

**AGREEMENT
BY AND BETWEEN
CITY OF PALM SPRINGS
AND
CITY OF CATHEDRAL CITY
FOR
FUNDING THE LOCAL SHARE OF THE
PRELIMINARY ENGINEERING, RIGHT OF WAY, AND CONSTRUCTION PHASE
OF THE WIDENING OF THE RAMON ROAD BRIDGE OVER THE WHITEWATER
RIVER CHANNEL AND ASSOCIATED STREET IMPROVEMENTS**

THIS AGREEMENT ("Agreement") is entered into this ____ day of _____, 20____, ("Effective Date"), by and between the City of Palm Springs, a charter city located in the State of California ("CPS"), and the City of Cathedral City, a municipal corporation located in the State of California ("CCC") for the funding of the local share of the Preliminary Engineering (PE), Right of Way (RW), and Construction (CON) Phase of the widening of the Ramon Road Bridge over the Whitewater River Channel and associated street improvements ("Project").

RECITALS

WHEREAS, CPS and CCC share a common jurisdictional boundary between the two cities along the centerline of Ramon Road between San Luis Rey Drive and Landau Boulevard; and

WHEREAS, CPS and CCC previously entered into a cooperative agreement on the preparation of a Project Study Report ("PSR") on the Project; and

WHEREAS, on behalf of both cities, CPS acting as lead Agency, submitted the PSR to the California Department of Transportation ("Caltrans") to request federal Highway Bridge Program ("HBP") funding for the Project; and

WHEREAS, Caltrans approved the request for HBP funding for the Project, and has listed the Project in the 2011 Federal Transportation Improvement Program ("FTIP"); and

WHEREAS, the 2011 FTIP has programmed a total of \$35,998,000 for all phases of the Project with \$25,236,000 of federal HBP funds and \$10,762,000 of local funds; and

WHEREAS, CPS and CCC have entered into a separate agreement with the Coachella Valley Association of Governments ("CVAG") for Regional Measure A funding for the Project; and

WHEREAS, pursuant to the agreement with CVAG, CVAG has agreed to provide Regional Measure A funds for 75% of the unfunded local portion of qualified Project costs, with CPS and CCC responsible for 25% of the unfunded local portion of qualified Project costs (or "Local Share"); and

WHEREAS, the cost estimate has been updated as per the Project Cost Estimate Funding Source Breakdown, shown as Exhibit A. has been revised to quantify appropriate fair shares percentages by the various phases as determined by actual quantities, right of way and construction cost based upon jurisdiction; and

WHEREAS, CPS and CCC previously entered into a cooperative agreement on the funding reimbursement of the project for the PE phase in the amount of \$114,375 representing 50% of the local split between CPS and CCC for the Project; and

WHEREAS, CPS has received authorization from Caltrans to proceed with the PE and RW Phase of the Project, and Caltrans has obligated the federal HBP funds for the PE and RW Phase; and

WHEREAS, the Local Share of PE Phase, RW Phase and CON Phase costs, will be shared by CPS and CCC and distributed according to Exhibit A; and

NOW, THEREFORE, in consideration of the mutual covenants, obligations and subject to the conditions contained herein, the parties hereto agree as follows:

Section 1. Incorporation of Recitals.

All of the above Recitals are true and correct and incorporated herein by this reference to the same extent as though set forth in full.

Section 2. Obligations.

- a. CCC agrees to pay to CPS the Local Share of PE, RW, and CON Phase costs as those costs are incurred within 30 days of receipt of invoice from CPS including appropriate documentation showing total PE Phase costs incurred less federal HBP funds and CVAG Regional Measure A funds applied.
- b. CPS shall invoice CCC not more frequently than quarterly.
- c. CCC's obligation for its Local Share of each phase of costs shall be \$134,936 for the PE Phase; \$334,663 for the RW Phase; and \$1,210,657 for the CON Phase according to Exhibit A.
- d. CCC's maximum obligation for its Local Share of all Phase costs shall not exceed \$1,680,257.
- e. In the event a contribution may be made by the Agua Caliente Band of Cahuilla Indians ("ACBCI") with its Tribal Transportation Program ("TPP"), previously known as the Indian Reservation Roads ("IRR") funds towards the Project, this Agreement shall be amended by the parties to reflect the overall reduction in the Local Share costs of the Project, and the resulting equitable shares equitably owed by CPS and CCC.
- f. Obligations for funding the may exceed current estimates shall be the subject of an amendment to the current funding agreement with CPS and CCC.

Section 3. Notice.

- a. Any notice, demand, or request either party desires, or is required to give to the other party, or to any other person, shall be in writing and shall be served either personally or sent by first class mail, postage pre-paid, to the following addresses:

City of Cathedral City
68-700 Ave. Lalo Guerrero
Cathedral City, CA 92234
Attn: City Manager

City of Palm Springs
P.O. Box 2743
Palm Springs, CA 92263
Attn: City Manager

b. Either party may change its address by notifying the other party in writing of the change of address. Notice shall be deemed communicated at the time personally delivered or after seventy two (72) hours from the time of depositing in the U.S. mail, if mailed as provided in this section.

Section 4. Integration.

This Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter of this Agreement, and contains all of the covenants and agreements between the parties with respect to the subject matter of this Agreement, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any party except those covenants and agreements embodied in this Agreement.

Section 5. Interpretation.

This Agreement shall not be interpreted against either party on the grounds that one of the parties was solely responsible for preparing it or caused it to be prepared as both parties were involved in drafting it.

Section 6. Waiver.

No waiver shall be binding, unless executed in writing by the party making the waiver, and no waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the remaining provisions of this Agreement.

Section 7. Severability.

If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

Section 8. Governing Law.

The validity of this Agreement and any of its terms or provisions as well as the rights and duties of the parties under this Agreement shall be construed pursuant to and in accordance with California law.

Section 9. Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more such rights or remedies shall not preclude the exercise by

it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 10. Venue.

All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Riverside County, California.

Section 11. Successors in Interest.

This Agreement is and will be binding upon and will inure to the benefit of the parties and their legal successors and assigns.

Section 12. Amendments.

This Agreement may be supplemented, amended or modified only by the written agreement of the parties. No supplement, amendment or modification will be binding unless it is in writing and signed by both parties.

Section 13. Counterparts.

This Agreement may be executed in counterparts and shall be deemed to be executed on the last date any such counterpart is executed.

Section 14. Authority to Enter Agreement.

Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

Section 15. Captions and Headings.

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

* * * SIGNATURES ON NEXT PAGE * * *

IN WITNESS WHEREOF, this Agreement has been duly executed by the respective parties hereto by their duly authorized officers as of the date hereinabove first written.

“CCC”

“CPS”

CITY OF CATHEDRAL CITY

CITY OF PALM SPRINGS

A CALIFORNIA MUNICIPAL CORPORATION

A CALIFORNIA CHARTER CITY

CHARLES P. MCCLENDON, City Manager

DAVID H. READY, City Manager

ATTEST:

ATTEST:

GARY F. HOWELL, City Clerk

JAMES THOMPSON, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

ERIC S. VAIL, City Attorney

DOUGLAS C. HOLLAND, City Attorney

EXHIBIT A

RAMON ROAD WIDENING
San Luis Rey Drive to Landau Boulevard
Including the Whitewater River Bridge
PROJECT COST ESTIMATE SUMMARY
Identifying Work within each City

Item Description	Segment A1 Non-HBP Participating			Segment B HBP Participating			Segment A2 Non-HBP Paticipating			TOTAL
	San Luis Rey to 200 ft west of westerly bridge abutment			200 ft west of westerly bridge abutment to east side of Landau Blvd			East side of Landau Blvd to Candlewood Dr including south Landau Blvd			
	Total project (Both Cities Combined)	Improvements in Palm Springs Only	Improvements In Cathedral City Only	Total project (Both Cities Combined)	Improvements in Palm Springs Only	Improvements In Cathedral City Only	Total project (Both Cities Combined)	Improvements in Palm Springs Only	Improvements In Cathedral City Only	
ROADWAY										
Demolition	\$545,430.00	\$252,476.25	\$292,953.75	\$119,859.25	\$59,929.63	\$59,929.63	\$322,270.75	\$6,300.00	\$315,970.75	\$987,560.00
Dust, Erosion, Stormwater Control	\$23,000.00	\$9,890.00	\$13,110.00	\$153,000.00	\$76,500.00	\$76,500.00	\$9,900.00	\$1,386.00	\$8,514.00	\$185,900.00
Traffic Signal Improvements	\$500,000.00	\$175,000.00	\$325,000.00	\$350,000.00	\$175,000.00	\$175,000.00	\$0.00	\$0.00	\$0.00	\$850,000.00
Pavement Delineation	\$20,000.00	\$10,000.00	\$10,000.00	\$17,750.00	\$8,875.00	\$8,875.00	\$7,640.00	\$1,069.60	\$6,570.40	\$45,390.00
Street Widening Improvements	\$1,198,947.80	\$404,575.05	\$794,372.75	\$650,937.95	\$316,368.98	\$334,568.98	\$644,208.05	\$39,490.50	\$604,717.55	\$2,494,093.80
Roadway Subtotal Rounded	\$2,287,400.00	\$851,900.00	\$1,435,400.00	\$1,291,500.00	\$636,700.00	\$654,900.00	\$984,000.00	\$48,200.00	\$935,800.00	\$4,562,900.00
TRAFFIC CONTROL - STAGE CONSTRUCTION	\$57,000.00	\$28,500.00	\$28,500.00	\$81,000.00	\$40,500.00	\$40,500.00	\$42,000.00	\$0.00	\$42,000.00	\$180,000.00
CHANNEL IMPROVEMENTS	\$0.00	\$0.00	\$0.00	\$2,498,500.00	\$1,249,250.00	\$1,249,250.00	\$0.00	\$0.00	\$0.00	\$2,498,500.00
BRIDGE CONSTRUCTION	\$0.00	\$0.00	\$0.00	\$12,600,000.00	\$7,182,000.00	\$5,418,000.00	\$0.00	\$0.00	\$0.00	\$12,600,000.00
10% MOBILIZATION	\$260,500.00	\$97,800.00	\$162,700.00	\$1,830,100.00	\$1,012,100.00	\$818,100.00	\$114,000.00	\$5,400.00	\$108,600.00	\$2,204,600.00
SUBTOTAL CONSTRUCTION COST	\$2,604,900.00	\$978,200.00	\$1,626,600.00	\$18,301,100.00	\$10,120,550.00	\$8,180,750.00	\$1,140,000.00	\$53,600.00	\$1,086,400.00	\$22,046,000.00
CONTINGENCIES										
20% of Sutotal Construction Cost	\$520,980.00	\$195,640.00	\$325,320.00	\$3,660,220.00	\$2,024,110.00	\$1,636,110.00	\$228,000.00	\$10,720.00	\$217,280.00	\$4,409,200.00
CONSTRUCTION ENGINEERING										
13% of Subtotal Construction Cost	\$338,637.00	\$127,166.00	\$211,458.00	\$2,379,143.00	\$1,315,671.50	\$1,063,497.50	\$148,200.00	\$6,968.00	\$141,232.00	\$2,865,980.00
TOTAL CONSTRUCTION COST	\$3,464,517.00	\$1,301,006.00	\$2,163,378.00	\$24,340,463.00	\$13,460,331.50	\$10,880,357.50	\$1,516,200.00	\$71,288.00	\$1,444,912.00	\$29,321,180.00
Total Cost Rounded	\$3,465,000.00	\$1,301,000.00	\$2,163,000.00	\$24,340,000.00	\$13,460,000.00	\$10,880,000.00	\$1,516,000.00	\$71,000.00	\$1,445,000.00	\$29,321,000.00
		38%	62%		55%	45%		5%	95%	
PRELIMINARY ENGINEERING										
15% of Subtotal Construction Cost	\$383,050.55	\$143,844.31	\$239,206.24	\$2,692,091.81	\$1,480,650.50	\$1,211,441.31	\$167,637.00	\$8,381.85	\$159,255.15	\$3,242,779.36
ENVIRONMENTAL MITIGATION	\$0.00	\$0.00	\$0.00	\$78,488.00	\$39,244.00	\$39,244.00	\$0.00	\$0.00	\$0.00	\$78,488.00
TOTAL PRELIMINARY ENGINEERING COST	\$383,050.55	\$143,844.31	\$239,206.24	\$2,770,579.81	\$1,519,894.50	\$1,250,685.31	\$167,637.00	\$8,381.85	\$159,255.15	\$3,321,267.36
Total Cost Rounded	\$383,000.00	\$144,000.00	\$239,000.00	\$2,771,000.00	\$1,520,000.00	\$1,251,000.00	\$168,000.00	\$8,000.00	\$159,000.00	\$3,321,000.00
		38%	62%		55%	45%		5%	95%	
RIGHT OF WAY w/ contingency										
Acquisitions, TCE's, Improvements	\$644,904.00	\$586,862.64	\$58,041.36	\$829,691.00	\$456,330.05	\$373,360.95	\$454,763.00	\$0.00	\$454,763.00	\$1,929,358.00
Right of Way Services	\$235,891.00	\$28,306.92	\$207,584.08	\$204,509.00	\$85,893.78	\$118,615.22	\$103,002.00	\$0.00	\$103,002.00	\$543,402.00
Escalated Value in 4 Years	\$106,593.00	\$73,549.17	\$33,043.83	\$129,800.00	\$67,496.00	\$62,304.00	\$63,818.00	\$0.00	\$63,818.00	\$300,211.00
Right of Way Total	\$987,388.00	\$688,718.73	\$298,669.27	\$1,164,000.00	\$609,719.83	\$554,280.17	\$621,583.00	\$0.00	\$621,583.00	\$2,772,971.00
UTILITY RELOCATION	\$296,000.00	\$8,000.00	\$288,000.00	\$231,000.00	\$228,000.00	\$3,000.00	\$56,000.00	\$0.00	\$56,000.00	\$583,000.00
TOTAL RIGHT OF WAY COST	\$1,283,388.00	\$696,718.73	\$586,669.27	\$1,395,000.00	\$837,719.83	\$557,280.17	\$677,583.00	\$0.00	\$677,583.00	\$3,355,971.00
Total Cost Rounded	\$1,283,000.00	\$697,000.00	\$587,000.00	\$1,395,000.00	\$838,000.00	\$557,000.00	\$678,000.00	\$0.00	\$678,000.00	\$3,356,000.00
		54%	46%		60%	40%		0%	100%	
TOTAL PROJECT COST	\$5,131,000	\$2,142,000	\$2,989,000	\$28,506,000	\$15,818,000	\$12,688,000	\$2,362,000	\$79,000	\$2,282,000	\$35,998,000

Ramon Road Widening
Project Cost Estimate Funding Source Breakdown

Phase	HBP Participating (Segment B)						HBP Non-Paticipating (Segments A1 & A2)											
	88.53% of Total	Local Match 11.47% of Total					75%	25%										
		75% of Local match	25% of Local Match															
	HBP Federal Funding	CVAG Regional Measure A	Palm Springs Fair Share	@	Cathedral City Fair Share	@	Subtotal	CVAG Regional Measure A	Palm Springs Fair Share	@	Cathedral City Fair Share	@	Subtotal	TOTAL	HBP FEDERAL FUNDING	CVAG	PALM SPRINGS	CATHEDRAL CITY
Preliminary Engineering	\$2,453,166	\$238,375	\$43,702	55%	\$35,756	45%	\$2,771,000	\$413,250	\$38,570	28%	\$99,180	72%	\$551,000	\$3,322,000	\$2,453,166	\$651,625	\$82,272	\$134,936
Right of Way	\$1,234,994	\$120,005	\$24,001	60%	\$16,001	40%	\$1,395,000	\$1,470,750	\$176,490	36%	\$318,663	64%	\$1,961,000	\$3,356,000	\$1,234,994	\$1,590,755	\$200,491	\$334,663
Construction	\$21,548,202	\$2,093,849	\$383,872	55%	\$314,077	45%	\$24,340,000	\$3,735,750	\$348,670	28%	\$896,580	72%	\$4,981,000	\$29,321,000	\$21,548,202	\$5,829,599	\$732,542	\$1,210,657
total	\$25,236,362	\$2,452,229	\$451,575		\$365,834		\$28,506,000	\$5,619,750	\$563,730		\$1,314,423		\$7,493,000	\$35,999,000	\$25,236,362	\$8,071,979	\$1,015,305	\$1,680,257

Fair Share Percentages Determined by Quantities and Cost Estimates