

33741

AGREEMENT

THIS AGREEMENT, made and entered into by and between the CITY OF LONG BEACH, 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):

WITNESSETH

WHEREAS, it is of general interest to CITY and COUNTY to extend the service life of the bridges listed in Exhibit A; and

WHEREAS, CITY and COUNTY propose to perform one-time only preventive maintenance work on the existing bridges referenced above (which work is hereinafter referred to as PROJECT); and

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

WHEREAS, COUNTY is willing to perform or cause to be performed the PRELIMINARY ENGINEERING, solicitation of construction bids and award of construction contract, and CONTRACT ADMINISTRATION for PROJECT; and

WHEREAS, COUNTY is further willing to administer PROJECT under the National Highway Performance Program and/or Surface Transportation Program; and

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

WHEREAS, COST OF PROJECT is currently estimated to be Six Million Nine Hundred and Thirty Thousand and 00/100 Dollars (\$6,930,000.00) with Federal funding reimbursement estimated to be Six Million and Ninety Thousand and 00/100 Dollars (\$6,090,000.00); and

WHEREAS, CITY is willing to finance LOCAL SHARE OF COSTS, the non-Federally reimbursable local agency portion of the COST OF PROJECT; and

WHEREAS, CITY is willing to finance LOCAL SHARE OF COSTS, currently estimated to be Eight Hundred and Forty Thousand and 00/100 Dollars (\$840,000.00), by depositing Eight Hundred and Forty Thousand and 00/100 Dollars (\$840,000.00) in cash; and

WHEREAS, such a proposal is authorized and provided for by the provisions of Sections 6500 and 23004, et seq., of the Government Code and Sections 1685 and 1803 of the California Streets and Highways 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 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 shall consist of environmental findings and approvals/permits from all applicable regulatory agencies; design survey; soils report; traffic index and geometric investigation; preparation of plans, specifications, and cost estimates; right-of-way engineering and certification; utility engineering; investigation of all suspect hazardous materials, chemicals, and contaminants; and all other necessary work prior to advertising of PROJECT for construction bids.
- c. COST OF CONSTRUCTION CONTRACT as referred to in this AGREEMENT shall consist of the total of 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 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 bids 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 shall consist of the COST OF CONSTRUCTION CONTRACT and costs of PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, right-of-way certification, utility engineering, and all other work necessary to complete 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 shall consist of COST OF PROJECT less any reimbursement received by COUNTY under the National Highway Performance Program and/or Surface Transportation Program.
- g. Completion of PROJECT as referred to in this AGREEMENT shall be defined as the date of field acceptance of construction of PROJECT by COUNTY and an electronic notification to CITY'S Director of Public Works/City Engineer that the improvements within CITY'S JURISDICTION are transferred to CITY for the purpose of operation and maintenance.

2) CITY AGREES:

- a. To finance 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 deposit with COUNTY, following execution of this AGREEMENT and upon demand by COUNTY, sufficient CITY funds to finance LOCAL SHARE OF COSTS (hereinafter referred to as CITY'S PAYMENT), currently estimated to be Eight Hundred and Forty Thousand and 00/100 Dollars (\$840,000.00). Said demand will consist of a billing invoice prepared by COUNTY and delivered to CITY.
- c. Upon request from COUNTY, to consent to COUNTY'S request for jurisdiction of the bridges included in Exhibit A, as part of the County System of Highways for the limited purpose of constructing PROJECT.
- d. To grant to COUNTY, at no cost to COUNTY, permission to occupy public roads in the CITY and any temporary right of way that CITY owns or has an easement for that is necessary for the construction of PROJECT.
- e. Upon approval of construction plans, specifications, and construction cost estimate for PROJECT, to issue COUNTY a no-fee permit(s) authorizing COUNTY to construct those portions of PROJECT within CITY'S JURISDICTION.
- 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 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 at no cost to COUNTY. CITY will take all necessary steps to grant, transfer, or assign all prior rights over the utility companies and owners of substructure and overhead facilities to COUNTY when necessary to construct, complete, and maintain PROJECT or to appoint COUNTY as its attorney-in-fact to exercise such prior rights.

- 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.
- i. Upon completion of PROJECT to operate and 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 perform or cause to be performed the PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, right-of-way acquisition and clearance matters, and all other work necessary to complete PROJECT.
- b. To apply for National Highway Performance Program and/or Surface Transportation Program funding to finance the Federally-reimbursable portion of COST OF PROJECT.
- c. To obtain CITY'S approval of plans, specifications, and construction cost estimate for PROJECT prior to advertising for construction bids.
- d. To solicit PROJECT for construction bids, award and administer the construction contract, do all things necessary and proper to complete PROJECT, and act on behalf of CITY in all negotiations pertaining thereto.
- e. 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.

4) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. The final accounting of the actual total COST OF PROJECT shall include an itemization of unit costs, actual quantities and costs, and

reimbursement received under the National Highway Performance Program and/or Surface Transportation Program.

- b. If CITY'S PAYMENT as set forth in paragraph (2) b above, is not delivered to COUNTY office, which is described on the billing invoice prepared by COUNTY, prior to award of PROJECT, COUNTY may delay the award of PROJECT pending the receipt of CITY'S PAYMENT.
- c. That if at final accounting LOCAL SHARE OF COSTS exceeds CITY'S PAYMENT, as set forth in paragraphs (2) b above, CITY shall pay to COUNTY the additional amount upon demand to COUNTY. Said demand shall consist of a billing invoice prepared by COUNTY. Conversely, if the required LOCAL SHARE OF COSTS is less than the sum of CITY'S PAYMENT, COUNTY shall remit a refund to CITY within thirty (30) days of the date COUNTY furnishes CITY with the final accounting.
- d. That if CITY'S 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, within sixty (60) calendar days after the date 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 this AGREEMENT currently in effect.
- e. That if CITY'S 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, within sixty (60) calendar days after the date 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.
- f. 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.
- g. 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.

- h. 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.
- i. This AGREEMENT may be amended or modified only by mutual written consent of CITY and COUNTY. Amendments and modification 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. Ara Maloyan
Director of Public Works
City of Long Beach
333 West Ocean Boulevard, 14th Floor
Long Beach, CA 90802-4664

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. 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.
- 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,

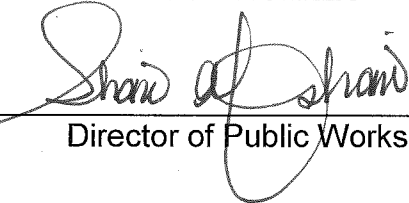
or release of any hazardous materials, chemicals, or contaminants present at or stemming from the PROJECT within the CITY'S JURISDICTION or arising from acts or omissions on the part of the CITY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of the CITY under this AGREEMENT, 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. 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 Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.
- n. The provisions of this AGREEMENT shall supersede and control over any provisions inconsistent herewith in the Assumption of Liability Agreement No. 32067 between CITY and COUNTY, adopted by the Board of Supervisors on December 27, 1977, and currently in effect.

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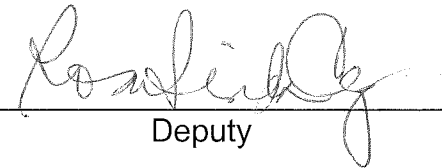
IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF LONG BEACH on SEPTEMBER 23, 2014, and by the COUNTY OF LOS ANGELES on November 17,, 2014.

COUNTY OF LOS ANGELES

By 
Director of Public Works

APPROVED AS TO FORM:

MARK J. SALADINO
County Counsel

By 
Deputy

CITY OF LONG BEACH

By 
City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

Assistant City Manager

ATTEST:

~~By _____
City Clerk~~

APPROVED AS TO FORM:

By 
Deputy City Attorney

EXHIBIT A

BRIDGES INCLUDED IN CITY OF LONG BEACH PUBLIC WORKS DEPARTMENT BRIDGE PREVENTIVE MAINTENANCE PROGRAM (PHASE 1)

1	53C0283L	1432	WESTMINSTER AV W / SAN GAB RV
2	53C0284L	1433	WESTMINSTER AV W / HAYNES STM PL CH
3	53C0028	2868	2nd ST / ALAMITOS BAY CH
4	53C0864	3026	MART L KING J AV / RR RIGHT OF WAY
5	53C0283R	3461	WESTMINSTER AV E / SAN GAB RV
6	53C0284R	3462	WESTMINSTER AV E / HAYNES STM PT CH
7	53C0610L	908	WARDLOW RD WB / LOS ANGELES RV
8	53C0214	1042	LOS COYOTES DIAG / LOS CRRTO DN CH
9	53C0628	1094	WARDLOW RD / COYOTE CK
10	53C0647	1123	DEL AMO BL / LOS ANGELES RV
11	53C0265	1353	WILLOW ST / SAN GAB RV
12	53C0281	1398	WILLOW ST / GOLF COURSE RD
13	53C0282	1399	WILLOW ST / EDISON ACCESS RD
14	53C0208	2730	ORANGE AVE & HILL ST / RR RIGHT OF WAY
15	53C0019	2747	WILLOW ST / LOS ANGELES RV
16	53C0817	2942	SHORELINE DR / GOLDEN SHORE BL
17	53C0221	2949	WARDLOW RD / LOS CRRTO DN CH
18	53C1587	2950	MONLACO RD / LOS CRRTO DN CH
19	53C0023	2973	THE TOLEDO W / RIVO ALTO CNL
20	53C0022	2974	THE TOLEDO E / RIVO ALTO CNL
21	53C0452	2983	BELLFLOWER BL / LOS CRRTO DN CH
22	53C0832	3025	BROADWAY / LONG BEACH AND
23	53C0892R	3063	QUEENS WY N / SHORELINE DR
24	53C0801L	3459	STUDEBAKER RD S / SC EDISON CH N
25	53C0892L	3463	QUEENS WY S / SHORELN DR
26	53C0610R	3464	WARDLOW RD EB / LOS ANGELES RIV
27	53C0634	1048	STEARNS ST / LOS CRRTO DN CH
28	53C0216	1109	PALO VERDE AV / LOS CRRTO DN CH
29	53C0726	2946	WARDLOW RD / SAN GAB RV
30	53C0551L	3950	QUEENS WAY / QUEENS WAY BAY
31	53C0551R	3976	QUEENS WAY / QUEENS WAY BAY
32	53C0422R	2291	CARSON ST EB / SAN GAB RV
33	53C0422L	3367	CARSON ST WB / SAN GAB RV

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS
HIGHWAY BRIDGE PROGRAM (HBP)
BRIDGE PREVENTIVE MAINTENANCE PROGRAM (BPMP)
TOTAL PROJECT COST ESTIMATE (TPCE)

LONG BEACH PUBLIC WORKS (PHASE I)
8/20/14

Preliminary Engineering (PE)		614,400
Construction Contract	4,474,563	
Construction Contingency (CONT) - (25% of Construction Contract)	1,118,641	
Construction Engineering (CE) - (15% of Construction Contract)	671,184	
Total Construction Cost		6,264,388
		6,878,788
Liability Surcharge (4% of PE and CE) ¹		51,423
Total Project Cost Estimate (TPCE)		6,930,000
Reimbursement		
HBP - BPMP (88.53% of qualifying ² Project Cost Estimate)		(6,090,000)
Total Reimbursement		(6,090,000)
Net City Cost (TPCE less Reimbursement)		840,000
	10% of TPCE	693,000
	Required City Deposit³	840,000

Notes

¹ Per City-County Assumption of Liability /Joint Indemnity Agreement

² Excludes any betterments and any costs/rates in excess of Federally approved

³ Net City Cost but not less than 10% of TPCE