

# **AGREEMENT BETWEEN THE CITY OF VACAVILLE AND THE COUNTY OF SOLANO REGARDING CULVERT REPLACEMENTS ALONG CHERRY GLEN ROAD**

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:

1. The County owns a large culvert on Cherry Glen Road at Lagoon Drain (see attached site map) that needs replacement due to age and condition.
2. The City and County share a large culvert on Cherry Glen Road at Laguna Creek that needs replacement due to age and condition.
3. The City and County wish to cooperate in a construction project to replace both Cherry Glen Road culverts with pre-cast concrete box culverts, including barrier rails, guardrails, asphalt concrete paving, striping, and signing. The current estimate for the construction contract is approximately \$800,000.

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

1. With regards to the culvert replacements, the County shall:
  - a. Design the pre-cast box culverts so that they will accommodate all legal loads.
    - i. The culverts and appurtenant drainage features will be constructed within the existing 66-foot wide road right of way.
    - ii. Vegetation removal will be kept to what is necessary for the work.
    - iii. County shall solicit design review comments from the City on the shared culvert during the design process.
  - b. Environmentally clear the project, which will include a CEQA determination/filing as well as acquire applicable permits by resource agencies.
  - c. Acquire an encroachment permit from Caltrans to temporarily close the Cherry Glen Road offramp on Interstate 80. The project will also need temporary road closure of Cherry Glen Road during construction at the culvert locations.
  - d. Solicit, award, and execute a construction contract to the lowest responsive and responsible bidder.
  - e. Administer the construction contract, which includes engineering, surveying, and inspection oversight of the work.
  - f. Provide invoices and copies of pertinent documents to the City.
  - g. Provide the Notice of Completion and as-built drawings to the City at project completion.
2. The City shall:
  - a. Review and comment on the draft designs provided by the County for the shared culvert.
  - b. Provide a no-fee encroachment permit for the County and the project contractor to operate within the City's right of way on Cherry Glen Road.
  - c. Sign, as co-applicant, any permits that are necessary for the project work.
  - d. Provide timely inspection of the work, should the City wish to participate in the inspections on the shared culvert.

- e. Pay to the County 25% of the County's total costs of design, environmental clearance, permitting, and bidding for the project, with the City's share limited to \$25,000.
  - f. Pay to the County 50% of all construction costs directly related to the shared culvert.
    - i. City will pay 25% of all joint construction contract costs, such as mobilization, traffic control, storm water pollution controls, etc.
  - g. Pay the County's invoices within 60 days of receipt.
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 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. Contractor
- City understands that the construction work will be done by a third party contractor under County's sole and exclusive supervision. The County will require the contractor to indemnify both City and County and to add both City and County as additional insureds as a requirement of the construction contract. 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 outside of an agency's jurisdiction.
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

\_\_\_\_\_  
Shawn Cunningham  
Public Works Director

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Bill Emlen  
Director of Resource Management


Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Approved as to form:

Approved as to form:

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David Nam  
Deputy City Attorney I

  
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Lori Mazzella  
Deputy County Counsel