

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, CITY and COUNTY have determined it necessary to modify an existing storm drain by installing a low-flow pumping system at Avenue M-4 and 45th Street West to pump nuisance water into the CITY'S Quartz Hill Basin (M-2 Basin) located east of 45th Street West (hereinafter referred to as PROJECT); and

WHEREAS, PROJECT is in the general interest of CITY and COUNTY; and

WHEREAS, CITY is willing to perform all work necessary to complete PROJECT; and

WHEREAS, COST OF PROJECT includes the costs of construction contract, contract administration, construction inspection and engineering, materials testing, and construction survey for PROJECT as more fully set forth herein; and

WHEREAS, CITY collected Ninety-eight Thousand and 00/100 dollars (\$98,000.00) from a private developer for the construction of PROJECT (hereinafter referred to as DEVELOPER FUNDS); and

WHEREAS, COST OF PROJECT is currently estimated to be Two Hundred Three Thousand Six Hundred and 00/100 Dollars (\$203,600.00); and

WHEREAS, COUNTY is willing to contribute and pay Fifty-two Thousand and 00/100 Dollars (\$52,000.00) toward the COST OF PROJECT (hereinafter referred to as COUNTY CONTRIBUTION); and

WHEREAS, CITY is willing to contribute and pay COST OF PROJECT that exceeds the sum of DEVELOPER FUNDS and COUNTY CONTRIBUTION.

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

(1) DEFINITIONS:

- a. For the purpose of this AGREEMENT the term COST OF PROJECT shall consist of the costs of construction contract, contract administration, construction inspection and engineering, materials testing, utility

engineering and relocation, construction survey, traffic detour, 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.

(2) CITY'S OBLIGATIONS. Subject to the terms and conditions set forth in this AGREEMENT, CITY agrees to and shall:

- a. Pay for the COST OF PROJECT to the extent that the COST OF PROJECT exceeds the sum of DEVELOPER FUNDS and COUNTY CONTRIBUTION.
- b. Perform all of the work necessary to complete PROJECT.
- c. 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.
- d. Indemnify, defend, and hold harmless COUNTY, its boards, agents, officers, employees, and subconsultants of any tier against any and all liability and expense arising from or connected with any omission or act of CITY, its officers, employees, agents, or subconsultants of any tier in the performance of this AGREEMENT including but not limited to defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage.
- e. Be responsible for future maintenance and operation of PROJECT upon completion of construction and acceptance of PROJECT.

(3) COUNTY'S OBLIGATIONS. Subject to the terms and conditions set forth in this AGREEMENT, COUNTY agrees to and shall:

- a. Pay COUNTY CONTRIBUTION in the amount of Fifty-two Thousand and 00/100 Dollars (\$52,000.00) toward the COST OF PROJECT, which shall be deposited with the CITY upon the opening of construction bids for PROJECT.

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

- a. In the event that the COST OF PROJECT less the DEVELOPER FUNDS is less than COUNTY CONTRIBUTION paid pursuant to paragraph (3) a.,

above of this AGREEMENT, CITY shall refund the difference to COUNTY upon completion of PROJECT.

- b. This AGREEMENT may be modified only by the mutual written consent of both parties in the manner originally executed.
- c. Each party shall have no financial obligation to the other party under this AGREEMENT except as herein expressly provided.
- d. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY: Mr. James R. Williams  
Director of Public Works  
City of Lancaster  
44933 North Fern Avenue  
Lancaster, CA 93534-2461

COUNTY: Mr. Dean D. Efstathiou  
Acting Director of Public Works  
County of Los Angeles  
Department of Public Works  
P.O. Box 1460  
Alhambra, CA 91802-1460

- e. 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 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.
- f. It is understood and agreed that the provisions of the Assumption of Liability Agreement No. 32064 between CITY and COUNTY, adopted by the COUNTY Board of Supervisors on December 27, 1977, and currently in effect, are inapplicable to this AGREEMENT.

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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 \_\_\_\_\_, 2008, and by the COUNTY OF LOS ANGELES on \_\_\_\_\_, 2008.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Chair, 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:

RAYMOND G. FORTNER, JR.  
County Counsel

By \_\_\_\_\_  
Deputy

CITY OF LANCASTER

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney