

**CITY OF LA MIRADA  
JOINT PARTICIPATION AGREEMENT**

**CAPITAL IMPROVEMENT PROJECT NO. 2021-05**

THIS Agreement is made and entered into this 11th day of January, 2022 by and between the City of La Mirada, a municipal corporation ("LA MIRADA") and the City of Buena Park, a municipal corporation ("BUENA PARK"). LA MIRADA and BUENA PARK are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

**A. Recitals.**

WHEREAS, LA MIRADA has heretofore approved plans and specifications for Capital Improvement Project No. 2021-05, Neighborhood Slurry Seal Area 3 ("La Mirada Project");

WHEREAS, the center lines of Ocaso Avenue and Knott Avenue are included in the La Mirada Project and are located on the jurisdictional boundaries between LA MIRADA and BUENA PARK,

WHEREAS, BUENA PARK desires to participate in the La Mirada Project for purposes of completing similar improvements for that portion of Ocaso Avenue and Knott Avenue located along the western jurisdictional boundary of BUENA PARK and specifically on Ocaso Avenue from Alondra Boulevard to San Ardo Drive and Knott Avenue from the railroad tracks to Coyote Creek ("BUENA PARK PROJECT");

WHEREAS, LA MIRADA desires to allow BUENA PARK to participate in the improvements contemplated by the La Mirada Project by adding the Buena Park Project to the scope of work (the "PROJECT"), and it is the intent of LA MIRADA and BUENA PARK in entering this Agreement to set forth the terms and conditions by which the Parties will proceed with the PROJECT, and their respective rights and obligations with respect thereto.

**B. Agreement.**

NOW, THEREFORE, LA MIRADA and BUENA PARK agree as follows:

**1. Duties of LA MIRADA:**

- A. Prepare or cause to be prepared, all environmental documents, plans and specifications required for the PROJECT, subject to the reimbursement provisions contained herein.
- B. Pay its pro-rata share of the actual costs of design, construction and administration for work performed in connection with PROJECT design and administration except as paid or reimbursed by BUENA PARK as set forth below relating to the BUENA PARK PROJECT.

- C. Submit the plans and specifications, including an engineer's cost estimate of BUENA PARK's share of the costs, to BUENA PARK's Director of Public Works for approval prior to awarding a contract for the PROJECT.
  - D. Conduct public bidding as required by law, award a contract in accordance with this Agreement, and with the approved plans and specifications, and oversee and administer the contract for the PROJECT through completion of the PROJECT. All of the services required for completion of the PROJECT will be performed by the contractor selected by LA MIRADA under its supervision, and all personnel engaged in the work shall be qualified to perform such services.
  - E. At all times during the term of this Agreement, ensure its contractor shall have in full force and effect all licenses and permits required of it by law for performance of the PROJECT hereunder.
  - F. Provide accurate and detailed invoice(s) to BUENA PARK for work performed on the BUENA PARK PROJECT upon completion of the PROJECT.
  - G. Prior to commencing construction of the PROJECT, obtain or cause to be obtained insurance coverage from LA MIRADA's contractors, in the types and amounts subject to the reasonable satisfaction of BUENA PARK and approved in advance by BUENA PARK's Director of Risk Management, listing as additional insured BUENA PARK and its elected officials, officers, agents, employees and designated volunteers for the benefit of BUENA PARK and LA MIRADA, as required by the contract documents.
  - H. Shall comply with all applicable Federal, State, and local laws, rules, regulations, and ordinances, including workers' compensation and the payment of prevailing wages, while contracting for the PROJECT and performing pursuant to this Agreement.
2. Duties of BUENA PARK:
- A. By execution of this Agreement, designate LA MIRADA as the lead agency for the purpose of accomplishing the PROJECT.
  - B. Pay its pro-rata share of the actual demonstrated costs of design, construction and administration for work performed by LA MIRADA in connection with PROJECT's design and administration, based on the actual services performed within the boundaries of BUENA PARK. BUENA PARK understands and agrees that the engineer's estimate of PROJECT costs is only an estimate.
  - C. Make final payment to LA MIRADA within forty-five (45) days after receiving invoice(s) for services performed in completion of the BUENA PARK PROJECT, including a pro-rated share of the cost of preparing of all environmental documents. Payment will be made for the cost of BUENA PARK's pro-rata share

incurred within forty-five (45) days of receipt of the invoice with the final payment due within forty-five (45) days of receipt of a final invoice.

3. Mutual obligations and general terms:

- A. After LA MIRADA opens bids for the PROJECT following and in accordance with a solicitation that complies with applicable laws, regulations, and procedures, LA MIRADA shall transmit a tabulation of the bids to BUENA PARK's Director of Public Works for review and approval. BUENA PARK shall, within five (5) business days after receipt of the tabulation of bids, approve or disapprove the lowest responsive bidder selected by LA MIRADA, and the bid results, and notify LA MIRADA of its determination in writing; provided that, if the amount due by BUENA PARK exceeds the City Manager's contract authority under the Buena Park Municipal Code, BUENA PARK shall have five (5) days following the next regularly scheduled meeting of the BUENA PARK City Council within which to provide a response. LA MIRADA shall, thereafter, award the contract as required by law. In the event LA MIRADA and BUENA PARK cannot agree on which bidder shall be awarded the contract within the time provided by law to make the award without rejecting all bids, then BUENA PARK or LA MIRADA shall be authorized to terminate this Agreement without further obligation upon written notice.
- B. During construction, LA MIRADA shall furnish a resident engineer to perform the usual functions of a resident engineer. BUENA PARK may also, but is not obligated to, furnish its own respective engineer. Said resident engineers shall cooperate and consult with each other, but decisions of LA MIRADA's resident engineer shall be final as to the portions of the PROJECT located with LA MIRADA.
- C. A copy of the completed contract between LA MIRADA and the selected bidder shall be provided to BUENA PARK within five (5) business days of its execution. Any contract changes deemed necessary or advisable by LA MIRADA may be undertaken by LA MIRADA, except that any changes which may affect the construction of the BUENA PARK shall first be approved, in writing, by BUENA PARK. Any changes requested by BUENA PARK may, in LA MIRADA'S discretion, be approved and included provided that any resulting increase in cost due to the requested changes shall first be agreed upon in writing.
- D. BUENA PARK's pro-rata cost share shall consist of the cost for services provided only for the BUENA PARKPROJECT. The Parties agree that any costs or expenses arising from PROJECT change orders, delays, requests for information, or similar actions that increase the cost of the PROJECT, the same shall be allocated to the LA MIRADA PROJECT and/or BUENA PARK PROJECT, respectively and as applicable, and shall be subject to the approval of, and shall be paid by, LA MIRADA and/or BUENA PARK, respectively and as applicable.

- E. Within forty-five (45) days after completion and acceptance of the PROJECT by LA MIRADA, its Public Works Director/City Engineer shall notify BUENA PARK, in writing, of the date thereof and the probable date that a final accounting of BUENA PARK's share of the cost of the PROJECT will be submitted. If outstanding charges (such as contractor's claims and liens) delay the final accounting, LA MIRADA shall so advise BUENA PARK and a final accounting shall be presented within ninety (90) days from the date of completion of the work.
- F. BUENA PARK shall have the right to review all invoices, warrants and other related documents used in preparing the final accounting prior to remitting payment for its pro-rata share of the PROJECT.
- G. BUENA PARK and LA MIRADA shall cooperate to the fullest extent possible in seeing the PROJECT to completion. The Parties agree to first resolve any conflict through informal resolution by a meeting of each Party's Director of Public Works or his or her designee.
- H. To the fullest extent permitted by law, LA MIRADA shall defend, indemnify and hold harmless BUENA PARK, its elected officials, officers, agents, employees, and designated volunteers 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 attorneys fees incurred by BUENA PARK, 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 or willful misconduct of LA MIRADA arising from its performance of this Agreement. All obligations under this provision are to be paid by LA MIRADA as they are incurred by BUENA PARK.
- I. To the fullest extent permitted by law, BUENA PARK shall defend, indemnify and hold harmless LA MIRADA, its elected officials, officers, officials, agents, employees, and designated volunteers, 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 attorneys fees incurred by LA MIRADA, 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 or willful misconduct of BUENA PARK arising from its performance of this Agreement. All obligations under this provision are to be paid by BUENA PARK as they are incurred by LA MIRADA.
- J. This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between the Parties.

This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the Parties which expressly refers to this Agreement. Amendment on behalf of each Party will only be valid if signed by the appropriate officer of the Party as set forth in its respective Municipal Code and attested by the City Clerk.

- K. 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 the Agreement, unless sooner terminated in accordance with this Agreement. 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.
- L. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of California.
- M. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original and all of which together shall constitute one and the same instrument.
- N. If any provision or any part of any provision of this Agreement is found to be invalid or unenforceable, the balance of this Agreement shall remain in full-force and effect.
- O. Notices permitted or required to be provided pursuant to this Agreement shall be sent to the following addresses:

**LA MIRADA**

City of La Mirada  
Public Works Director/ City Engineer  
15515 Phoebe Avenue  
La Mirada, California 90638

**BUENA PARK**

City of Buena Park  
Director of Public Works  
6650 Beach Boulevard  
Buena Park, California 90622-5009

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

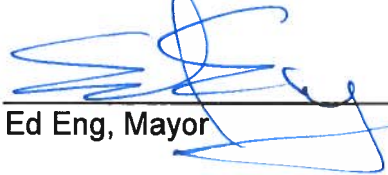
said notice or communication in the United States mail, postage prepaid, whichever occurs first.

- P. 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.
- Q. By entering into this Agreement, the Parties intend not to violate or cause a violation of the terms of collective bargaining or other labor agreements to which either may be a party, nor the policies, rules, and regulations governing the employees of either Party hereto. If any provision of this Agreement is inconsistent with such collective bargaining or other labor agreements, or of such policies, rules, and regulations, then the applicable provision of such collective bargaining or other labor agreements, and such policies, rules, and regulations shall take precedence for purposes of the construction of this Agreement.
- R. The person or persons executing this Agreement on behalf of each Party warrants and represents that he/she has the authority to execute this Agreement on behalf of the Party and has the authority to bind the Party to the performance of its obligations hereunder.

Joint Participation Agreement  
CIP No. 2021-05  
Neighborhood Slurry Seal Area 3

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their authorized officers.

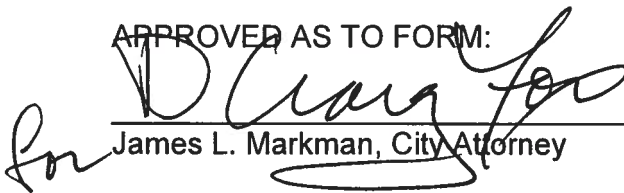
CITY OF LA MIRADA

  
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Ed Eng, Mayor

CITY OF BUENA PARK

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Sunny Park, Mayor

APPROVED AS TO FORM:

  
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for James L. Markman, City Attorney

APPROVED AS TO FORM:


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Christopher G. Cardinale, City Attorney

ATTEST:

  
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Anne Haraksin, City Clerk

Dated: 3/20/2020

ATTEST:

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Adria M Jimenez, MMC, City Clerk

Dated: 2/9/2022