

COOPERATIVE AGREEMENT
(Authority to Reimburse)

This Agreement, effective on July 5, 2013, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

CITY OF COSTA MESA, a body politic and municipal corporation or chartered city of the State of California, referred to as "CITY".

For the purpose of this Agreement, the term PARTNERS collectively refers to CALTRANS and CITY (all signatory parties to this Agreement). The term PARTNER refers to any one of those signatory parties individually.

RECITALS

1. CALTRANS and CITY, collectively referred to as PARTNERS, are authorized to enter into a cooperative agreement for improvements to the State Highway System (SHS) per Streets and Highways Code sections 114 and 130.

This Agreement shall have no force or effect unless and until CITY has obtained an Encroachment Permit from STATE to construct SR-55 Gateway Landscape Improvement Transportation Enhancement Project permit number 12-13-N-GM-0143, referred to as PROJECT, and follows the standard CALTRANS encroachment permit process in order to complete the PROJECT.

2. CALTRANS will reimburse CITY \$500,000 from RIP TE funds required for PROJECT.
3. PARTNERS now define in this Agreement the terms and conditions for reimbursement.

DEFINITIONS

PARTNERS – The term that collectively references all of the signatory agencies to this Agreement. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one partner's individual actions legally bind the other partners.

SCOPE

4. CITY is responsible to complete all work for PROJECT.

5. All work will occur through the standard CALTRANS encroachment permit process.
6. PARTNERS agree that CALTRANS will administer all state and federal subvention funds for PROJECT.

COST

7. CITY will invoice CALTRANS for an initial deposit of \$500,000 after execution of this agreement and 30 working days prior to the commencement of construction expenditures.
8. Thereafter, CITY will submit to CALTRANS monthly invoices for the prior month's actual expenditures.
9. After PARTNERS agree that all work for PROJECT is complete, CITY will submit a final accounting for all costs. Based on the final accounting, CITY will refund or invoice as necessary in order to satisfy the financial commitment of this Agreement.
10. PARTNERS agree that the total amount of funds paid out to CITY will not exceed \$500,000.
11. CALTRANS will pay CITY within 30 calendar days of receipt of invoices.

GENERAL CONDITIONS

12. All obligations of CALTRANS under the terms of this agreement are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
13. Neither CITY 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 CITY and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, 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.
14. 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 CITY and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CITY or under this Agreement. It is understood and agreed that CITY, 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, including, 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 CITY and/or its agents under this Agreement.


15. If CALTRANS pays CITY for any costs later determined to be unallowable, CITY will reimburse those funds to CALTRANS.
16. If work is done under contract (not completed by a CITY's own employees) and is governed by the California Labor Code's definitions of a "public work" (section 1720(a)), CITY will conform to sections 1720-1815 of the California Labor Code and all applicable regulations and coverage determinations issued by the Director of Industrial Relations.
17. This Agreement is intended to be PARTNERS' final expression and supersedes all prior oral understanding pertaining to PROJECT.
18. Unless otherwise documented in a maintenance agreement, CITY will maintain all the improvements.
19. This Agreement will terminate upon PROJECT completion by the CITY. However, all indemnification, audit and maintenance articles will remain in effect until terminated or modified in writing by mutual agreement.

SIGNATURES

PARTNERS declare that:

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


STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: 
Lisa Ramsey
Acting Deputy District Director
Capital Projects Outlay Program


CITY OF COSTA MESA

By: 
Mayor

APPROVED AS TO FORM:

By: 
Attorney

CERTIFIED AS TO FUNDS:

By:  for Suzanne
for Neda
Neda Saber
District Budget Manager

APPROVED:

By: 
City Clerk