

**AGREEMENT AND ASSIGNMENT OF
FEDERAL SURFACE
TRANSPORTATION PROGRAM – LOCAL FUNDS**

THIS AGREEMENT AND ASSIGNMENT, 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, Avenue J is on the Highway Element of CITY'S General Plan and on COUNTY'S Highway Plan; and

WHEREAS, CITY and COUNTY propose to replace the existing timber bridge at Avenue J over Little Rock Creek with a concrete slab bridge (which work is hereinafter referred to as PROJECT); and

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

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

WHEREAS, COUNTY is willing to perform or cause to be performed the preliminary engineering, construction contract, construction inspection and engineering, materials testing, right-of-way engineering, right-of-way acquisition and certification, construction survey, environmental documentation, and contract administration for PROJECT; and

WHEREAS, COUNTY is further willing to administer PROJECT under the Federal Highway Bridge Program (HBP); and

WHEREAS, COST OF PROJECT includes the costs of PRELIMINARY ENGINEERING, CONSTRUCTION CONTRACT, and CONSTRUCTION ADMINISTRATION as more fully set forth herein; and

WHEREAS, COST OF PROJECT is currently estimated to be Three Million One Hundred Twelve Thousand and 00/100 Dollars (\$3,112,000.00) with Federal aid reimbursement estimated to be Two Million Five Hundred Seventy-two Thousand and 00/100 Dollars (\$2,572,000.00); and

WHEREAS, CITY and COUNTY are each willing to finance their respective jurisdictional shares of the non-Federally reimbursable local agency portion of COST OF PROJECT; and

WHEREAS, CITY is willing to finance its jurisdictional share of the non-Federally reimbursable local agency portion of COST OF PROJECT, currently estimated to be Two Hundred Eighty-one Thousand and 00/100 Dollars (\$281,000.00), by assigning Federal Surface Transportation Program-Local (STP-L) funds to the COUNTY in lieu of cash; and

WHEREAS, the Los Angeles County Metropolitan Transportation Authority has procedures in effect that permit the transfer of STP-L funds between public agencies; and

WHEREAS, COUNTY is willing to accept CITY'S assignment of STP-L funds in lieu of cash; and

WHEREAS, such a proposal is authorized and provided for by the provisions of Section 6500, et seq., of the Government Code and Sections 1680-1684 of the California Streets and Highway Code.

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. JURISDICTION, as referred to in this AGREEMENT AND ASSIGNMENT, shall be defined as the area within the geographical boundary of the CITY and the unincorporated areas of the COUNTY.
 - b. PRELIMINARY ENGINEERING, as referred to in this AGREEMENT AND ASSIGNMENT, shall consist of environmental finding and approvals/permits; design survey; soils report; traffic index and geometric investigation; preparation of plans, specifications, and cost estimates; right-of-way engineering; right-of-way acquisition and certification; utility engineering; and all other necessary work prior to advertising of PROJECT for construction bids.
 - c. CONSTRUCTION CONTRACT, as referred to in this AGREEMENT AND ASSIGNMENT, shall consist of the total payments to the construction contractor(s) for PROJECT and the total of all payments to utility companies or contractor(s) for the relocation of facilities necessary for the construction of PROJECT.
 - d. CONSTRUCTION ADMINISTRATION, as referred to in this AGREEMENT AND ASSIGNMENT, shall consist of construction contract administration, construction inspection, materials testing, construction survey, traffic detour, signing and striping, construction engineering, utility relocation, changes and modifications of plans and specifications for PROJECT

necessitated by unforeseen or unforeseeable field conditions encountered during construction of PROJECT, construction contingencies, and all other necessary work after advertising of PROJECT for construction to cause PROJECT to be constructed in accordance with said plans and specifications approved by CITY and COUNTY.

- e. COST OF PROJECT, as referred to in this AGREEMENT AND ASSIGNMENT, shall consist of the costs of PRELIMINARY ENGINEERING, CONSTRUCTION CONTRACT, CONSTRUCTION ADMINISTRATION, and all other work necessary to construct PROJECT in accordance with the approved plans and specifications 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.
- f. LOCAL SHARE OF COSTS, as referred to in this AGREEMENT AND ASSIGNMENT, shall consist of COST OF PROJECT less any reimbursement received by COUNTY under the Federal HBP.

2) CITY AGREES:

- a. To finance its share of LOCAL SHARE OF COSTS, the actual amount of which is to be determined by a final accounting pursuant to paragraph (4) a. below.
- b. To assign STP-L funds to COUNTY, in lieu of cash, in the amount of Two Hundred Eighty-one Thousand and 00/100 Dollars (\$281,000.00) to finance its share of LOCAL SHARE OF COSTS. Such assignment shall be effective upon full execution of this AGREEMENT AND ASSIGNMENT with no further action required by CITY.
- c. Upon request from COUNTY, to consent to COUNTY'S request for jurisdiction of the bridge portion of Avenue J over Little Rock Creek within CITY as part of the County System of Highways for the limited purpose of constructing PROJECT improvements.
- d. To grant to COUNTY, at no cost to COUNTY, any temporary right of way that CITY owns or has an easement for that is necessary for the construction of PROJECT.
- e. To cooperate with COUNTY in conducting negotiations with and, where appropriate, to issue notices to public utility organizations and owners of substructure and overhead facilities regarding the relocation, removal, operation, and maintenance of all surface and underground utilities and facilities, structures, and transportation services, which interfere with the

proposed construction. Where utilities have been installed in CITY streets or on CITY property, CITY will provide the necessary right of way for the relocation of those utilities and facilities that interfere with the construction of PROJECT. CITY will take all necessary steps to grant, transfer, or assign all prior rights over utility companies and owners of substructure and overhead facilities when necessary to construct, complete, and maintain PROJECT or to appoint COUNTY as its attorney-in-fact to exercise such prior rights.

- f. To appoint COUNTY as CITY'S attorney-in-fact for the purpose of representing CITY 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.
- g. To grant COUNTY permission to occupy and use the public streets in CITY to construct PROJECT.
- h. To be financially responsible for disposal and/or mitigation measures, if necessary, should any hazardous materials, chemicals, or contaminants be encountered during construction of PROJECT within CITY'S jurisdiction of PROJECT.
- i. Upon approval of construction plans for PROJECT, to issue COUNTY a no-fee permit(s) authorizing COUNTY to construct PROJECT within CITY'S JURISDICTION.
- j. Upon completion of PROJECT, to maintain in good condition and at CITY'S expense all improvements constructed as part of PROJECT within CITY'S JURISDICTION.

3) COUNTY AGREES:

- a. To finance its share of LOCAL SHARE OF COSTS, the actual amount of which is to be determined by a final accounting pursuant to paragraph (4) a. below.
- b. To perform or cause to be performed the PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, and all other work necessary to complete PROJECT.
- c. To accept CITY'S assignment of STP-L funds in lieu of cash.
- d. To apply for Federal HBP funding to finance a portion of COST OF PROJECT.

- e. To obtain CITY'S approval of plans for PROJECT prior to soliciting for construction bids.
 - f. To solicit bids, award and administer the construction contract, do all things necessary and proper to complete PROJECT, and to act on behalf of CITY in all negotiations pertaining thereto.
 - g. To be financially responsible for disposal and/or mitigation measures, if necessary, should any hazardous materials, chemicals, or contaminants be encountered during construction of PROJECT within COUNTY'S JURISDICTION.
 - h. To furnish CITY, within one hundred eighty (180) calendar days after final payment to contractor, a final accounting of the actual COST OF PROJECT, including an itemization of actual unit costs and actual quantities for PROJECT.
 - i. 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 LOCAL SHARE OF COSTS shall allocate said cost between CITY and COUNTY based on the percentage of work (including all engineering, administration, and all other costs incidental to any such work) located within their respective JURISDICTIONS.
 - b. That if CITY'S share of LOCAL SHARE OF COSTS based upon the final accounting, exceeds CITY'S assignment as set forth in paragraph (2) b. above, COUNTY shall make a demand for the additional amount and CITY shall either pay additional amount or assign additional STP-L funds to COUNTY or if CITY disputes the additional amount demanded, follow the procedure set forth in subparagraph (e) for dealing with discrepancies. Said demand will consist of a billing invoice prepared by COUNTY. Conversely, if the required CITY funds are less than said assignment, COUNTY shall credit the difference to CITY'S available STP-L funds within sixty (60) calendar days after completion of final accounting of the actual total COST OF PROJECT.
 - c. That if CITY'S final payment, as set forth in paragraph (4) b. above, is not delivered to COUNTY office, which is described on the billing invoice prepared by COUNTY and delivered to CITY, within sixty (60) calendar days after the date of delivery to CITY of said invoice, COUNTY is entitled to recover interest thereon beginning sixty (60) calendar days from the date of the invoice at the rate of interest specified in the General Services

Agreement executed by the parties to the AGREEMENT AND ASSIGNMENT currently in effect.

- d. That if CITY'S final payment, as set forth in paragraph (4) b. above, is not delivered to COUNTY office, which is described on the billing invoice prepared by COUNTY and delivered to CITY, within sixty (60) calendar days after the date of delivery to CITY of said invoice, notwithstanding the provisions of Government Code Section 907, COUNTY may satisfy such indebtedness, including interest thereon, from any funds of CITY on deposit with COUNTY after giving notice to CITY of COUNTY'S intention to do so.
- e. CITY shall review the final accounting invoice prepared by COUNTY and report in writing any discrepancies to COUNTY within sixty (60) calendar days after the date of said invoice. Undisputed charges shall be paid by CITY to COUNTY within sixty (60) calendar days after the date of said invoice. COUNTY shall review all disputed charges and submit a written justification detailing the basis for those charges within sixty (60) calendar days of receipt of CITY'S written report. CITY shall then make payment of the previously disputed charges or submit justification for nonpayment within sixty (60) calendar days after the date of COUNTY'S written justification.
- f. COUNTY at any time may, at its sole discretion, designate an alternative payment mailing address and an alternative schedule for payment of CITY funds if applicable. CITY shall be notified of such changes by invoice.
- g. During construction of PROJECT, COUNTY shall furnish an inspector or other representative to perform the functions of an inspector. CITY may also furnish, at no cost to COUNTY, an inspector or other representative to inspect construction of PROJECT. Said inspectors shall cooperate and consult with each other, but the orders of COUNTY inspector to the contractors or any other person in charge of construction shall prevail and be final.
- h. COUNTY hereby assigns all of its right, title, and interest to the CITY'S jurisdictional share of unlapsed portion of a one-year warranty granted to the COUNTY by the construction contractor constructing PROJECT following completion of construction of the PROJECT and field acceptance of said construction by COUNTY. CITY agrees to accept said assignment as its sole remedy against COUNTY in connection with defects relating to said PROJECT.
- i. This AGREEMENT AND ASSIGNMENT may be amended or modified only by mutual written consent of CITY and COUNTY. Amendments and

modifications of a nonmaterial nature may be made by the mutual written consent of the parties' Directors of Public Works or their delegates.

- j. 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

- k. Other than as provided below, 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 AND ASSIGNMENT. 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 AND ASSIGNMENT.
- l. Neither COUNTY nor any officer or employee of COUNTY shall be responsible, directly or indirectly, for damage or liability arising from or attributable to the presence or alleged presence, transport, arrangement, or release of any hazardous materials, chemicals, or contaminants present at or stemming from the PROJECT within the CITY'S geographical limits including liability under the Comprehensive Environmental, Response, Compensation and Liability Act of 1980 (CERCLA) and under the California Health and Safety Code. It is understood and agreed pursuant to Government Code Section 895.4, CITY shall fully indemnify, defend, and hold COUNTY harmless from any such damage, liability, or claim. In addition to being an agreement enforceable under the laws of the State of California, the foregoing indemnity is intended by the parties to be an agreement pursuant to 42 U.S.C. Section 9607(e), Section 107(e), of the amended CERCLA, and California Health and Safety Code Section 25364.

- m. Other than as provided below, 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 under this AGREEMENT AND ASSIGNMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, COUNTY shall fully indemnify, defend, and hold CITY 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 COUNTY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of COUNTY under this AGREEMENT AND ASSIGNMENT.

- n. Neither CITY nor any officer or employee of CITY shall be responsible, directly or indirectly, for damage or liability arising from or attributable to the presence or alleged presence, transport, arrangement, or release of any hazardous materials, chemicals, or contaminants present at or stemming from the PROJECT within the COUNTY'S geographical limits, including liability under the CERCLA and under the California Health and Safety Code. It is understood and agreed pursuant to Government Code Section 895.4, COUNTY shall fully indemnify, defend, and hold CITY harmless from any such damage, liability, or claim. In addition to being an agreement enforceable under the laws of the State of California, the foregoing indemnity is intended by the parties to be an agreement pursuant to 42 U.S.C. Section 9607(e), Section 107(e), of the amended CERCLA, and California Health and Safety Code Section 25364.

- o. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the parties hereto, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will assume the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by any act or omission occurring in the performance of this AGREEMENT AND ASSIGNMENT to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each of the parties indemnifies and holds harmless the other party for any liability, cost, or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT AND ASSIGNMENT to be executed by their respective officers, duly authorized by the CITY OF LANCASTER on _____, 2013, and by the COUNTY OF LOS ANGELES on _____, 2013.

COUNTY OF LOS ANGELES

By Robert C. [Signature]
Director of Public Works

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By _____
Deputy

CITY OF LANCASTER

By _____
Mayor

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney

RESOLUTION NO. 13-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, CONSENTING TO THE ESTABLISHMENT OF THE PORTION OF AVENUE J BRIDGE OVER LITTLE ROCK CREEK WITHIN SAID CITY AS PART OF THE COUNTY SYSTEM OF HIGHWAYS

WHEREAS, the County of Los Angeles Board of Supervisors on April 30, 2013, duly adopted a Resolution declaring the portion of the Avenue J bridge over Little Rock Creek within the City of Lancaster to be a part of the County System of Highways for the purpose of replacing the existing timber bridge with a concrete slab bridge at the aforementioned location, as provided in Sections 1700-1702 inclusive of the Streets and Highways Code of the State of California; and

WHEREAS, said Board of Supervisors by said Resolution requested this Council to give its consent to allow the County of Los Angeles to perform bridge replacement work (Bridge Work) within the City of Lancaster; and

WHEREAS, it is the intent of the County of Los Angeles Board of Supervisors to perform the Bridge Work, provided the consent of the governing body of the City of Lancaster shall first be given under the terms herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER AS FOLLOWS:

Section 1. Consent to Inclusion in County Highway System – This City Council does hereby consent to include the portion of the Avenue J bridge over Little Rock Creek within the City of Lancaster as part of the System of Highways of the County of Los Angeles as provided in Sections 1700-1704 inclusive of the Streets and Highways Code of the State of California, for the limited purpose of replacing the existing timber bridge with a concrete slab bridge at this location.

Section 2. Indemnification – That the City of Lancaster shall fully indemnify, defend, and hold the County of Los Angeles harmless in connection with any and all claims, liability, injury (as defined by Government Code Section 810.8) or damage relating to the roadway that is not caused directly by County's Bridge Work.

Section 3. Roadway Maintenance – The City of Lancaster will remain the owner of the portion of the Avenue J bridge over Little Rock Creek within the City of Lancaster and remain responsible for all roadway maintenance activities on the portion of Avenue J bridge over Little Rock Creek within the City of Lancaster prior to the start of construction by the County and following the completion and field acceptance of said construction. Following completion of construction and County's field acceptance of the Bridge Work, the City of Lancaster accepts ownership and full responsibility for all roadway maintenance, including relating to the Bridge Work, for the portion of Avenue J over Little Rock Creek within the City of Lancaster.

Section 4. Environmental Documentation – The City Council does hereby consent to adopt and concurs with the environmental findings pursuant to the California Environmental Quality Act that have been adopted by the County in connection with the Bridge Work.

Section 5. Warranty for Bridge Work – The County hereby assigns to City all of its rights, title, and interest to the City’s jurisdictional share of unlapsed portion of a one-year warranty granted to the County by the construction contractor performing the Bridge Work following completion of construction of the Bridge Work and field acceptance of said construction by County. The City agrees to accept said assignment as its sole remedy against the County in connection with defects relating to said Bridge Work.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

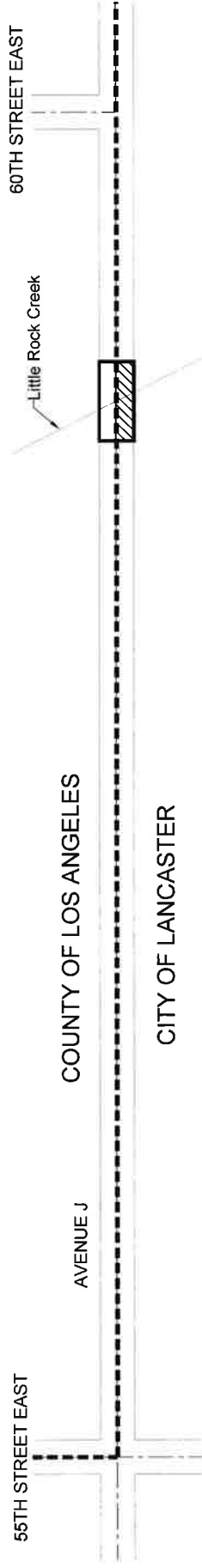
CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____,
City of Lancaster, California do hereby certify that this is a true and correct copy of the original Resolution No. 13-48, for which the original is on file in my office.

WITNESS MY HAND AND SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

COUNTY OF LOS ANGELES AVENUE J OVER LITTLE ROCK CREEK BRIDGE REPLACEMENT



--- CITY BOUNDARY

— LIMITS OF CONSTRUCTION

- - - STREET CENTERLINE

▨ AREA TO BE TEMPORARILY INCLUDED IN THE COUNTY SYSTEM OF HIGHWAYS



NOT TO SCALE