

ATTACHMENT B

DRAFT COOPERATIVE AGREEMENT

between

ALAMEDA COUNTY TRANSPORTATION COMMISSION

and the

CITY OF OAKLAND

for the

TRANSFER OF LOCAL LEAD AGENCY FROM CITY OF OAKLAND TO ALAMEDA CTC FOR THE FEDERAL RAILWAY-HIGHWAY CROSSINGS (SECTION 130) SAFETY ENHANCEMENTS AT HIGH STREET

This Cooperative Agreement (“AGREEMENT”) is made and entered into on [date], 2021, by and between ALAMEDA COUNTY TRANSPORTATION COMMISSION, a joint powers agency (“ALAMEDA CTC”), and the CITY OF OAKLAND, a municipal corporation (“CITY”). Hereinafter, ALAMEDA CTC and CITY are together referred to as “PARTIES” and individually referred to as a “PARTY.”

This AGREEMENT facilitates the transfer of responsibility from CITY to ALAMEDA CTC of the Lead Local Agency status on the Federal Railway-Highway Crossings Section 130 Project at High Street (“PROJECT”).

RECITALS

- A. On July 20, 2021, PARTIES verbally agreed that ALAMEDA CTC shall become the Lead Local Agency for the PROJECT on behalf of CITY.
- B. On August 3, 2021, ALAMEDA CTC sent CITY a letter requesting confirmation of the transfer of Lead Local Agency for the PROJECT from the CITY to ALAMEDA CTC.
- C. On August 23, 2021, the CITY sent ALAMEDA CTC a letter confirming agreement as to the transfer of Lead Local Agency for the PROJECT from the CITY to ALAMEDA CTC.
- D. The purpose of this AGREEMENT is to delegate responsibilities of Lead Local Agency for the PROJECT from CITY to ALAMEDA CTC.

ALAMEDA CTC AGREES

1. To lead the design and construction of Local Agency Work for the PROJECT. As the Lead Local Agency, Alameda CTC will be responsible for leading the PROJECT development and delivering the PROJECT.
2. To be responsible for designing and constructing the scope identified for the PROJECT. This scope may include pedestrian gates, medians, paving, sidewalks, curb and gutter, traffic signals, pre-signals, utility relocation, railroad preemption, striping, and signage.
3. To coordinate with the Union Pacific Railroad (UPRR), the California Public Utilities Commission (CPUC), and Caltrans as needed to complete the design of the PROJECT. The location of the railroad warning devices will be included on the local agency plans so that a single plan can be submitted for the CPUC General Order (GO)88-B application.
4. To complete the environmental approval for the PROJECT in accordance with both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). ALAMEDA CTC will coordinate with Caltrans for the NEPA approval.
5. To be responsible for filing the GO88-B application, on behalf of CITY, and obtain CPUC approval for the modifications to the railroad crossing.
6. Along with the UPRR, be responsible for the preparation of, on behalf of CITY, the Construction and Maintenance (C&M) Agreement for the crossing.
7. To identify, negotiate, and acquire, on behalf of CITY, rights-of-way needed to construct, operate, and maintain the safety enhancements constructed for the PROJECT.
8. To complete the design and advertise, award, and administer the construction contract for the PROJECT. ALAMEDA CTC will work and communicate with UPRR to ensure the timing and coordination of the construction activities. Prior to, and during, construction there are often items which ALAMEDA CTC's construction contractor must perform before or after the UPRR constructs certain items.

CITY AGREES

1. To be the signatory authority and owner of the GO88-B application and permit.
2. To execute the Construction and Maintenance (C&M) Agreement with the UPRR.
3. To be the owner of the rights-of-way (from the date of acquisition) needed to construct, operate, and maintain safety enhancements constructed for the PROJECT.
4. To complete certain items prior to, and during, construction of the PROJECT, which the CITY must do before or after the UPRR constructs certain items, including but not limited to traffic signage and striping.

5. To review applications for, and grant, encroachment permits, as needed at no cost to ALAMEDA CTC. These efforts will be reimbursed through the Section 130 Program for High Street.
6. To provide plan check reviews and comments at no cost to ALAMEDA CTC for: The Concept Submittal, the 35% Submittal, the 65% Submittal, the 95% Submittal, the 100% Submittal, and the Final Submittal. These efforts will be reimbursed through the Section 130 Program for High Street.

PARTIES MUTUALLY AGREE

1. To work cooperatively to transfer responsibilities of the Local Lead Agency for the PROJECT from CITY to ALAMEDA CTC, and to ensure that the PROJECT is carried out.
2. Each PARTY shall be responsible for the obligations stated in this AGREEMENT and there shall be no exchange of funds between the PARTIES to fulfill their respective obligations under this no-cost AGREEMENT unless it is covered under other agreements.
3. To modify this AGREEMENT via written amendment(s) by PARTIES to this AGREEMENT, when reasonably requested by either PARTY.
4. Neither ALAMEDA CTC, nor its governing body or any officer, consultant, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY in connection with the PROJECT. It is also understood and agreed, pursuant to Government Code Section 895.4, CITY shall fully defend, protect, indemnify and hold harmless ALAMEDA CTC, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury (as defined in Government Code Section 810.8) or damages occurring by reason of anything done or omitted to be done by ALAMEDA CTC in connection with PROJECT.
5. Neither CITY, nor its governing body or any officer, consultant, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ALAMEDA CTC in connection with the PROJECT. It is also understood and agreed, pursuant to Government Code Section 895.4, ALAMEDA CTC shall fully defend, protect, indemnify and hold harmless CITY, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury (as defined in Government Code Section 810.8) or damages occurring by reason of anything done or omitted to be done by CITY in connection with PROJECT, including the performance of the PROJECT that is subject to this AGREEMENT.

6. All legal actions by either PARTY against the other arising from this AGREEMENT, or for the failure to perform in accordance with the applicable standard of care, or for any other cause of action, will be subject to the statutes of limitations of the State of California.
7. Should it become necessary to enforce the terms of this AGREEMENT, the prevailing PARTY shall be entitled to recover reasonable expenses and attorney's fees from the other PARTY.
8. This AGREEMENT contains the entire understanding between the PARTIES regarding responsibilities of the Local Lead Agency for the PROJECT, and no oral understanding or agreement not incorporated herein or therein shall be binding on any of the PARTIES hereto.

[Signatures on following page]

