



MARK PESTRELLA, Director

**COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS**

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone (626) 458-5100
<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE

July 16, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

26 July 16, 2019


CELIA ZAVALA
EXECUTIVE OFFICER

**CONSTRUCTION CONTRACT
TRANSPORTATION CORE SERVICE AREA
DELEGATE AUTHORITY TO EXECUTE A FUNDING AGREEMENT
DELEGATE AUTHORITY TO ADOPT, ADVERTISE, AND AWARD
SOUTH WHITTIER LOS NIETOS – KEITH DRIVE, ET AL.**

PROJECT ID NO. RMD4408001

**IN THE CITY OF WHITTIER AND UNINCORPORATED COMMUNITIES OF SOUTH WHITTIER
AND WEST WHITTIER/LOS NIETOS
(SUPERVISORIAL DISTRICT 4)
(3 VOTES)**

SUBJECT

Public Works is seeking Board approval to enter into a cooperative financial agreement with the City of Whittier and to carry out accelerated delivery of the South Whittier Los Nietos – Keith Drive, et al., project in the City of Whittier and unincorporated communities of South Whittier and West Whittier/Los Nietos.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the proposed project is exempt from the provisions of the California Environmental Quality Act for the reasons stated in this Board letter and in the record of the project.

2. Delegate authority to the Director of Public Works or his designee to enter into a cooperative financial agreement with the City of Whittier to provide financing and delegation of responsibilities for the design and construction of the South Whittier Los Nietos - Keith Drive, et al. project.
3. Delegate authority to the Director of Public Works or his designee to enter into amendments or modifications of a nonmaterial nature to the cooperative agreement to incorporate necessary programmatic and administrative changes.
4. Approve the project and delegate authority to the Director of Public Works or his designee to adopt the plans and specifications and advertise for bids at an estimated construction contract cost in the range of \$13,000,000 to \$18,000,000.
5. Delegate authority to the Director of Public Works or his designee to determine whether the bid of the apparent responsible contractor with the lowest apparent responsible bid is, in fact, responsive, and if not responsive to determine which apparent responsible contractor submitted the lowest responsive bid.
6. Delegate authority to the Director of Public Works or his designee to award and execute a construction contract with the responsible contractor with the lowest responsive bid within or less than the estimated cost range for the project.
7. Delegate to the Director of Public Works or his designee the following authority in connection with this contract: (1) extend the date and time for the receipt of bids consistent with the requirements of State Public Contract Code, Section 4104.5; (2) allow substitution of subcontractors and relief of bidders upon demonstration of the grounds set forth in State Public Contract Code, Sections 4100 et seq. and 5100 et seq., respectively; (3) approve and execute change orders within the same monetary limits delegated to the Director of Public Works under Section 2.18.050 of the Los Angeles County Code relative to the construction of County buildings; (4) accept the project upon its final completion; and (5) release retention money withheld consistent with the requirements of State Public Contract Code, Sections 7107 and 9203.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommended action will find the project exempt from the California Environmental Quality Act (CEQA) and allow Public Works to reconstruct roadway pavement, repair damaged concrete improvements, and upgrade curb ramps to current standards along 9.7 miles of local streets within the City of Whittier and the unincorporated County communities of South Whittier/Los Nietos and West Whittier. Prior to the start of construction, Public Works will remove a total of 84 parkway trees due to damage to sidewalks and/or curbs and gutters. No less than 84 parkway trees will be planted as part of the project where there is available space.

Delegating to Public Works the authority to enter into a cooperative financial agreement with the City of Whittier, adopt the plans and specifications, advertise for construction bids, and award the construction contract will allow Public Works to deliver the project in an expedited manner, meeting commitments to the community of a December 2019 start of construction.

It is anticipated the work will start in December 2019 and be completed in March 2021.

Implementation of Strategic Plan Goals

The County Strategic Plan directs the provision of Strategy III.3, Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability, Objective III.3.2, Manage and Maximize County Assets. The recommended action supports ongoing efforts to manage and improve public infrastructure assets.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund.

The estimated construction contract cost to complete this project in the Fourth Supervisorial District is in the range of \$13,000,000 to \$18,000,000. The total project cost is estimated to be \$18,500,000. In addition to the construction contract cost, the total project cost includes preparation of plans and specifications, consultant services, survey, environmental clearance, right-of-way and utility clearances, inspection, contract administration, change order contingency, and other County services.

A portion of this project is within the City of Whittier. The City-County cooperative agreement provides for the County to perform the preliminary engineering and administer the construction of the project with the City and the County to fund their jurisdictional shares of the project cost estimated to be \$250,000 and \$18,250,000, respectively.

The County's share of the project cost will be funded with the State of California Road Maintenance and Rehabilitation Account funds allocated to the County under the Road Repair and Accountability Act of 2017 (Senate Bill 1). Funding for this project is included in the Road Fund Fiscal Year 2019-20 Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This project will be advertised in accordance with Section 20392 of the State Public Contract Code.

The contract award will comply with applicable Federal and State requirements and Board policies and mandates. The contract documents will require the contractor to comply with these same requirements, policies, and mandates. The construction contract will be in the form previously reviewed and approved as to form by County Counsel.

As required by Board Policy No. 5.140, information such as defaulted contracts with the County, complaints filed with the Contractors State License Board, labor violations, and debarment actions will be considered before a contract is awarded.

The proposed cooperative agreement with the City of Whittier provides for the County to perform the preliminary engineering and administer construction of the project with the City and the County to finance their respective jurisdictional shares of the cost of the project.

The proposed cooperative agreement (substantially similar to the enclosed) will be approved by County Counsel prior to execution by the Director or his designee.

ENVIRONMENTAL DOCUMENTATION

The proposed project is exempt from CEQA. The project to reconstruct roadway pavement, curbs, gutters, and sidewalks, and the removal and replacement of those trees which are the cause of damage requiring the reconstruction is within a class of projects that have been determined not to have a significant effect on the environment and which meets the criteria set forth in Section 15301 (c) and (h) of the State CEQA Guidelines and Class 1 (x), Subsections 9, 14, and 22 of the County's Environmental Document Reporting Procedures and Guidelines, Appendix G. In addition, based on the proposed project records, it will comply with all applicable regulations, and there are no cumulative impacts, unusual circumstances, damage to scenic highways, listing on hazardous waste site lists compiled pursuant to Government Code Section 65962.5, or indications that it may cause a substantial adverse change in the significance of a historical resource that would make the exemption inapplicable.

CONTRACTING PROCESS

In accordance with the Board's consolidated Local and Targeted Worker Hire Policy, the contract documents will require that at least 30 percent of the total California craft worker hours for construction of the project be performed by Local Residents and at least 10 percent be performed by Targeted Workers facing employment barriers.

To increase contractor awareness of Public Works' program to contract work out to the private sector, this project will be listed on both the County's "Doing Business with the County" and "Public Works Business Opportunities" websites for open bids:

<http://www.lacounty.gov/business/doing-business-with-the-county>

<http://pw.lacounty.gov/general/contracts/opportunities>

Also, the contract solicitation will be advertised through web-based and social media platforms, including Twitter.

In addition, in order to increase opportunities for small businesses, Public Works will be coordinating with the Office of Small Business at the Department of Consumer and Business Affairs to maximize outreach, as well as offering preferences to Local Small Business Enterprises, Social Enterprises and Disabled Veteran Business Enterprises in compliance with Los Angeles County Code, Chapters 2.204, 2.205, and 2.211.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

When the project is completed, it will have a positive impact by increasing the service life of roadway pavements and by improving rideability and the level of comfort for motorists and nearby residents by providing smooth-riding pavement.

CONCLUSION

Please return an adopted copy of this letter to Public Works, Construction Division.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Pestrella". The signature is fluid and cursive, with the first name "Mark" and last name "Pestrella" clearly distinguishable.

MARK PESTRELLA

Director

MP:SRB:tma

Enclosures

c: Chief Executive Office (Chia-Ann Yen)
County Counsel
Executive Office
Internal Services Department (Countywide
Contract Compliance)

AGREEMENT

THIS AGREEMENT (hereinafter referred to as AGREEMENT) is made and entered into by and between the CITY OF WHITTIER, a municipal corporation in the County of Los Angeles (hereinafter referred to as CITY), and the LOS ANGELES COUNTY, a political subdivision of the State of California (hereinafter referred to as COUNTY):

WITNESSETH

WHEREAS, CITY and COUNTY propose to improve the following street segments that are on the Highway Element of CITY's General Plan and on COUNTY'S Highway Plan and are jurisdictionally shared between CITY and COUNTY; and

Street Name	Limits	Scope of Work	Jurisdiction
GRETNA AV	0735 N KEITH DR - 0810 N KEITH DR	Mill and Fill/Recon	50% City/50% County
GRETNA AV	0810 N KEITH DR - PRATHER AV	Mill and Fill/Recon	50% City/50% County
GRETNA AV	PRATHER AV - WHITTIER BL	Mill and Fill/Recon	50% City/50% County
GLENGARRY AV	0155 N BEXLEY DR - LOCH AVON DR	Mill and Fill/Recon	50% City/50% County
GLENGARRY AV	0320 S RINCON DR - WHITTIER BL	Mill and Fill/Recon	50% City/50% County
GLENCANNON DR	NORWALK BL - 100 E NORWALK BL	Mill and Fill	100% City
GLENCANNON DR	0100 E NORWALK BL - 280 W LOCH AVON DR	Mill and Fill/Recon	50% City/50% County
LOCH AVON DR	NORWALK BL - 100 E NORWALK BL	Mill and Fill	100% City
Alleys			
AS/HADLEY ST	AN/SEE DR - PRATHER AV	Reconstruction	50% City/50% County
AN/SEE DR	AS/HADLEY ST - GRETNA AV	Reconstruction	50% City/50% County

WHEREAS, the scope of work for street segments within CITY jurisdiction consist of cold milling the existing pavement and resurfacing the cold milled pavement with asphalt rubber hot mix and for the alleys that are jurisdictionally shared between the CITY and COUNTY is to reconstruct the existing asphalt pavement with Portland cement concrete on base material; and

WHEREAS, the scope of work for street segments within COUNTY jurisdiction includes pulverizing and stabilizing the existing pavement with the underlying base material and/or soil to produce cement stabilized pulverized base and resurfacing with asphalt rubber hot mix; and

WHEREAS, the scope of work further includes other roadway improvements consisting of reconstruction of sidewalk, curb and gutter, driveways, cross gutters, curb ramps, planting trees, tree root pruning, and stump removal, all the aforementioned

work together within CITY and COUNTY jurisdictions hereinafter referred to as PROJECT and is included in a COUNTY-administered project named Keith Avenue, et al.; and

WHEREAS, PROJECT is within the shared 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, solicitation of construction bids and award of construction contract, and CONTRACT ADMINISTRATION for PROJECT; 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, as defined herein, is currently estimated to be Eighteen Million and Five Hundred Thousand and 00/100 Dollars (\$18,500,000.00) with CITY'S estimated share being Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) and COUNTY'S estimated share being Eighteen Million Two Hundred Fifty Thousand and 00/100 Dollars (\$18,250,000.00); and

WHEREAS, CITY and COUNTY are willing to finance their respective shares of COST OF PROJECT within their JURISDICTIONS; and

WHEREAS, CITY'S estimated share is the sum of the costs of actual quantities of construction contract items utilized within CITY jurisdiction plus ten (10) percent of that for PRELIMINARY ENGINEERING cost, fifteen (15) percent of that for CONSTRUCTION ADMINISTRATION cost, and four and half (4.5) percent of combined costs of PRELIMINARY ENGINEERING and CONSTRUCTION ADMINISTRATION towards contract city liability trust fund altogether estimated to be Two Hundred and Fifty Thousand and 00/100 Dollars (\$250,000.00); 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 mentioned in this AGREEMENT.

- b. PRELIMINARY ENGINEERING as referred to in this AGREEMENT shall consist of environmental findings and approvals/permits; design survey; soils report; traffic index and geotechnical investigation; preparation of plans, specifications, and cost estimates; right-of-way engineering; utility engineering; 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, and the cost of any additional unforeseen work that is 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 and coordination matters, 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 acquisition and clearance matters, 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. 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 purpose of operation and maintenance.
- 2) CITY AGREES:
- a. To review and approve PRELIMINARY ENGINEERING prepared by COUNTY.

- b. To finance CITY'S jurisdictional share of COST OF PROJECT, the actual amount of which is to be determined by a final accounting, pursuant to paragraph 4) b., below.
- c. To deposit with COUNTY, following execution of this AGREEMENT and upon demand by COUNTY, CITY funds in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) hereinafter referred as (CITY'S PAYMENT). Said demand will consist of a billing invoice prepared by COUNTY and delivered to CITY.
- 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 provide COUNTY with conditions for issuance of encroachment, excavation, and construction permit and any other special conditions at the time of plan approval for construction bids so that the permit conditions are fully incorporated into the PROJECT'S plans and specifications that contractors or any other person in charge of construction shall have no merit to request change in work compensation.
- f. Upon approval of construction plans for PROJECT and receipt of permit application from COUNTY or its PROJECT contractor, to issue COUNTY a no-fee permit(s) authorizing COUNTY to construct those portions of PROJECT within CITY'S JURISDICTION.
- g. To appoint COUNTY as CITY'S attorney-in-fact for 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.
- h. 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.

- i. Notwithstanding any other provisions of this agreement to the contrary, 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.
 - j. Upon completion of PROJECT to accept full and complete ownership of PROJECT within CITY'S jurisdiction, and 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 finance COUNTY'S jurisdictional share of COST OF PROJECT, COUNTY'S actual share will be determined by a final accounting pursuant to paragraph 4) b., below.
 - c. To obtain CITY'S approval of plans for PROJECT prior to solicitation 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 require construction contract to name CITY as an additional insured for the PROJECT.
 - f. To provide all change orders for PROJECT within CITY'S JURISDICTION to CITY in a timely manner via electronic mail notification to the CITY inspector/office engineer assigned to the PROJECT. If CITY does not respond within ten (10) calendar days, COUNTY may proceed with change orders.
 - 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 acceptance of PROJECT by COUNTY, 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'S 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 the actual total COST OF PROJECT shall allocate said total cost between CITY and COUNTY based on the location of the improvements and/or work done. Thus, the cost of all work or improvements (including all engineering, administration, and all other costs incidental to PROJECT work) located within CITY'S JURISDICTION shall be borne by CITY. Such costs constitute CITY'S jurisdictional share of the COST OF PROJECT. The cost of all work or improvements (including all engineering, administration, and all other costs incidental to PROJECT work) located within COUNTY'S JURISDICTION shall be borne by COUNTY. Such costs constitute COUNTY'S jurisdictional share of the COST OF PROJECT.
 - b. That if at final accounting CITY'S jurisdictional share of COST OF PROJECT exceeds CITY'S PAYMENT, as set forth in paragraph 2) b., above, CITY shall pay to COUNTY the additional amount upon demand. Said demand shall consist of a billing invoice prepared by COUNTY. Conversely, if the CITY'S jurisdictional share is less than CITY'S PAYMENT, COUNTY shall refund the difference to CITY without further action by CITY.
 - c. That 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 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.
 - d. 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.
 - e. 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 prepared by COUNTY and delivered to CITY.

- f. 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.
- g. This AGREEMENT 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.
- h. Each party shall have no financial obligation to the other party under this AGREEMENT, except as herein expressly provided.
- i. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY: Mr. David Schickling
Director of Public Works/City Engineer
City of Whittier
13230 Penn Street
Whittier, CA 90602-1772

COUNTY: Mr. Mark Pestrella
Director of Public Works
County of Los Angeles
Department of Public Works
P.O. Box 1460
Alhambra, CA 91802-1460

- j. 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.

- k. 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.

- l. 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. 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.

- m. 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 that is not within the CITY'S JURISDICTION or arising from acts or omissions on the part of the COUNTY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of the COUNTY under this AGREEMENT, 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.

- n. 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.
- o. The provisions of this AGREEMENT shall supersede and control over any provisions inconsistent herewith in the Assumption of Liability Agreement 32044 between CITY and COUNTY, adopted by the Board of Supervisors on November 14, 1977, and currently in effect.
- p. That the County of Los Angeles authorizes the Director of the County of Los Angeles Department of Public Works to assign to the City of Whittier all of its right, title, and interest in any unexpired portion of the one-year warranty granted to the County of Los Angeles by the construction contractor performing the road improvement work. This assignment is effective following completion of PROJECT.

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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 WHITTIER on _____, 2019, and by the COUNTY OF LOS ANGELES on _____, 2019.

COUNTY OF LOS ANGELES

By _____
Director of Public Works

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By _____
Deputy

CITY OF WHITTIER

By _____
Mayor

Date

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney