

COOPERATIVE AGREEMENT
TRUCK-IMPACTED INTERSECTION PROJECT

31371

THIS AGREEMENT is made and entered, in duplicate, as of 8/19, 2009 for reference purposes only, pursuant to a minute order of the City Council of the City of Long Beach at its meeting held ~~7/7~~ 7/7, 2009, and a minute order of the Board of Harbor Commissioners of the City of Long Beach at its meeting held on 5/4, 2009, by and among the CITY OF LONG BEACH ("City"), the CITY OF LONG BEACH acting through its BOARD OF HARBOR COMMISSIONERS ("Port") and the GATEWAY CITIES COUNCIL OF GOVERNMENTS, a California joint powers authority ("COG").

RECITALS

WHEREAS, intersections throughout the 26 cities of the Gateway Cities area, a sub-region of the Southern California Association of Governments planning area, experience significant truck-related impacts, including impacts from heavy-duty trucks serving the ports of Long Beach and Los Angeles, resulting in an average vehicle delay of 10 seconds per vehicle at intersections; and

WHEREAS, Meyer Mohaddes Associates, Inc., prepared the Gateway Cities Truck Impacted Intersection Study Phase I & II, dated February 2000, evaluating truck impacts on intersections throughout the 26 cities of the Gateway Cities area, and recommended appropriate mitigation measures, including street right-of-way, signage and striping, and signal system improvements (the "Project"); and

WHEREAS, Phase II of the Project will contribute to the reduction of toxic diesel emissions identified in the Multiple Air Toxic Exposure study conducted by the South Coast Air Quality Management District by aiding the flow of truck traffic on the major arterials in the sub-region; and

1 POLB Document No. HD-7454

1 WHEREAS, the parties have identified the intersection of Santa Fe Avenue
2 and Anaheim Street in the Harbor area of the City of Long Beach for the implementation
3 of Phase II of the Project, and a cost estimate for the design, construction, construction
4 engineering and inspection of the intersection has been prepared by the Los Angeles
5 County Department of Public Works ("County") as part of its design and construction
6 responsibilities for Phase I of the Project; and

7 WHEREAS, the COG has secured funding from the Los Angeles County
8 Metropolitan Transportation Authority ("MTA") for design, construction, construction
9 engineering and inspection of the Project; and

10 WHEREAS, the parties desire to enter into this Cooperative Agreement for
11 the purpose of setting forth their respective roles and responsibilities in order to expedite
12 the Project;

13 NOW, THEREFORE, in consideration of the mutual terms and conditions in
14 this Agreement, the parties agree as follows:

15 Section 1. SCOPE OF WORK. The Project consists of the approved
16 scope of work, attached hereto as Exhibit "A," at the intersection of Santa Fe Avenue and
17 Anaheim Street in the Harbor area of the City of Long Beach, as shown on the site plan,
18 attached hereto as Exhibit "B." Any changes to Exhibit "A" requested by the City or the
19 Port must be made in writing and approved in advance by the COG prior to the
20 commencement of work.

21 Section 2. PROJECT BUDGET. The final cost estimate for the Project is
22 Seven Hundred Fifty Thousand Dollars (\$750,000.00). Under the terms of the funding
23 agreement between COG and the MTA, the Project has been allocated sixty-five percent
24 (65%) of this amount, up to a maximum of Four Hundred Eighty-Seven Thousand Five
25 Hundred Dollars (\$487,500.00), for design, construction, construction engineering and
26 inspection costs.

27 Section 3. MATCHING FUNDS. The Project requires the City and/or the
28 Port to provide matching funds. Based on the Seven Hundred Fifty Thousand Dollars

1 (\$750,000) estimate of project costs, the required match is Two Hundred Sixty-Two
2 Thousand Five Hundred Dollars (\$262,500.00), or thirty-five percent (35%) of the total
3 Project costs.

4 Section 4. CITY'S RESPONSIBILITIES. City shall:

- 5 A. Provide no-cost permits for Project activities in the public right
6 of way;
7 B. Provide as-needed technical assistance;
8 c. Assist in the review and preparation of invoices, inspection
9 reports and documents for submission to the COG.

10 Section 5. PORT'S RESPONSIBILITIES. The Port shall:

- 11 A. Pay 100 percent (100%) of the local agency share of the cost
12 of the Project, not to exceed Two Hundred Sixty-Two Thousand Five Hundred
13 Dollars (\$262,500.00);
14 B. Assume responsibility for all procurement activities, including
15 the preparation of plans and specifications and all Project construction documents;
16 C. Award the contract for construction of the Project as required
17 by applicable law to a contractor;
18 D. Provide or select appropriate construction engineering and
19 inspection services;
20 E. Hold weekly Project meetings with the COG and the selected
21 contractor as required;
22 F. Submit all Project invoices to the COG for payment in a timely
23 fashion;
24 G. Upon Project completion, provide as-built plans to the COG;
25 H. Upon Project completion, maintain in good condition all
26 improvements constructed as part of the Project.

27 Section 6. COG'S RESPONSIBILITIES. The COG shall:

- 28 A. Serve as the overall Project manager;

1 B. Review any proposed written modifications to the Project in
2 advance of undertaking the proposed modification. No modification without the
3 advance written approval of the COG will be permitted;

4 C. Approve the selection of the Project contractor;

5 D. Approve the construction engineering and inspection services;

6 E. Approve contractor payments and submit contractor invoices
7 for payment in a timely fashion to funding agencies for reimbursement.

8 Section 7. FINAL ACCOUNTING; ADDITIONAL CONTRIBUTION.

9 Within one hundred twenty (120) calendar days after final acceptance of the Project, the
10 Port shall cause a final accounting to be prepared and delivered to the City and the COG.
11 The COG shall have no responsibility for actual Projects costs in excess of \$487,500. If
12 Project costs exceed \$750,000, the Port shall bear 100% of such excess costs.

13 Section 8. PAYMENT. The Port shall pay 35% of each approved
14 contractor invoice when due, with a copy to COG, and COG shall pay 65% of each
15 approved contractor invoice when due, up to the limits described in Section 7, above.
16 The Port shall submit all invoices to the COG for payment as provided in Section 6(E),
17 above. The COG shall then submit all invoices to the MTA on a quarterly basis for
18 reimbursement and shall pay the Port 65% of each invoice submitted upon
19 reimbursement from the MTA.

20 Section 9. INDEMNIFICATION. Pursuant to Government Code Section
21 895.4, the City and the Port shall indemnify, defend and hold COG harmless from any
22 liability imposed for injury (as defined by Government Code Section 810.8) occurring by
23 reason of any acts or omissions on the part of the City or the Port under or in connection
24 with any work, authority or jurisdiction delegated to the City or the Port under this
25 Agreement, and COG shall indemnify, defend and hold the City and The Port harmless
26 from any liability imposed for injury (as defined by Government Code Section 810.8)
27 occurring by reason of any acts or omissions on the part of COG under or in connection
28 with any work, authority or jurisdiction delegated to COG Beach under this Agreement.

1 Section 10. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES.

2 No officer or employee of the City or the Port shall be personally liable to the COG, or
3 any successor in interest, in the event of any default or breach by City or the Port or for
4 any amount which may become due to the COG or its successor, or for breach of any
5 obligation of the terms of this Agreement; nor shall any officer or employee of the COG
6 be personally liable to the City or the Port, or any successor in interest, in the event of
7 default or breach by COG or for any amount which may become due to the City or the
8 Port, or for breach of any obligation of the terms of this Agreement.

9 Section 11. NOTICE. Any notice hereunder by either party shall be in
10 writing and personally delivered or deposited in the U.S. Postal Service, first class,
11 postage prepaid, addressed to Long Beach at 333 West Ocean Boulevard, Long Beach,
12 California 90802, Attn: City Manager; and to the Port of Long Beach at 925 Harbor Plaza,
13 Long Beach, California 90802, Attn: Executive Director; and to the COG at 16401
14 Paramount Boulevard, Paramount, Ca 90727, Attn: Jack Joseph. Notice shall be
15 deemed given on the date deposited in the mail or on the date personal delivery is made,
16 whichever first occurs.

17 Section 12. ENTIRE AGREEMENT. This Agreement constitutes the
18 entire understanding between the parties and supersedes all other agreements, whether
19 oral or written, with respect to the subject matter herein.

20 Section 13. AMENDMENT. This Agreement shall not be amended except
21 in writing signed by the parties that expressly refers to this Agreement.

22 Section 14. TERMINATION. This Agreement shall terminate upon
23 completion and acceptance of the Project, or on December 31, 2011, whichever is
24 earlier.

25 Section 15. WAIVER. The waiver of any breach of this Agreement shall
26 not be effective unless in writing signed by the party permitting waiver and shall not
27 constitute a waiver of any other or subsequent breach of this Agreement.

28 Section 16. GOVERNING LAW. This Agreement shall be governed by

1 and construed in accordance with the laws of the State of California (except those
2 provisions of California law pertaining to conflicts of laws).

3 Section 17. COSTS AND FEES. If there is any legal proceeding between
4 the parties to enforce or interpret this Agreement or to protect or establish any rights or
5 remedies under it, the prevailing party shall be entitled to its costs, including reasonable
6 attorneys' fees.

7 Section 18. THIRD PARTY BENEFICIARY. This Agreement is not
8 intended or designed to or entered for the purpose of creating any benefit or right for any
9 person or entity of any kind that is not a party to this Agreement.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

GATEWAY CITIES COUNCIL OF
GOVERNMENTS, a joint powers authority

August 19, 2009

By Gordon Stefenhagen
President

Gordon Stefenhagen
Type or Print Name

8/19, 2009

By Richard R. Powers
Secretary

RICHARD R. POWERS
Type or Print Name

"COG"

CITY OF LONG BEACH, a municipal
corporation

July 29, 2009

By [Signature] Assistant City Manager
City Manager

"CITY"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

CITY OF LONG BEACH, acting by and
through its Board of Harbor
Commissioners

5-22, 2009

By [Signature]
Executive Director

"PORT"

This Agreement is approved as to form on 5/19, 2009.

ROBERT E. SHANNON, City Attorney

By [Signature]
Deputy

APPROVED AS TO FORM

6-3, 2009
ROBERT E. SHANNON, City Attorney

By [Signature]
AMY R. BURTON
DEPUTY CITY ATTORNEY

Exhibit A

SCOPE OF WORK

**For the Santa Fe Avenue/Anaheim Street Intersection
Improvement Project**

- 1.) Construct Portland Cement Concrete (PCC) pavement through the intersection and all approaches.
- 2.) Install new traffic signal interconnect cable on the east side of Santa Fe Ave.
- 3.) Signing and striping.

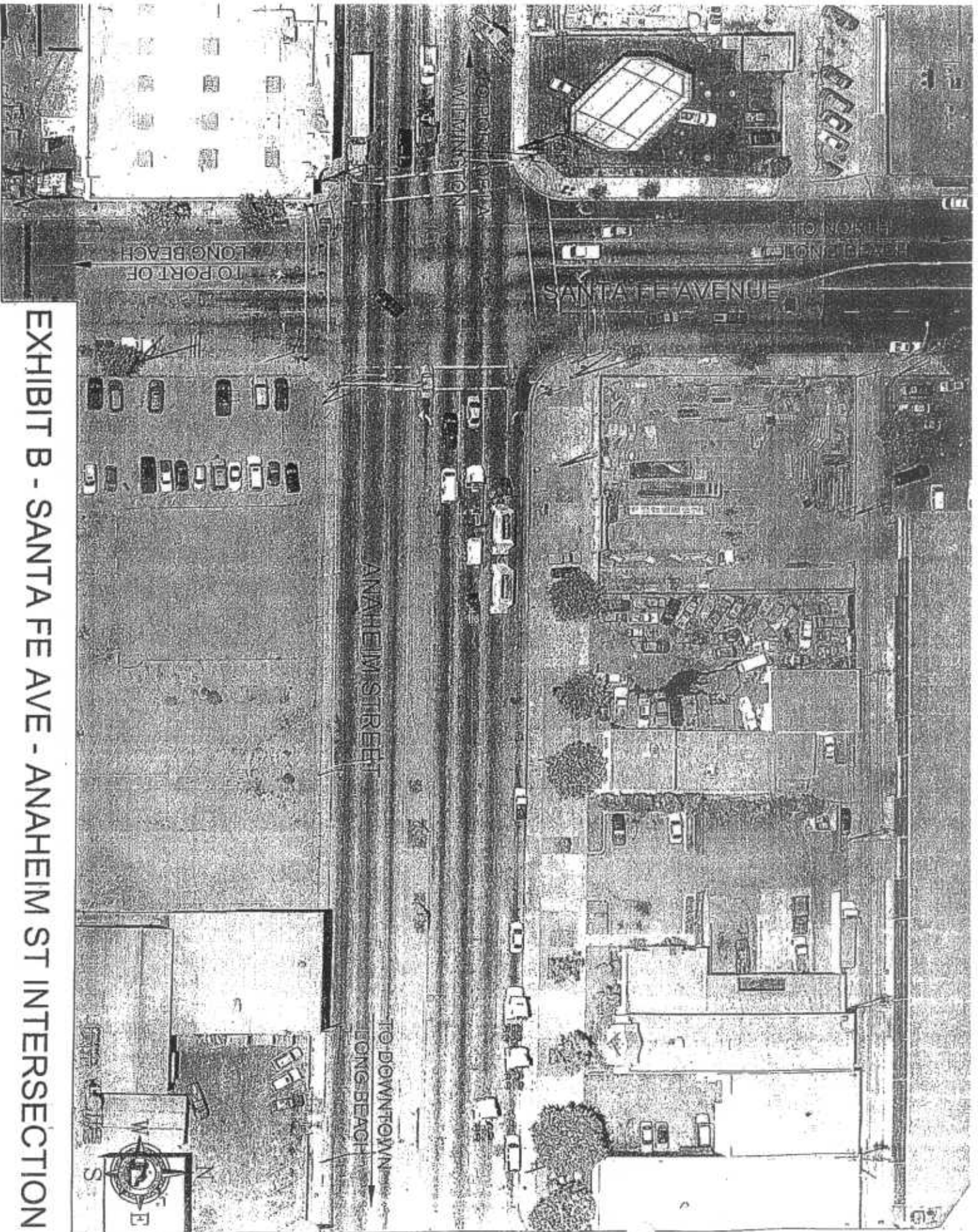


EXHIBIT B - SANTA FE AVE - ANAHEIM ST INTERSECTION