

**AVENUE L AND CHALLENGER WAY
ROUNDAABOUT CONSTRUCTION AGREEMENT**

This **AGREEMENT** made and entered into by and between the CITY OF PALMDALE, a Charter City and municipal corporation in the County of Los Angeles, hereinafter referred to as "PALMDALE," and the CITY OF LANCASTER, a Charter City and municipal corporation in the County of Los Angeles, hereinafter referred to as "LANCASTER."

WITNESSETH

WHEREAS, Avenue L is on the Highway Element of PALMDALE's General Plan and LANCASTER's General Plan; and

WHEREAS, PALMDALE and LANCASTER propose to replace the existing traffic signal and associated highway safety lighting at the intersection of Avenue L and Challenger Way (a.k.a. 10th Street East) with a modern single lane roundabout, including, among others, a landscaped central island with truck apron, splitter islands, roadway widening and/or improvements, signing, striping and marking, and highway safety lighting, which work is hereinafter referred to as "ROUNDAABOUT;" and

WHEREAS, PALMDALE and LANCASTER also propose to construct roadway improvements and install traffic signing, striping and marking on the approaches to the roundabout, which work is hereinafter referred to as "APPROACH ROADWAY;" and

WHEREAS, ROUNDAABOUT and APPROACH ROADWAY together are hereinafter referred to as "PROJECT;" and

WHEREAS, the details of "PROJECT" will be those identified on the approved street improvement, signing, striping and marking, landscaping, street lighting and signal plans; and

WHEREAS, PALMDALE has jurisdiction over the southeast quadrant of the site of PROJECT, and LANCASTER has jurisdiction over the remainder of the site of PROJECT; and

WHEREAS, PROJECT is in the general interest of PALMDALE and LANCASTER; and

WHEREAS, PROJECT, upon LANCASTER's application, was awarded a grant for design and construction under the Federal Highway Safety and Improvement Program (HSIP); and

WHEREAS, LANCASTER is willing to prepare the roundabout design and construction plans for PROJECT; and

WHEREAS, LANCASTER is willing to administer PROJECT; and

WHEREAS, PALMDALE is willing to finance one-fourth of the local matching funds to design and construct PROJECT; and

WHEREAS, the local matching funds to design and construct PROJECT is \$76,800.00 of which PALMDALE'S one-fourth share is \$19,200.00.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by PALMDALE and LANCASTER and of the premises herein contained, it is hereby agreed as follows:

(1) PALMDALE AGREES:

- a. To pay one-fourth of the local matching funds to design and construct PROJECT, up to \$19,200.00, based upon a final accounting of PROJECT costs.
- b. To deposit with LANCASTER, within thirty (30) calendar days following the execution of this Agreement and upon demand by LANCASTER, the amount of \$3,000.00 to pay for its one-fourth share of the local matching funds to design PROJECT. Said demand will consist of a billing invoice prepared by LANCASTER.
- c. To deposit with LANCASTER, following the opening of construction bids for PROJECT and upon demand by LANCASTER, the amount of \$16,200.00 to pay for its one-fourth share of the local matching funds to construct PROJECT. Said demand will consist of a billing invoice prepared by LANCASTER.
- d. Upon completion of PROJECT, to maintain in good condition and at PALMDALE's expense the elements of APPROACH ROADWAY within its jurisdiction.

(2) LANCASTER AGREES:

- a. To pay the remainder of the local matching funds for PROJECT and all other PROJECT costs not covered by the HSIP grant fund, based upon a final accounting of PROJECT costs.
- b. To perform the preliminary engineering and administration of PROJECT.
- c. Before advertising for construction bids, to obtain PALMDALE's approval of those portions of PROJECT plans which indicate work to be done or improvements to be constructed or installed that are within PALMDALE's jurisdiction.
- d. To advertise PROJECT for construction bids, to award and to administer the construction contract, to do all things necessary and proper to complete PROJECT, and to act on behalf of PALMDALE in all negotiations pertaining thereto.
- e. To furnish PALMDALE, within 120 days after final acceptance of PROJECT and LANCASTER CITY COUNCIL's approval of final payment to contractor, a final accounting of the actual total cost of PROJECT, including itemization of unit costs and quantities for PROJECT.
- f. Upon completion of PROJECT, to maintain in good condition and at LANCASTER's expense the elements of APPROACH ROADWAY within its jurisdiction.

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

- a. Either PALMDALE or LANCASTER, at any time, may, at its sole discretion, terminate this Agreement by giving thirty (30) calendar days written notice to the other party and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall become the shared property of both parties with PALMDALE owning twenty-five percent (25%) and LANCASTER

owning seventy-five percent (75%). Likewise, any expenses or costs, including construction costs, shall be borne in a three-fourths/one-fourth ratio by LANCASTER and PALMDALE for any amounts due or which become due as to the ROUNDABOUT and each City shall bear any expense or costs for the APPROACH ROADWAY work within their respective jurisdictions as more fully set forth below.

- b. Upon completion of PROJECT, LANCASTER and PALMDALE will maintain the parts of ROUNDABOUT and APPROACH ROADWAY that are within their respective jurisdictions.
- c. The cost of PROJECT, as referred to in this Agreement, shall equal the sum of the cost of ROUNDABOUT and the cost of APPROACH ROADWAY and shall consist of the costs of preliminary engineering, the construction contract, contract administration, worksite traffic control, final signing and striping, construction engineering and inspection, construction survey, utility relocation, administration and all other work necessary to construct PROJECT in accordance with 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.
- d. The 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, 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.
- e. The cost of the construction contract, as referred to in this Agreement shall consist of the total of all payments to the contractor for PROJECT.
- f. The final accounting of the actual total cost of APPROACH ROADWAY shall allocate said total cost between PALMDALE and LANCASTER based on the location of the improvements and/ or work done. Thus, the cost of all APPROACH ROADWAY work or improvements (including all engineering, administration and all other non-construction contract costs incident to any such work or improvement) located within PALMDALE's jurisdiction shall be borne by PALMDALE's jurisdictional share of the total cost of APPROACH ROADWAY. The cost of all APPROACH ROADWAY work or improvements (including all engineering, administration and all other non-construction contract costs incident to any such work or improvement) located within LANCASTER's jurisdiction shall be borne by LANCASTER. Such costs constitute the LANCASTER jurisdictional share of the total cost of APPROACH ROADWAY.
- g. If PALMDALE's share of the cost of PROJECT, based upon the final accounting, is less than \$19,200.00, LANCASTER shall return the difference to PALMDALE within thirty (30) days of receipt of PALMDALE's acceptance of final accounting.
- h. If PALMDALE's deposit, as set forth in paragraphs (1) b and (1) d above, is not delivered to the office stated on LANCASTER's billing invoice within thirty (30) days of invoice date, LANCASTER is entitled to recover interest thereon at the rate of six percent (6%) per annum.

- i. PALMDALE shall review all project billing invoices prepared by LANCASTER and report in writing any discrepancies to LANCASTER within thirty (30) calendar days. Undisputed charges shall be paid by PALMDALE within thirty (30) calendar days of receipt of invoice. LANCASTER shall review disputed charges and submit a written justification detailing the basis for those charges within thirty (30) days of receipt of PALMDALE's written report of discrepancies. PALMDALE shall then make payment of resolved charges and/or submit justification for nonpayment within thirty (30) days.
 - j. This Agreement shall not take effect unless and until PALMDALE declares the project location herein to be LANCASTER roadways for the purpose of constructing roadway improvements, landscaping, highway safety lighting and traffic signs, stripes and marking thereon, and PALMDALE shall consent to said project location becoming LANCASTER roadways for said purposes only, and only until PROJECT completion.
 - k. Neither PALMDALE nor any officer or employee of PALMDALE shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of LANCASTER under or in connection with any work, authority or jurisdiction delegated to LANCASTER under this Agreement. It is also understood and agreed that pursuant to Government Code, Section 895.4, LANCASTER shall fully indemnify, defend and hold PALMDALE 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 LANCASTER under or in connection with any work, authority or jurisdiction delegated to LANCASTER under this Agreement.
 - l. Neither LANCASTER nor any officer or employee of LANCASTER, shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of PALMDALE under or in connection with any work, authority or jurisdiction delegated to PALMDALE under this Agreement. It is also understood and agreed that pursuant to Government Code, Section 895.4, PALMDALE shall fully indemnify, defend and hold LANCASTER 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 PALMDALE under or in connection with any work, authority or jurisdiction delegated to PALMDALE under this Agreement.
- (4) It is understood and agreed that the provisions of any previous Assumption of Liability Agreement heretofore entered into between the parties hereto are inapplicable to this Agreement.

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 _____, 2012, and by the CITY OF PALMDALE on _____, 2012.

CITY OF LANCASTER, a Charter City and municipal corporation

CITY OF PALMDALE, a Charter City and municipal corporation

By: _____
Mark V. Bozigian, City Manager

By: _____

ATTEST:

ATTEST:

By: _____
Geri K. Bryan, CMC City Clerk

By: _____
Rebecca J. Smith, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
David R. McEwen, City Attorney

By: _____
Wm. Matthew Ditzhazy, City Attorney