

COOPERATIVE AGREEMENT

FOR PROJECT No. 174-46022

BY AND BETWEEN

THE CITY OF FULLERTON

AND

THE CITY OF LA HABRA

FOR THE

GILBERT STREET/IDAHO STREET CORRIDOR PROJECT

REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM

THIS COOPERATIVE AGREEMENT is effective the _____ day of _____, 2018, by and between the City of Fullerton, hereinafter referred to as “FULLERTON” and the City of La Habra, hereinafter referred to as “LA HABRA”. Collectively, FULLERTON and LA HABRA may be referred to as the “PARTIES” or individually as a “PARTY”.

RECITALS

WHEREAS, the Measure M2 Regional Traffic Signal Synchronization Program (RTSSP) targets over 2,000 signalized intersections across Orange County to maintain traffic signal synchronization, improve traffic flow, and reduce congestion across jurisdictions; and

WHEREAS, FULLERTON and LA HABRA are committed to implementing multi-jurisdictional signal synchronization to enhance countywide traffic flow and reducing congestion; and

WHEREAS, the Orange County Transportation Authority (OCTA) approved funding for the Gilbert Street/Idaho Street Corridor Project, hereinafter referred to as “PROJECT”; and

WHEREAS, FULLERTON and LA HABRA will provide matching funds as required by the Orange County Comprehensive Transportation Funding Programs; and

WHEREAS, FULLERTON agrees to act as the lead agency for design, construction and management of PROJECT; and

WHEREAS, the PROJECT will include nineteen (19) traffic signals along Gilbert Street/Idaho

Street, between Whittier Boulevard and Commonwealth Avenue, and located in the Cities of Fullerton and La Habra; and

WHEREAS, the PROJECT Scope of Work includes the procurement, construction/installation of, traffic signal controller and cabinet upgrades at selected locations, travel time units, communication upgrades, and central system upgrades at the respective Traffic Management Centers; and

WHEREAS, the PROJECT Scope of Work also includes development, implementation and fine-tuning of coordination signal timing plans for various peak periods, and the ongoing monitoring and maintenance of the coordinated signal system's operation, including signal timing coordination and system communication/detection upkeep, for two years; and

WHEREAS, FULLERTON agrees to work with LA HABRA to coordinate the inclusion of other traffic control elements requested by LA HABRA that must be installed at the same time as the construction of the PROJECT that are NOT a part of the PROJECT Scope of Work and will be the responsibility of LA HABRA and any of those traffic control elements during the course of the PROJECT; and

WHEREAS, FULLERTON and LA HABRA acknowledge that other RTSSP corridor projects are currently underway or completed which intersect the Gilbert Street/Idaho Street Corridor Project, and that these other RTSSP corridor timing operations must be incorporated into the design and completion of this PROJECT; and

WHEREAS, this Cooperative Agreement (AGREEMENT) defines the roles, specific terms, conditions and responsibilities between FULLERTON and LA HABRA.

AGREEMENT

NOW THEREFORE, it is understood and agreed by FULLERTON and LA HABRA as follows:

ARTICLE 1. COMPLETE AGREEMENT

This AGREEMENT, including all exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the agreement between FULLERTON and LA HABRA concerning the PROJECT and supersedes all prior representations, understandings and communications between the PARTIES. The above-referenced

Recitals are true and correct and are incorporated by reference herein.

ARTICLE 2. RESPONSIBILITIES OF FULLERTON

FULLERTON agrees to the following responsibilities:

1. FULLERTON shall serve as lead agency for design, construction and construction management of PROJECT and shall provide oversight by establishing PROJECT milestones and overseeing the PROJECT development to ensure compliance with all standards and requirements set forth in the AGREEMENT.

2. FULLERTON shall be responsible for completing the PROJECT in accordance with the funding guidelines and any and all other federal, state, and the OCTA requirements related to these funding programs, as well as any and all applicable statutes and regulations including, but not limited to, bidding laws, prevailing wage and other labor laws, provisions of the California Building Standards Code, and the California Environmental Quality Act (CEQA) and the Guidelines thereunder.

3. FULLERTON shall provide staff, consultants, and contractors deemed necessary and appropriate to manage, administer, coordinate, and oversee engineering design and construction management of the PROJECT. To the extent required by FULLERTON of its contractors performing work on the PROJECT, FULLERTON shall require all such contractors indemnify, defend and hold LA HABRA, 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. FULLERTON shall require all such contractors to name the Indemnitees as additional insureds on all commercial general and automobile liability policies required by FULLERTON for the PROJECT.

4. The budget for the PROJECT is One Million, One Hundred Forty-Six Thousand and Six Hundred Dollars (\$1,146,600). A total of Nine Hundred Seventeen Thousand Two Hundred and Eighty Dollars (\$917,280) is funded by the OCTA Project P/Regional Traffic Signal Synchronization Program. Minimum PROJECT matching funds of twenty percent (20%) amount to Two Hundred Twenty-Nine Thousand, Three Hundred and Twenty (\$229,320). FULLERTON'S share of the match amounts to One

1 Hundred Fifty-Three Thousand and Sixteen Dollars (\$153,016), including up to \$25,000 of in-kind
2 services. Documentation of FULLERTON'S in-kind services, such as construction inspection services,
3 shall meet OCTA Comprehensive Transportation Funding Program (CTFP) Guidelines.

4 5. FULLERTON shall maintain coordination with LA HABRA for construction of the PROJECT.

5 6. FULLERTON shall coordinate construction activity within LA HABRA and provide a schedule
6 of construction activity within LA HABRA that is acceptable to LA HABRA.

7 7. FULLERTON shall collect all data necessary for the analysis and optimization of traffic signal
8 timing along the PROJECT corridor.

9 8. FULLERTON shall develop new timing plans optimized for traffic signal synchronization.

10 9. FULLERTON shall provide on-site support to implement the timing plans as necessary. Timing
11 plans are subject to LA HABRA's review and approval.

12 10. FULLERTON shall provide the new timing plans developed for the PROJECT and all relevant
13 data required for the signal timing analysis to LA HABRA upon request.

14 **ARTICLE 3. RESPONSIBILITIES OF LA HABRA**

15 LA HABRA agrees to the following responsibilities:

16 1. LA HABRA shall remit to FULLERTON within thirty (30) days of receipt of an acceptable
17 invoice the matching funds as required by the Orange County Comprehensive Transportation Funding
18 Programs. LA HABRA's share of the minimum twenty percent (20%) PROJECT match amounts to
19 Seventy-Six Thousand, Three Hundred and Four Dollars (\$76,304), including up to \$12,000 of in-kind
20 services. Documentation of LA HABRA's in-kind services, such as construction inspection services, shall
21 meet OCTA Comprehensive Transportation Funding Program (CTFP) Guidelines.

22 2. At no cost to FULLERTON, LA HABRA shall provide FULLERTON with current intersection,
23 local field master and/or central system timing plans and related data no later than thirty (30) days
24 subsequent to the execution of this AGREEMENT, and updates as they occur within seven (7) days of the
25 event.

26 3. At no cost to FULLERTON, LA HABRA shall provide to FULLERTON appropriate documents
27 to utilize in the design and construction of infrastructure required to implement the desired coordinated and

synchronized system and operations no later than thirty (30) days subsequent to the execution of this AGREEMENT, and updates as they occur within seven (7) days of the update.

4. LA HABRA shall waive all costs and fees related to any and all LA HABRA required encroachment and inspection permits for the construction phase of the PROJECT.

5. At no cost to FULLERTON, LA HABRA's Construction Inspectors shall oversee all construction work done in their jurisdiction.

6. At no cost to FULLERTON, LA HABRA shall provide the required maintenance related to the PROJECT's signal and communications equipment within LA HABRA's jurisdiction.

7. At no cost to FULLERTON, LA HABRA shall be responsible for coordinating the construction and/or installation of traffic control elements and other items within its jurisdiction that are NOT a part of the PROJECT Scope of Work but, by necessity, must be built concurrent with the PROJECT.

ARTICLE 4. MUTUAL RESPONSIBILITIES OF THE PARTIES

The PARTIES agree to the following mutual responsibilities:

1. The PARTIES shall cooperate and coordinate their staff, contractors, consultants, in providing the services and responsibilities required under this AGREEMENT to the extent practicable with respect to the performance of the PROJECT.

2. The PARTIES agree to work together in good faith, using reasonable efforts to resolve any unforeseen issues and disputes arising out of the performance of this AGREEMENT.

3. This AGREEMENT may only be modified or amended upon written agreement of all PARTIES. All modifications, amendments, changes and revisions of this AGREEMENT in whole or in part, and from time to time, shall be binding upon the PARTIES, so long as the same shall be in writing and executed by the PARTIES.

4. This AGREEMENT shall be governed by all applicable federal, state and local laws. The PARTIES warrant that in the performance of this AGREEMENT, each shall comply with all applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and regulations promulgated there under.

5. Each PARTY agrees to defend, indemnify and hold harmless the other PARTY, its officers,

agents, elected officials and employees from all liability, claims, losses and demands, including defense costs and reasonable attorneys' fees, whether resulting from court action or otherwise, to the extent arising out of the actual or alleged negligent acts or omissions of, or violation of any statute or regulation by, the defending PARTY, or any of its officers, agents, or employees, in the performance of this AGREEMENT. When negligent acts or omissions of one PARTY are directed by the other PARTY, the PARTY directing the negligent acts or omissions shall owe this defense and indemnity obligation to the PARTY following the directions. Notwithstanding, this AGREEMENT shall not be interpreted to create any joint and several liability or any joint powers or joint venture between the parties. The provisions of this paragraph shall survive the termination of this AGREEMENT.

6. Each PARTY shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing, by any unforeseeable cause beyond its control, including but not limited to: any incidence of fire; flood; acts of God; commandeering of material, products, plants or facilities by federal, state or local government; national fuel shortage; or a material act or omission by any PARTY; provided satisfactory evidence of such cause is presented to the other PARTY, and provided further such nonperformance is unforeseeable, beyond the reasonable control and is not due to the fault or negligence of the PARTY not performing.

7. Any notice sent by first class mail, postage paid, to the address and addressee, shall be deemed to have been received three (3) business days after deposit in the U.S. Mail. The representatives of the PARTIES who are primarily responsible for the administration of this AGREEMENT, and to whom notices, demands and communications shall be given are as follows:

City of Fullerton – LEAD AGENCY

City of La Habra

303 W. Commonwealth Avenue

110 East La Habra Boulevard

Fullerton, CA 92832

La Habra, CA 90633

Attn: Dave Langstaff

Attn: Michael Plotnik

Traffic Engineering Analyst

Traffic Manager

(714) 738-6858

(562) 383-4162

davel@ci.fullerton.ca.us

mplotnik@lahabraca.gov

1 8. This AGREEMENT shall continue in full force and effect through December 31, 2023, unless
2 terminated earlier by FULLERTON or LA HABRA.

3 9. The term of this AGREEMENT may only be extended upon written agreement by both
4 PARTIES.

1 **IN WITNESS WHEREOF**, the PARTIES hereto have caused this Cooperative Agreement for
2 Project No. 174-46022 to be executed on the date first above written.

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4 **CITY OF FULLERTON**

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6 By: _____
7 Doug Chaffee
8 Mayor

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11 **ATTEST:**

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13 By: _____
14 Lucinda Williams
15 City Clerk

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18 **APPROVED AS TO FORM:**

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20 By: _____
21 Richard D. Jones
22 City Attorney

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IN WITNESS WHEREOF, the PARTIES hereto have caused this Cooperative Agreement for
Project No. 174-46022 to be executed on the date first above written.

CITY OF LA HABRA

By: _____
Tim Shaw
Mayor

ATTEST:

By: _____
Tamara D. Mason, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Richard D. Jones
City Attorney

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