local road right of way. STATE will exert every effort to fund the remedy or remedial action for which STATE is responsible. In the event STATE is unable to provide funding, MHCS D will have the option to either delay PROJECT until STATE is able to provide funding or MHCS D may proceed with the remedy or remedial action at MHCS D's expense without any subsequent reimbursement by STATE.

18. The remedy or remedial action with respect to any hazardous material or contamination of an HM-2 category found within the existing State highway right of way shall be the responsibility of MHCS D, at MHCS D's expense, if MHCS D decides to proceed with PROJECT. For the purposes of this Agreement, 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 should PROJECT not proceed. MHCS D shall sign any HM-2 storage manifest if PROJECT proceeds and HM-2 material must be removed in lieu of being treated in place. If MHCS D decides to not proceed with PROJECT, there will be no obligation to either MHCS D or STATE other than MHCS D's duty to cover and protect HM-2 material left in place.
19. If hazardous material or contamination of either HM-1 or HM-2 category is found on new right of way to be acquired by MHCS D for PROJECT, MHCS D, as between MHCS D and STATE only, shall be responsible, at MHCS D's expense, for all required remedy or remedial action and/or protection and shall guarantee STATE that said new right of way is clean prior to transfer of title to STATE in accordance with Section I, Article 21, of this Agreement. The generator of the hazardous material or, if none can be identified or found, the present property owner, whether a private entity or a local public agency, or MHCS D, as a last resort, shall sign the manifest.
20. 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.
21. The party responsible for funding any hazardous material cleanup shall be responsible for the development of the necessary remedy and/or remedial action plans and designs. Remedial actions proposed by MHCS D within 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.

22. Upon completion and acceptance of the construction contract for PROJECT by MHCS D to the satisfaction of STATE, STATE will accept control and maintain, at its own cost and expense, those portions of PROJECT lying within the State highway right of way except those local roads delegated to MHCS D for maintenance and landscaping installed pursuant to Section I, Article 38. STATE will maintain the entire structure below the deck surface of local road overcrossings, at STATE expense.
23. MHCS D shall accept control and maintain, at its own cost and expense, the portions of PROJECT lying outside the State highway right of way. MHCS D shall maintain, at MHCS D's expense, landscaping installed for PROJECT, local roads within the State highway right of way delegated to MHCS D for maintenance and remaining portions of any local road overcrossing structures, including the deck surface and above, as well as all traffic service facilities that may be required for the exclusive benefit or control of MHCS D's local road traffic.
24. STATE will maintain the traffic control signals and safety lighting as installed and will pay an amount equal to fifty percent (50%) of the total maintenance costs, including operation and electrical energy costs. MHCS D shall reimburse STATE for MHCS D's proportionate share of said maintenance costs, such share to be an amount equal to fifty percent (50%) of the total maintenance costs, including operation and electrical energy costs.
25. Ramp metering equipment shall be installed and operational as part of PROJECT. MHCS D agrees to abide by and support STATE's ramp metering policy for the I-205 corridor and acknowledges that STATE may adjust signal light phasing and or ramp metering equipment as needed to adjust traffic flow after first providing advance notice to MHCS D.
26. MHCS D will be the Lead Agency for CEQA and STATE will be a CEQA Responsible Agency. MHCS D will assess impacts of PROJECT on the environment and MHCS D will prepare the Environmental Document (ED) and technical studies/reports in order to meet the requirements of CEQA. MHCS D shall submit to STATE, for STATE's review, comment, and concurrence, all investigative studies and technical environmental reports. The administrative draft, administrative final, and final ED will require STATE's review, comment, and concurrence prior to public availability. MHCS D shall be responsible for the public hearing process.
27. If, during preliminary engineering, preparation of the PS&E, or PROJECT construction, new information is obtained which requires the preparation of an additional NEPA and/or CEQA Environmental Document (ED), this Agreement will be amended to include completion of these additional tasks by MHCS D.
28. MHCS D shall act as an agent of STATE for PROJECT purposes and shall conduct the investigative studies and prepare the technical environmental reports and environmental document necessary for NEPA and CEQA compliance for PROJECT. MHCS D shall act as STATE's agent throughout the STUDY period.

29. Subject to the provisions of Articles 22 and 23 hereinabove of this Section III, upon completion of all work under this Agreement, ownership and title to materials, equipment, and appurtenances 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 MHCS D. No further agreement will be necessary to transfer ownership as hereinfore stated.
30. Nothing in 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.
31. 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 MHCS D under or in connection with any work, authority or jurisdiction delegated to MHCS D under this Agreement. It is understood and agreed that, pursuant to Government Code section 895.4, MHCS D shall fully defend, indemnify and save harmless STATE and all of 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 MHCS D under or in connection with any work, authority or jurisdiction delegated to MHCS D under this Agreement.
32. Neither MHCS D 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 MHCS D and all of 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.
33. This Agreement may be terminated or provisions contained herein may be altered, changed, or amended only by mutual written consent of the parties hereto.
34. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
35. Those portions of this Agreement pertaining to the design, utilities relocation, right of way acquisition, and construction of PROJECT shall terminate upon completion and acceptance of the construction contract for PROJECT by MHCS D with written concurrence of STATE, or on December 31, 2009, 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.

STATE OF CALIFORNIA
Department of Transportation

MOUNTAIN HOUSE COMMUNITY
SERVICES DISTRICT
222 E. Weber Ave.
Room 3
Stockton, CA 95202

WILL KEMPTON
Director

By: Kome Ajise
KOME AJISE
District Director
District 10

By: Paul M. Sensibaugh
PAUL M. SENSIBAUGH
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Attest: Tam M. Halpern
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Anne Wells
ANNE WELLS
District 10 Budget Manager

Certified as to Procedure

Juliet K. Sebyne
Accounting Administrator

EXHIBIT A**ESTIMATE OF COST**

	MHCSD	<u>State</u>	<u>Total</u>
Preliminary Engineering	100%	0%	100%
R/W Capital	100%	0%	100%
Construction Engineering	100%	0%	100%
Construction Cost	<u>100%</u>	<u>0%</u>	<u>100%</u>
Total Cost of Project	100%	0%	100%

Estimated Cost:

<u>Project</u>	MHCSD	<u>State</u>	<u>Total</u>
Preliminary Engineering	\$1,500,000	\$0	\$1,500,000
R/W Capital	\$ 300,000	\$0	\$ 300,000
Construction Engineering	\$ 900,000	\$0	\$ 900,000
Construction Cost	<u>\$11,010,000</u>	<u>\$0</u>	<u>\$11,010,000</u>
Total	<u>\$13,710,000</u>	<u>\$0</u>	<u>\$13,710,000</u>

Note:

- The Construction Cost amount of \$11,010,000 includes the estimated State-furnished material cost of \$16,000, which includes the cost of controller cabinet and battery backup system.
- STATE will invoice MHCSD for the actual costs for State-furnished materials and for travel expenses if any are incurred.