

**COOPERATIVE AGREEMENT  
BETWEEN CITY OF YORBA LINDA AND CITY OF ANAHEIM FOR COST SHARE,  
FUNDING AND ENGINEERING OF YORBA LINDA BOULEVARD/WEIR CANYON  
ROAD WIDENING FROM LA PALMA AVENUE TO SANTA ANA CANYON ROAD**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2022 by and between the City of Anaheim, a municipal corporation and charter city (“ANAHEIM”) and the City of Yorba Linda, a municipal corporation and charter city (“YORBA LINDA”).

A. Recitals.

1. YORBA LINDA, in cooperation with ANAHEIM, are improving traffic operations and congestion via the Yorba Linda Boulevard/Weir Canyon Road Widening from La Palma Avenue to Santa Ana Canyon Road (“PROJECT”). A map depicting the PROJECT area is attached hereto and incorporated herein by this reference as **Exhibit A**.

2. The PROJECT was selected as part of the Measure M2 Regional Capacity Program (Project O) programming for Fiscal Year 20/21. The PROJECT is eligible to receive Orange County Transportation Authority (OCTA) Measure M2 funds, provided that local government can provide matching funds.

3. The preliminary PROJECT engineering design phase cost is approximately \$2,182,000. Final PROJECT engineering cost shall be based on the actual cost at PROJECT completion. Preliminary PROJECT costs for all phases of the PROJECT are referenced in **Exhibit B**.

4. YORBA LINDA is willing to act as the lead agency for the PROJECT for the engineering design phase (and all future PROJECT phases unless otherwise indicated in this Agreement), providing for engineering design and project management. Yorba Linda has secured One Million, Six Hundred Thirty-Six Thousand and Five Hundred Dollars (\$1,636,500) in Measure M2 Funds for engineering design phase, contingent upon Yorba Linda providing the requisite Local Matching Funds (“LOCAL MATCHING FUNDS”) of Five Hundred Forty-Five Thousand and Five Hundred Dollars (\$545,500).

5. ANAHEIM has indicated its willingness to provide that portion of the LOCAL MATCHING FUNDS equal to approximately Two Hundred Forty-Five Thousand and Four Hundred Seventy-Five Dollars (\$245,475). For the engineering design phase, the cost share percentages are based upon proposed physical work within each city boundary, with the exception of the widening of the Yorba Linda Boulevard Bridge (the “Bridge”) over the Santa Ana River. The Bridge is being widened only on one side of the Bridge instead of a symmetrical widening on both sides. Therefore, the Bridge area calculation factors this into consideration, distributing ½ of design costs for the widening to each City within the limits of the shared jurisdiction on the Bridge. The basis for cost share percentage explained herein is not intended to apply to future PROJECT phases. Cost share breakdown for future phases of PROJECT, including but not limited to right-of-way acquisition and construction, are referenced in **Exhibit A**.

6. ANAHEIM and YORBA LINDA shall use best efforts to secure grant funding for PROJECT future phases to offset total PROJECT costs. Cost share percentages may

be amended upon mutual agreement of ANAHEIM and YORBA LINDA. ANAHEIM's maximum contributions to future PROJECT phases will be based on the cost share distributions of those PROJECT phases referenced in **Exhibit A** and are only intended to serve as a local match for potential grant funding.

7. It is the intent of ANAHEIM and YORBA LINDA by entering this Agreement to set forth terms and conditions applicable to ANAHEIM and YORBA LINDA'S provision of services necessary to complete the PROJECT, to benefit ANAHEIM and YORBA LINDA.

B. Agreement.

NOW, THEREFORE, ANAHEIM and YORBA LINDA agree as follows:

1. Duties of YORBA LINDA:

- a. YORBA LINDA shall serve as lead agency for design and project management for the engineering design phase, and all future phases of the PROJECT (unless otherwise provided in this Agreement) and shall provide oversight by establishing PROJECT milestones and overseeing the PROJECT development to ensure that all standards and requirements set forth by the AGREEMENT are adhered to.
- b. Provide ANAHEIM a copy of all design documents for approval of work to be performed in ANAHEIM's jurisdiction.
- c. YORBA LINDA shall be responsible for completing the PROJECT in accordance with the funding guidelines and any and all other applicable federal, state, local and OCTA statutes, laws and regulations.
- d. YORBA LINDA shall provide staff and consultants deemed necessary and appropriate to manage, administer, coordinate, and oversee engineering design and project management of the PROJECT. YORBA LINDA shall require all such consultants to obtain and maintain comprehensive general liability, automobile liability, workers' compensation and employers' liability, and professional liability insurance policies meeting the applicable requirements of the Consultant Contract and for the PROJECT and to indemnify, defend and hold ANAHEIM and its elected officials, officers, employees, agents and volunteers ("Indemnitees") free and harmless, including payment of attorneys' and experts' fees, with respect to any and all claims and liabilities of any kind arising out of each such contractor's acts or omissions in the performance of work on the PROJECT, to the maximum extent permitted by law. YORBA LINDA shall require all such consultants to name the Indemnitees as additional insureds on all commercial general and automobile liability policies required by ANAHEIM for the PROJECT.
- e. The budget for the PROJECT engineering design phase is Two Million, One Hundred Eighty-Two Thousand Dollars (\$2,182,000), of which Five Hundred Forty-Five Thousand and Five Hundred Dollars (\$545,500) shall be provide by the LOCAL MATCHING FUNDS. YORBA LINDA'S share of LOCAL MATCHING FUNDS is approximately Three Hundred Thousand and

Twenty-Five Dollars (\$300,025). YORBA LINDA'S final cost shall be based on actual cost at PROJECT completion and the balance of the LOCAL MATCHING FUNDS.

- f. YORBA LINDA, at all times, shall maintain coordination with ANAHEIM relative to the PROJECT.
- g. Provide one invoice to ANAHEIM for work done at the completion of the PROJECT.

## 2. Duties of ANAHEIM:

- a. By execution of this Agreement, designate YORBA LINDA as the lead agency for the purpose of accomplishing the PROJECT. ANAHEIM could, at the request of Yorba Linda and mutual agreement of both cities, allow use of ANAHEIM's on-call consultant pool to serve the needs of the PROJECT. In such case, ANAHEIM shall serve as project manager for the on-call consultant under their contract with the consultant.
- b. Pay its pro-rata share of the PROJECT engineering costs for work performed by YORBA LINDA for engineering design phase within the boundaries of ANAHEIM, equal to approximately Two Hundred Forty-Five Thousand and Four Hundred Seventy-Five Dollars (\$245,475). ANAHEIM'S final cost shall be based upon actual cost at PROJECT completion. Any costs which exceed Two Hundred Forty-Five Thousand and Four Hundred Seventy-Five Dollars (\$245,475) shall require prior written approval by ANAHEIM'S Public Works Director and such costs shall not exceed a total amount of Three Hundred Thousand (\$300,000) for the engineering design phase.
- c. Act, at its discretion, as lead agency and fund all improvements associated with the Weir Canyon/Santa Ana Canyon Road intersection, including but not limited to right-of-way acquisition and construction, as referenced within **Exhibit A**.
- d. Provide all ANAHEIM owned right-of-way necessary to implement the PROJECT at no cost to the PROJECT or YORBA LINDA, provided however, that the existing ownership of the right-of-way belongs to ANAHEIM.
- e. Make final payment to YORBA LINDA within forty-five (45) days after receiving invoice.

## 3. Mutual obligations and general terms:

- a. YORBA LINDA is hereby designated as Project Engineer to perform all tasks necessary to prepare construction plans, specifications and cost estimates in accordance with criteria set forth in the current edition of the City Standard Plans, County of Orange Highway Design Manual, County of Orange Standard Plans, latest editions of Caltrans Manuals, Caltrans Standard Plans and Standard Specifications for Public Works Construction.
- b. YORBA LINDA'S City Engineer or designee shall submit Project plans, specifications, and engineer's estimate to ANAHEIM for review and approval. ANAHEIM shall promptly review the submittals of plans and special provisions for work within their respective roadways and either approve or provide comments on said plans and special provisions within the allotted time, but not to exceed twenty (20) business days of receipt of such plans and special provisions from YORBA LINDA. It is expected that reviews will be requested at the 35%, 65% and 95%/100% stage. Should City fail to provide timely comments on, and/or approval of these plans or special provisions in accordance with this time period, YORBA LINDA may make a written demand to ANAHEIM for a

response. If City thereafter fails to provide comments on, and/or approve such plans or special provisions within twenty (20) business days of receipt of such demand, such plans or special provisions shall be deemed approved by the ANAHEIM.

- c. Within forty-five (45) days after completion of and acceptance of the work by YORBA LINDA, its Director of Public Works shall notify ANAHEIM in writing, of the date thereof and the probable date that a final accounting of ANAHEIM'S share of the cost of the PROJECT will be submitted. If outstanding charges (such as consultant's change orders) delay the final accounting, YORBA LINDA shall so advise ANAHEIM and a final accounting shall be presented within ninety (90) days from the date of completion of the Project.
- d. ANAHEIM shall have the right to review all invoices, warrants and other related documents used in preparing the final accounting.
- e. YORBA LINDA and ANAHEIM shall cooperate to the fullest extent possible in seeing the PROJECT to completion.
- f. To the fullest extent permitted by law, ANAHEIM shall defend, indemnify and hold harmless YORBA LINDA, its officers, officials, employees, and agents, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged, or threatened, actual attorney's fees incurred by YORBA LINDA, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation, and to the extent incurred in relation to, as a consequence of, arising out of or in any way attributable, actually, allegedly or impliedly, to the negligence of ANAHEIM in its performance of this Agreement. All obligations under this provision are to be paid by ANAHEIM as they are incurred by YORBA LINDA.
- g. This Agreement supersedes any and all other agreements, either oral or in writing, between parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein, nor any other agreement, statement, or promise not contained in this Agreement shall be effective unless it is in writing signed by all parties.
- h. The term of this Agreement shall commence upon the date of mutual execution and shall continue thereafter until performance by both parties has been completed in compliance with this Agreement, unless sooner terminated in accordance with this subsection. Unless otherwise agreed upon in writing, either party may immediately terminate for a material breach by the other that remains uncured following service of not less than ten (10) days prior written notice of such breach. In addition, this Agreement may be terminated by either party upon thirty (30) days prior written notice.
- i. Notices permitted or required to be provided pursuant to this Agreement shall be sent to the following addresses:

YORBA LINDA:

ANAHEIM:

City of Yorba Linda  
Attention: Director of Public Works  
4845 Casa Loma Ave.  
YORBA LINDA, California 92886

City of Anaheim  
Attention: Director of Public Works  
200 S. Anaheim Blvd.  
Anaheim, California 92805-5009

By notice to the other party, either party may, change the address specified above. Service of notice or communication shall be complete, if personally served, when received at the designated address, or five (5) days after deposit of said notice or communication in the United States mail, postage prepaid, whichever occurs first.

- j. The parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary to this Agreement, or as a result of any duty, covenant, obligation or undertaking established herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized officers this \_\_\_\_ day of \_\_\_\_\_ 2022.

CITY OF ANAHEIM,  
a municipal corporation

By:

\_\_\_\_\_

Attest:

\_\_\_\_\_  
Theresa Bass, City Clerk

Approve as to Form:  
ROBERT FABELA, CITY ATTORNEY

By: \_\_\_\_\_  
Bryn M. Morley, Deputy City  
Attorney

Date: \_\_\_\_\_

CITY OF YORBA LINDA  
A Municipal Corporation

\_\_\_\_\_  
City Manager

ATTEST:

---

City Clerk

APPROVED AS TO FORM:

---

City Attorney

Attachment: Exhibit A: PROJECT Location Map and Cost Share Breakdown  
Exhibit B: Preliminary Costs