

32714

AGREEMENT

REGARDING THE DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO CARSON STREET BY THE CITY OF LAKEWOOD ON BEHALF OF THE CITY OF LONG BEACH

THIS AGREEMENT is made and entered, in duplicate, as of February 21, 2012, 2012, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on February 14, 2012, by and between the CITY OF LONG BEACH, a municipal corporation ("CLB"), and the CITY OF LAKEWOOD, a municipal corporation ("LW"), pursuant to a minute order adopted by the City Council of the City of Lakewood at its meeting held on December 12, 2011. CLB and LW may hereinafter be referred to individually as "PARTY" or collectively as "PARTIES."

RECITALS

CLB and LW contemplate constructing street pavement improvements on Carson Street as set forth in Exhibit "A," referred to herein as "Project," and desire to specify terms and conditions under which Project is to be engineered, constructed and financed.

SECTION I

LW AGREES:

1. To act as lead agency for the Project and to provide all necessary plans and specifications, cost estimates, utility identification and location, and all necessary construction engineering/management services including all required Project accounting for Project.
2. To insure that the Project as designed will comply with all environmental approvals as required from Federal or State agencies for Project.
3. To obtain all required authorizations and permits from governmental agencies necessary to construct Project.
4. To obtain CLB's approval of final plans and specifications prior to Project being advertised for construction bids.
5. To not proceed with the construction of Project, or any phase of Project, until all necessary funding for Project has been identified and appropriated, including any required agreements for funding contributions by other agencies to Project.
6. Upon completion of Project, to furnish CLB a complete set of full-sized film positive reproducible as-built plans and the corresponding electronic files.

SECTION II

CLB AGREES

1. To provide to LW all available plans and survey data of existing CLB infrastructure necessary to design Project.
2. To pay CLB's prorated share of all Project design and construction administration costs with the prorated share based on the final ratio of construction costs between CLB and SB.
3. To review and approve plans, and issue no fee encroachment permits, within 30 days of receipt of final plans from LW.
4. Upon receipt of written invoice to deposit with LW, sufficient funds to finance CLB's estimated share of engineering, construction, and administration costs. Said amount is currently estimated at \$52,000 as shown in Exhibit "B".

SECTION III

IT IS MUTUALLY AGREED AS FOLLOWS:

1. LW's contract plans signed by CLB shall constitute CLB's acceptance of and official approval of said plans.
2. The duties of LW under this agreement may be performed either by LW employees or by persons or entities hired by LW through separate agreements. These agreements shall include a provision releasing CLB from liability and require that CLB be included as a co-obligee on all required bonds and insurance.
3. That in the construction of said work, LW will furnish a resident engineer and CLB shall furnish a representative. Said representative and resident engineer will cooperate and consult with each other, but the decisions of LW's resident engineer shall remain the sole and primary directive for all Project work. If material changes to the approved plans and specifications are required to complete the Project, and said changes will impact the proposed Project improvements within CLB's right-of-way, the LW resident engineer will obtain the CLB's representative approval before authorizing said changes. "Material changes" shall be defined as those that affect the design intent and increase the project cost.
4. That during the course of construction, CLB may request LW to include additional work in Project. Said work shall be considered a "betterment" if it is not directly required by the proposed work shown in Exhibit "A". In addition, the term betterment shall include any CLB funded work that CLB desires to have constructed concurrently with Project and for which

LW is able to reasonably accommodate in Project. Said betterment work shall be accounted for separately and not impact the authorized contingency for the project. LW may require a deposit from CLB for the estimated cost of betterment prior to authorization.

5. Prior to acceptance of the Project, as completed, under the terms of the Project's construction contract, LW will confer with CLB, in good faith, to obtain CLB's concurrence that those components of the Project that are located within CLB's right-of-way have been completed in substantial conformance with the approved plans and specifications. It is understood that CLB will not unreasonably withhold said concurrence. Should CLB and LW be unable to agree on Project completion as discussed herein, then CLB and LW shall meet and confer, in good faith, to resolve the disagreement.
6. If at the final Project accounting, LW's costs exceed CLB's deposit with LW, LW shall invoice CLB and CLB shall pay within thirty (30) days the difference. Conversely, if at final accounting, the amount of CLB's deposit with LW exceeds CLB's costs, LW shall refund the difference within thirty (30) days.
7. CLB shall review the final accounting invoice prepared by LW and report in writing to LW any discrepancies within thirty (30) days after the date of said invoice. Undisputed charges shall be paid in accordance with this Section.
8. Should any portion of Project be financed with funds with specific expenditure requirements or limitations, all applicable laws, regulations and policies relating to the use of such funds shall apply notwithstanding other provisions of this Agreement.
9. Neither LW nor any officer or employee of LW shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of CLB delegated to or determined to be the responsibility of CLB under this Agreement. Pursuant to Government Code Section 895.4, CLB shall indemnify, defend and hold SB 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 CLB delegated to or determined to be the responsibility of CLB under this Agreement.
10. Neither CLB nor any officer or employee of CLB shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of LW delegated to or determined to be the responsibility of LW under this Agreement. Pursuant to Government Code Section 895.4, LW shall indemnify, defend and hold CLB 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 LW delegated to or determined to be the responsibility of LW under this Agreement.
11. Every notice, demand, request, or other document or instrument delivered pursuant to this Agreement shall be in writing, and shall be either personally delivered by Federal Express or other reputable overnight courier, sent by facsimile transmission with telephonic confirmation of actual receipt and the original subsequently delivered by other means, or

sent by certified United States mail, postage prepaid, return receipt requested, to the addresses set forth below, or to such other address as a party may designate from time to time:

City Of Long Beach
Pat West
City Manager
333 West Ocean Blvd
Long Beach, CA 90802

City of Lakewood
Howard Chambers
City Manager
5050 Clark Avenue,
Lakewood, CA 90712

12. This Agreement constitutes the entire understanding and agreement of the Parties and integrates all of the terms and conditions mentioned herein or incidental hereto with respect to the subject matter hereof, and supersedes all negotiations or previous agreements between the Parties with respect to all or part of the subject matter hereof.
13. This Agreement may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by both Parties.
14. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall continue in full force and effect, unless both Parties would be materially altered or abridged by such interpretation.
15. This Agreement shall be construed and enforced in accordance with the laws of the State of California.
16. Except as set forth herein, no Party shall assign or otherwise transfer this Agreement or its right of interest or any part thereof to any third party without the prior written consent of the other Party. Such consent shall not be unreasonably withheld. No assignment of this Agreement shall relieve the assigning Party of its obligations until such obligations have been assumed in writing by the assignee. When duly assigned in accordance with the forgoing, this Agreement shall be binding upon and inure to the benefit of the assignee.
17. This Agreement shall commence on the date first approved and shall terminate upon LW's acceptance of the constructed improvements and final accounting for the Project

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers as of the date first written above.

CITY OF LONG BEACH

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

By [Signature] **Assistant City Manager**
City Manager

Attest:

[Signature]
City Clerk

Approved as to Form:

[Signature]
City Attorney

APPROVED AS TO FORM

3/13, 2012
ROBERT E. SHANNON, City Attorney

By [Signature]
LINDA BRANT
CITY ATTORNEY

CITY OF LAKEWOOD

By [Signature] **Howard L. Chambers**
City Manager

Attest:

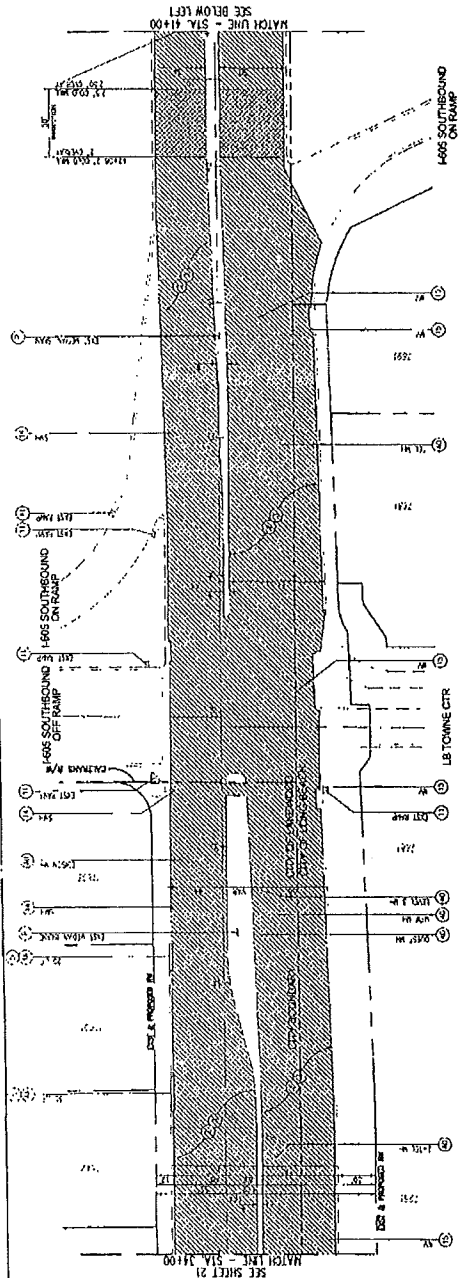
[Signature]
Deputy City Clerk

Approved as to Form:

[Signature]
City Attorney

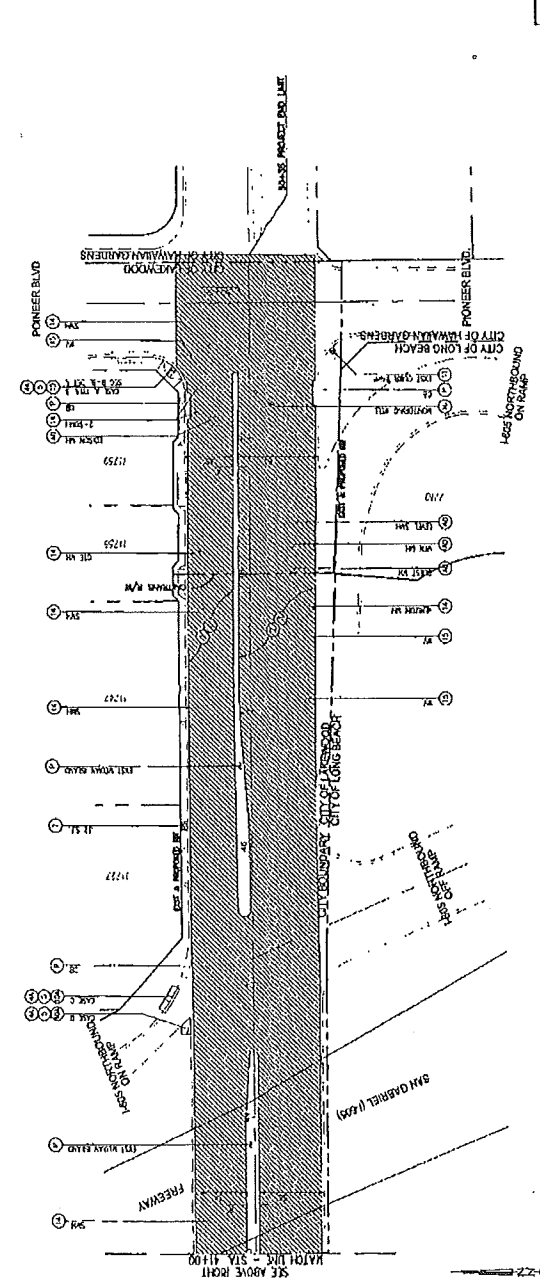
CONSTRUCTION NOTES

1. PROVIDE 4" BENCH
2. ALL NEW PAVEMENT AND FINISHES SHALL BE PERMANENT AND SHALL BE CONSTRUCTED ON SUBGRADE
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STREET

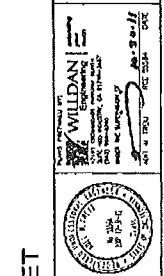
CARSON



NO.	REVISIONS	DATE

CITY OF LAKEWOOD
STREET RESURFACING
IN
CARSON STREET
 FROM STA 34+00 TO PIONEER BOULEVARD

DATE: 01/11/11
 DRAWN BY: J. J. JENSEN
 CHECKED BY: J. J. JENSEN
 PROJECT NO.: 5HT-220-45 SH-1'S
 PLAN NO.: PW 10-02



APPROVED BY:
 CITY OF LONG BEACH
[Signature]

NOTE: EXISTING UTILITY FACILITIES HAVE NOT BEEN PLOTTED ON THESE PLANS.



**ENGINEER'S ESTIMATE
STREET RESURFACING
ON PORTION OF CARSON STREET**

IN THE CITY OF LONG BEACH

FEDERAL PROJECT NO. STPL-5315(012)

PUBLIC WORKS PROJECT NO. PW10-02

ITEM NO.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	ITEM PRICE	TOTAL
6	Cold mill existing AC pavement, 2-inch uniform depth.	SF	37,310	\$ 0.20	\$ 7,462.00
8	Asphalt-Rubber Hot Mix overlay.	TON	470	\$ 80.00	\$ 37,600.00
18	Install detectable warning surface (truncated dome) on existing curb ramps, truncated dome at existing curb ramps per SPPWC Std. Plan No. 111-3.	EA	7	\$ 400.00	\$ 2,800.00
20	Adjust to grade manhole.	EA	2	\$ 350.00	\$ 700.00
21	Adjust water valve or gas valve frame and cover to grade.	EA	9	\$ 85.00	\$ 765.00
24P	Signing and striping.	LS	1	\$ 2,273.00	\$ 2,273.00
25	Inductive loop detectors, Type E.	EA	2	\$ 200.00	\$ 400.00
TOTAL					\$ 52,000.00

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