

AGREEMENT BETWEEN THE CITY OF VACAVILLE AND THE COUNTY OF SOLANO FOR CURVE IMPROVEMENTS ON FOOTHILL DRIVE

This Agreement is made and entered into on the date last written below, by and between the City of Vacaville, a municipal corporation (“City”), and the County of Solano, a political subdivision of the State of California (“County”), with reference to the following facts:

Whereas, Foothill Drive connects the western part of the City of Vacaville to Pleasants Valley Road in unincorporated Solano County; and,

Whereas, Foothill Drive is designated by the Solano Transportation Authority as a Route of Regional Significance due to its critical importance when Interstate 80 fails in operation; and,

Whereas, the County owns the western portion of Foothill Drive, by jurisdiction, and is planning to acquire right of way and construct a project (“Project”) to realign two curves and add bicycle lanes in order to improve safety and accessibility along the route; and,

Whereas, the County previously acquired right of way along the southern boundary of Foothill Drive but needs to acquire additional right of way along the northern boundary of Foothill Drive to complete the Project; and,

Whereas, the City and County staff have identified 0.83 acres on the City’s parcel (APN 0125-060-090) that could be used for Project right of way as well as enhanced maintenance access for the City.

In consideration of the foregoing facts it is agreed as follows:

1. With regard to the transfer of property for right of way purposes along Foothill Drive, the County shall:
 - a. Perform land surveying work and prepare all plat and legal documents necessary to transfer the 0.83 acres of land from the City’s parcel (APN 0125-060-090) to the County to be used as right of way for Foothill Drive.
 - i. Right of way area is specifically described in the attached Legal Description (Exhibit A) and Plat Map (Exhibit B) for reference.
 - b. Record the executed legal documents and pay any fees for transferring property.
 - c. Pay to the City \$13,585 for the value of land to be acquired as right of way for the Project.
 - d. Pay to the City \$10,000 for staff and consultant costs for document review and right of way transfer work for the Project.
 - e. Build maintenance road access improvements and erosion controls along and into the City parcel to the satisfaction of the City Engineer. Improvements generally consist of a twenty-foot wide road with a compacted slope to the bottom of the basin to match the existing.
 - f. Obtain a no-fee encroachment permit from the City for any work within the City parcel, and coordinate with the City for any related inspections.

- g. Provide as-built drawings of the work with the City parcel at project completion.
- 2. With regard to the transfer of property for right of way purposes along Foothill Drive, the City shall:
 - a. Review survey work, design plans, plat, and legal documents necessary to transfer land for right-of-way purposes.
 - b. Obtain City Council authority to transfer subject property.
 - c. Execute the legal documents transferring land for right-of-way purposes.
 - d. Authorize temporary construction access for the maintenance access road improvements and erosion controls.
 - e. Provide invoice(s) to the County for the land transfer costs, up to \$23,585.

3. County to indemnify City.

County agrees to defend and indemnify City, its agents, officers and employees (collectively referred to in this paragraph as "City"), from any claim, action or proceeding against City, arising out of the acts or omissions of County (including its agents, officers, and employees) in the performance of this Agreement. At its sole discretion, City may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve County of any obligation imposed by this Section. City shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense.

4. City to indemnify County.

City agrees to defend and indemnify the County, its agents, officers and employees (collectively referred to in this paragraph as "County") from any claim, action or proceeding against County, arising out of the acts or omissions of City in the performance of this Agreement. At its sole discretion, County may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve City of any obligation imposed by this Section. County shall notify City promptly of any claim, action or proceeding and cooperate fully in the defense.

5. Reimbursement and/or Reallocation.

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, County and City may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

6. Third Party Contractor.

City understands that some or all of the work may be done by a third party contractor under County's sole and exclusive supervision, in which case County will require the contractor to indemnify both City and County and to add both County and City as additional insureds. County shall be solely responsible for compensating such third party contractor and shall defend and indemnify City against any claims for compensation made by said contractor.

7. This Agreement does not create a partnership or joint venture between the parties, nor does it create a possessory or ownership interest for the City in the property transferred for County's portion of Foothill Drive.
8. No modification of this Agreement shall be valid unless it is in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year last written below.

CITY OF VACAVILLE

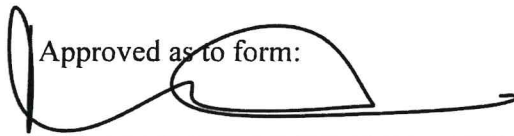
COUNTY OF SOLANO

Brian McLean
Public Works Director

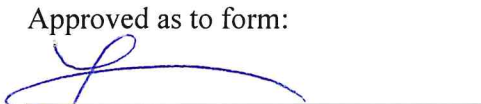
James Bezek
Director of Resource Management

Dated: _____

Dated: _____

Approved as to form:


Nancy Ashjian
Assistant City Attorney

Approved as to form:


Lori Mazzella
Deputy County Counsel