

## **MEMORANDUM OF UNDERSTANDING**

THIS memorandum of understanding (“MOU” or “Agreement”) is made and entered, \_\_\_\_\_ on 2023, by and between the CITY OF LONG BEACH, a municipal corporation (“CLB”) and the CITY OF SIGNAL HILL, a municipal corporation (“CSH”).

WHEREAS, the CSH intends to construct a signalized intersection and associated improvements at East 20<sup>th</sup> Street and Redondo Avenue to enhance safety and improve mobility. The proposed improvement is located within CLB’s Right of Way (ROW); and

WHEREAS, the improvements consists of installation of new traffic signal poles, signal cabinet, upgrade of access ramps, signage, stripping and replacement of existing curb gutter and sidewalk (the “Project”); and

WHEREAS, CSH will act as the lead and fully fund the design and construction phase of the Project. CLB will take ownership upon completion of the construction phase and concurrently assume responsibility for all and any post construction maintenance and operation services for the Project; and

WHEREAS, CSH anticipates advertising the Project for construction in February 2023.

NOW, THEREFORE, in consideration of the mutual terms and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK. The Project consists of the approved work identified in Plans number E.R6362 and dated January 25<sup>th</sup>, 2022.
2. COSTS. The budget for the Project is estimated to be Five Hundred Forty Thousand Eight Hundred Dollars (\$540,800).
3. CSH’S RESPONSIBILITIES. CSH shall:
  - A. Act as the lead for the Project, including managing the construction schedule of performance.
  - B. Assume responsibility all construction and procurement activities for the Project, all undertaken in accordance with CSH’s ordinances and policies, including the preparation of plans and specifications, cost estimates and all Project construction documents, utility identification and location, construction, engineering and management services, inspections, and financial accounting for Project activities.
  - C. Administer the contract for construction of the Project as required by applicable law.
  - D. Ensure Contractor’s commercial general liability and business automobile liability insurance name CLB as additional insured and provide for waiver of subrogation and primary and non-contributory endorsements in favor of CLB.
  - E. Ensure CLB is indemnified under the construction contract with Contractor to the same extent as CSH is indemnified.

4. CLB'S RESPONSIBILITIES. CLB shall:
- A. CLB shall take full ownership and maintenance responsibilities of all traffic signal devices upon the completion of the Project and ensure continuous functionality of the improvements shown on Appendix A of this agreement.
  - B. CLB shall be responsible for timely review and approval of changes to the project plans and specifications.
  - C. CLB shall provide routine maintenance work on the traffic control device so that the said traffic control devices remain in good operating condition and repair. Routine maintenance work shall include, but is not limited to:
    - i. Inspect the signal system and clean the controller cabinets as applicable.
    - ii. Clean signal heads as reasonably required and no less than every three (3) years and replace light emitting diode (LED) as needed.
    - iii. Inspect the signal system and clean the controller cabinet as reasonably required and no less than every six (6) weeks.
    - iv. Clean signal heads as reasonably required and no less than every three (3) years and replace light emitting diode (LED) as needed.
    - v. Replacement of burned-out traffic signal lights (e.g. signal indications, pedestrian displays and/or illuminated street name signs).
    - vi. Annual inspection/testing of Conflict Monitor Units (CMU) and Malfunction Management Units (MMU).
    - vii. Inspection to assure video detection, loop detection and pedestrian detection systems are functional.
    - viii. Monthly inspection of battery backup power.
    - ix. Confirmation of controller timing to approved timing sheet.
    - x. Covering or removing any graffiti as reasonably required and no less than within forty-eight (48) hours of notification by any person or public agency.
  - D. CLB shall ensure that any contractor's commercial general liability and business automobile liability insurance that performs such work for CLB name CSH as additional insured and provide for waiver of subrogation and primary and non-contributory endorsements in favor of CSH, and ensure that CSH is indemnified under the such contract to the same extent as CLB is indemnified.
5. MUTUAL AGREEMENTS.
- A. CSH's Project plans signed by CLB shall constitute CLB's acceptance of and official approval of said plans.
  - B. The duties of CLB and CSH under this Agreement may be performed either by CLB or CSH employees or by persons or entities hired through separate agreements with CLB or CSH.

- C. If existing public and/or private utilities conflict with the construction of the Project, CSH and CLB will collaborate to identify such utilities. CSH and CLB will make all necessary arrangements with the owners of such utilities for their protection, relocation or removal.
  - D. During the course of construction, CLB may request CSH to include additional work in the Project's scope, and the parties will negotiate in good faith to determine whether such additional work can and will be incorporated into the Project, provided such additional work does not exceed allotted Project funds.
  - E. Following its completion but prior to acceptance of the Project, CSH will confer with CLB to obtain CLB's concurrence with the overall acceptance of Project in accordance with the approved plans and specifications.
6. **WARRANTY.** CSH will require the Contractor to convey a warranty for all materials and workmanship furnished in the construction of the Project for no less than one (1) year from the date of final completion of the Project. CSH shall manage and oversee CLB's warranty rights related to the Project and pursue and enforce the warranty for defects in workmanship or materials and require the construction contractor to repair or replace the defective work so that it complies with the plans and specifications for the Project.
7. **INDEMNIFICATION.**
- A. To the furthest extent permitted by California law, CLB shall defend, indemnify, and hold harmless CSH and CSH's agents, representatives, officers, consultants, employees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, to the extent directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from (1) the negligence, recklessness, or willful misconduct of CLB or CLB's agents, contractors, representatives, officers, consultants, employees, and volunteers, or (2) CLB's breach of this Agreement. CSH shall have the right to accept or reject any legal representation that CLB proposes to defend CSH.
  - B. To the furthest extent permitted by California law, CSH shall defend, indemnify, and hold harmless CLB and CLB's agents, representatives, officers, consultants, employees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, to the extent directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from (1) the negligence, recklessness, or willful misconduct of CSH or CSH agents, contractors, representatives,

officers, consultants, employees, and volunteers, or (2) CSH's breach of this Agreement. CLB shall have the right to accept or reject any legal representation that CSH proposes to defend CLB.

8. **NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES.**
  - A. No officer or employee of the CSH shall be personally liable to the CLB in the event of any default or breach by the CSH or for breach of any obligation of the terms of this Agreement.
  - B. No officer or employee of the CLB shall be personally liable to the CSH in the event of any default or breach by the CSH or for breach of any obligation of the terms of this Agreement.
9. **NOTICE.** Any notice hereunder by either party shall be in writing and personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid, addressed to the City of Signal Hill at 2175 Cherry Avenue, Signal Hill, CA 90755, Attn: City Manager; and to the City of Long Beach at 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager. Notice shall be deemed given on the date that is one (1) day after being deposited in the mail or on the date personal delivery is made, whichever first occurs.
10. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between the parties and supersedes all other agreements, whether oral or written, with respect to the subject matter herein.
11. **AMENDMENT.** This Agreement shall not be amended except in writing signed by the parties that expressly refers to this Agreement.
12. **TERMINATION.** CSH may terminate this Agreement for convenience by giving thirty (30) days advance written notice to the CLB up until the completion of the construction of the Project without further liability to CLB. CLB may terminate this Agreement for convenience by giving thirty (30) days advance written notice to CSH up until completion of the construction of the Project, provided that in such event CLB shall reimburse CSH for all costs reasonably incurred by CLB under this Agreement through the date of termination.
13. **SEVERABILITY.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of the Agreement shall continue in full force and effect, unless both parties would be materially affected by such interpretation.
14. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, with venue in any action in a court of competent jurisdiction located in Los Angeles County.

15. **THIRD PARTY BENEFICIARY.** This Agreement is not intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.
16. **LEGAL ACTION.** In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.
17. **General Provisions.** Any term herein can be waived only by a written waiver signed by the party against whom such waiver is to be asserted. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed an original, and all of which, together, shall constitute one and the same instrument. Signatures transmitted electronically shall be deemed originals for all purposes of this Agreement.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

CITY OF LONG BEACH, a municipal  
corporation

\_\_\_\_\_, 2023

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

This Agreement is approved as to form on \_\_\_\_\_, 2023.

CHARLES PARKIN, City Attorney

By \_\_\_\_\_  
Deputy

CITY OF SIGNAL HILL

\_\_\_\_\_, 2023

By \_\_\_\_\_  
Carlo Tomaino, City Manager

Approved as to form:

By \_\_\_\_\_  
Matthew E. Richardson, City Attorney

ATTEST:

By \_\_\_\_\_  
Kimberly Boles, Senior Deputy City Clerk