

A G R E E M E N T

THIS AGREEMENT, made and entered into by and between the CITY OF LANCASTER, a municipal corporation in the County of Los Angeles (hereinafter referred to as CITY) and the COUNTY OF LOS ANGELES, a political subdivision of the State of California (hereinafter referred to as COUNTY):

W I T N E S S E T H

WHEREAS, 70th Street West, Avenue K, and Avenue I are on the Highway Element of CITY'S General Plan and on COUNTY'S Highway Plan; and

WHEREAS, CITY and COUNTY propose to resurface the deteriorated roadway pavement on 70th Street West from Avenue L-8 to Avenue M, and reconstruct the pavement on Avenue K from 50th Street East to 70th Street East and Avenue I from 75th Street West to 90th Street West (which work is hereinafter referred to as PROJECT); and

WHEREAS, PROJECT, which is to be constructed as part of CITY'S 2009 Pavement Management and Street Repairs Program, includes work on various CITY streets; and

WHEREAS, PROJECT is within the shared geographical boundaries of CITY and COUNTY; and

WHEREAS, PROJECT is of general interest to CITY and COUNTY; and

WHEREAS, CITY is willing to perform the preliminary engineering, construction inspection and engineering, materials testing, construction survey, and contract administration for PROJECT; and

WHEREAS, CITY AND COUNTY are both willing to finance their respective shares of COST OF PROJECT; and

WHEREAS, COST OF PROJECT is currently estimated to be Five Hundred Eighty Six Thousand and 00/100 Dollars (\$586,000.00), with CITY'S share estimated to be Three Hundred Thousand and 00/100 Dollars (\$300,000.00) and COUNTY'S share estimated to be Two Hundred Eighty-six Thousand and 00/100 Dollars (\$286,000.00).

NOW, THEREFORE, in consideration of the mutual benefits to be derived by CITY and COUNTY and of the promises herein contained, it is hereby agreed as follows:

(1) DEFINITIONS:

- a. The term JURISDICTION, as referred to in this AGREEMENT, shall be defined as the area within the geographical boundary of each governmental entity mentioned in this AGREEMENT.
- b. COST OF PROJECT, as referred to in this AGREEMENT, shall consist of the costs of preliminary engineering; construction contract and required materials; detour; final signing and striping; construction inspection and engineering; construction survey; utility relocation; contract administration; and all other work necessary to construct PROJECT in accordance with the approved plans and shall include currently effective percentages added to total salaries, wages, and equipment costs to cover overhead, administration, and depreciation in connection with any or all of the aforementioned items.
- c. COST OF PRELIMINARY ENGINEERING, as referred to in this AGREEMENT, shall consist of the costs of environmental documentation; design survey; soils report; traffic index and geometric investigation; preparation of plans, specifications, and cost estimates; right-of-way certification; utility engineering; and all other necessary work prior to advertising of PROJECT for construction bids and shall include currently effective percentages added to total salaries, wages, and equipment costs to cover overhead, administration, and depreciation in connection with any and all of the aforementioned items.
- d. COST OF CONSTRUCTION CONTRACT, as referred to in this AGREEMENT, shall consist of the total of all payments to the contractor for PROJECT and payments to utility companies or contractors for the relocation of facilities necessary for the construction of PROJECT.

(2) CITY AGREES:

- a. To perform the preliminary engineering, construction inspection and engineering, materials testing, construction survey, and contract administration for PROJECT.
- b. To finance CITY'S jurisdictional share of COST OF PROJECT, the amounts of which are to be determined by a final accounting pursuant to paragraph (4) a., below.
- c. Before advertising for construction bids, to obtain COUNTY'S approval of plans, specifications, and cost estimate, and to apply for and obtain from COUNTY'S Department of Public Works all necessary permits authorizing CITY to construct those portions of PROJECT within COUNTY highway right of way.

- d. To advertise PROJECT for construction bids, to award and to administer the construction contract, and to act on behalf of COUNTY in all negotiations pertaining thereto.
- e. To obtain COUNTY approval of construction contract amount prior to entering into the construction contract for PROJECT, subject to paragraph (3) d., below.
- f. To ensure that COUNTY, and all officers and employees of COUNTY, are named as additional insured parties under the construction contractor's(s') Contractor General Liability and automobile insurance policies.
- g. To furnish COUNTY, within one hundred twenty (120) calendar days after final acceptance of PROJECT, a final accounting of the actual total COST OF PROJECT, including an itemization of actual unit costs and actual contract quantities. It is understood that the COUNTY'S total contribution to the COST OF PROJECT is limited to a maximum amount of Two Hundred Eighty-six Thousand and 00/100 dollars (\$286,000.00) without COUNTY'S prior written approval.
- h. Upon completion of PROJECT, to maintain in good condition and at CITY expense all improvements constructed as part of PROJECT within CITY'S JURISDICTION.

(3) COUNTY AGREES:

- a. To review and approve the plans, specifications, and cost estimate prepared by CITY for PROJECT, prior to advertising PROJECT for construction bids.
- b. Subject to the limitation stated in paragraph (2) g., above, to finance COUNTY'S jurisdictional share of COST OF PROJECT, the amounts of which are to be determined by a final accounting pursuant to paragraph (4) a., below.
- c. To deposit with CITY, following the opening of construction bids for PROJECT and upon demand by CITY, sufficient COUNTY funds to finance COUNTY'S jurisdictional share of COST OF PROJECT, the total amount of which is currently estimated to be Two Hundred Eighty-six Thousand and 00/100 Dollars (\$286,000.00). Said demand will consist of a billing invoice prepared by CITY.
- d. To review the construction contract bids for PROJECT and provide written approval, or other response, within ten (10) calendar days of presentation by CITY. COUNTY'S approval may only be withheld for good reason and

in good faith. If COUNTY'S response is not received within said ten (10) calendar days, CITY may proceed with PROJECT.

- e. To appoint CITY as COUNTY'S attorney-in-fact for the purpose of representing COUNTY in all negotiations pertaining to the advertisement of PROJECT for construction bids, award, and administration of the construction contract, and in all things necessary and proper to complete PROJECT.
- f. Upon receipt of application from CITY and approval of construction plans for PROJECT, to issue CITY a no-fee permit(s) authorizing CITY to construct those portions of PROJECT within COUNTY highway right of way and to construct those facilities that are to be maintained by COUNTY.
- g. Upon completion of PROJECT, to maintain in good condition and at COUNTY expense all improvements constructed as part of PROJECT within COUNTY'S JURISDICTION.

(4) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. The final accounting of the actual total COST OF PROJECT shall allocate the said total cost between CITY and COUNTY based on the location of the improvements and/or work done. Thus, the cost of all such work or improvements (including all engineering, administration, and all other costs incidental to any such work or improvement) located within COUNTY'S JURISDICTION shall be borne by COUNTY, subject to the limitations in paragraph (2) g., above. Such costs constitute COST OF PROJECT within COUNTY'S JURISDICTION. The cost of all such work or improvements (including all engineering, administration, and all other costs incidental to any such work or improvement) located within CITY'S JURISDICTION shall be borne by CITY. Such costs constitute COST OF PROJECT within CITY'S JURISDICTION.
- b. COUNTY shall review the final accounting invoice prepared by CITY and report in writing any discrepancies to CITY within thirty (30) calendar days after the date of said invoice. Undisputed charges shall be paid by COUNTY to CITY within thirty (30) calendar days after the date of said invoice. CITY shall review all disputed charges and submit a written justification detailing the basis for those charges within thirty (30) calendar days of receipt of COUNTY'S written report. COUNTY shall then make payment of the previously disputed charges or submit justification for nonpayment within thirty (30) calendar days after the date of CITY'S written justification. COUNTY'S payment of undisputed charges and/or previously disputed charges is subject to the limitations stated in paragraph (2) g., above.

- c. During construction of PROJECT, CITY shall furnish an inspector or other representative to perform the functions of an inspector. COUNTY may also furnish, at no cost to CITY, an inspector or other representative to inspect construction of PROJECT. COUNTY shall have no obligation to inspect construction of PROJECT and no liability shall be attributable as a result of COUNTY'S inspection or failure to inspect. Said inspectors shall cooperate and consult with each other, but the orders of CITY inspector to the contractor or any other person in charge of construction shall prevail and be final and CITY inspector shall be responsible for proper inspection of PROJECT, as needed.
- d. This AGREEMENT may be amended or modified only by mutual written consent of CITY and COUNTY.
- e. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY: Mr. Robert Neal
Director of Public Works
City of Lancaster
44933 North Fern Avenue
Lancaster, CA 93534-2461

COUNTY: Ms. Gail Farber
Director of Public Works
County of Los Angeles
Department of Public Works
P.O. Box 1460
Alhambra, CA 91802-1460
- f. Neither COUNTY nor any officer or employee of COUNTY shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of CITY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of CITY under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code, Section 895.4, CITY shall fully indemnify, defend, and hold COUNTY harmless from any liability imposed for injury (as defined by Government Code, Section 810.8) occurring by reason of any acts or omissions on the part of CITY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of CITY under this AGREEMENT.
- g. Neither CITY nor any officer or employee of CITY shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of COUNTY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of COUNTY

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF LANCASTER on _____, 2009, and by the COUNTY OF LOS ANGELES on _____, 2009.

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

ATTEST:

SACHI A. HAMAI
Executive Officer of the
Board of Supervisors of the
County of Los Angeles

By _____
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting County Counsel

By _____
Deputy

CITY OF LANCASTER

By _____
Mayor

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney