

SERVICE AGREEMENT BY AND BETWEEN

COUNTY OF SAN DIEGO

AND

CITY OF CHULA VISTA

FOR

VISTA DEL RANCHO, VIA DE LAURENCIO, CLAIRE AVENUE, EL RANCHO VISTA, COUNTRY TRAILS LN, COUNTRY TRAILS CT ROADWAY RESURFACING

This Service Agreement for Vista Del Rancho, Via de Laurencio, Claire Avenue, El Rancho Vista, Country Trails Ln, and Country Trails Ct Roadway Resurfacing ("Agreement") is entered into this 27th day of July, 2021, by and between the County of San Diego, a political subdivision of the State of California (hereinafter "COUNTY"), and the City of Chula Vista, a municipal corporation, (hereinafter "CITY") for Roadway Resurfacing of Vista Del Rancho, Via De Laurencio, Claire Avenue, El Rancho Vista, Country Trails Ln, and Country Trails Ct, located within the jurisdictional boundaries of CITY. The COUNTY and CITY may be hereinafter referred to individually as a "PARTY" and collectively as the "PARTIES".

- A. Pursuant to Government Code section 54981 the legislative body of the CITY is authorized to contract with the legislative body of the COUNTY for the performance of municipal services within the territory of the CITY.
- B. The COUNTY currently has a Roadway Resurfacing project planned for six roads, Vista Del Rancho from Chula Vista City Limit to Via De Laurencio, Via De Laurencio from Vista Del Rancho to Chula Vista City Limit Enter, Claire Ave from Via De Laurencio to cul-de-sac, El Rancho Vista from Hilltop Dr to Chula Vista City Limit, Country Trails Ln from Chula Vista City Limit to Country Vista Ln, Country Trails Ct from Country Vista Ln to cul-de-sac, which excludes work outside of the COUNTY's jurisdiction ("COUNTY PROJECT").
- C. The CITY currently has jurisdiction over various segments of roads in this Agreement within the COUNTY PROJECT.
- D. COUNTY and CITY have mutually agreed that the CITY portion of Vista Del Rancho, Via De Laurencio, Claire Ave, El Rancho Vista, and Country Trail Ln are in need of roadway resurfacing.
- E. The CITY limits of Vista Del Rancho, Via De Laurencio, Claire Ave, El Rancho Vista, Country Trails Ln, and Country Trails Ct are shown on "Exhibit A". All improvements being proposed within CITY limits shall be referred to as CITY PROJECT.
- F. The roadway resurfacing on Vista Del Rancho, Via De Laurencio, Claire Avenue, El Rancho Vista, Country Trails Ln, and Country Trails Ct will consist of asphalt concrete mill and inlay. The existing surface will be milled to a depth of 2 inches to remove surface distresses and irregularities. Two inches of asphalt concrete will then be placed within the milled section. With concurrence of both agencies, this pavement strategy may be amended at spot locations due to localized rehabilitation methods that may come up.
- G. COUNTY and CITY desire to have one agency take the lead role in the implementation of the roadway improvements to coordinate the improvements located in the two jurisdictions and to reduce overall costs by processing the two separate jurisdictional improvements as one project.

- H. COUNTY will provide the administrative, technical, managerial, and support services necessary for the implementation of the CITY PROJECT. CITY will fund one hundred percent (100%) of the cost of the CITY PROJECT. COUNTY will fund one hundred percent (100%) of the cost of the COUNTY PROJECT.
- I. COUNTY and CITY desire to define herein the terms and conditions under which said CITY PROJECT is to be administered, engineered, coordinated, and constructed.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

SECTION 1 • COUNTY AGREES:

1. To act as the lead agency on behalf of the CITY for the overall development and implementation of the CITY PROJECT. The COUNTY is providing services for which the CITY will reimburse COUNTY as shown on Exhibit "B".
2. To prepare, or cause to be prepared, detailed plans, specifications and estimates documents ("PS&E") for CITY PROJECT and submit to CITY for review and approval at appropriate stages of development. Final plans for improvements shall be prepared to COUNTY and CITY standards and signed by a Civil Engineer registered in the State of California. Deviations from standards shall be coordinated with and approved by CITY.
3. To identify and locate all utility facilities within the limits of the CITY PROJECT as part of its design responsibility. If any existing public and/or private utility facilities conflict with CITY PROJECT construction, CITY and COUNTY shall coordinate and cooperate in good faith to make all necessary arrangements with the owners of such facilities for their protection, adjustment, relocation, or removal. CITY and COUNTY shall, in good faith, coordinate and cooperate to require the utility owner and/or its contractors performing any relocation work within CITY's right-of-way to obtain a CITY encroachment permit prior to the performance of said relocation work. CITY and COUNTY shall, in good faith, coordinate and cooperate in the effort to establish prior rights related to utility encroachments into each jurisdiction's right-of-way. In the case that any utility companies are determined to have prior rights within the limits of the CITY PROJECT, the cost of relocating utilities shall be borne by the CITY. In the case that any utility companies are determined to have prior rights within the limits of the COUNTY PROJECT, the cost of relocating utilities shall be borne by the COUNTY.
4. To make written application to CITY for a Construction Permit (PW-E-65) authorizing entry into CITY's right-of-way for the purposes of constructing CITY PROJECT.
5. In accordance with Exhibit "C", Agreement Designating Lead Agency, to act as the Lead Agency under the California Environmental Quality Act ("CEQA") for the CITY PROJECT. To advertise, award and administer a public works contract for the construction of the CITY PROJECT in accordance with all applicable federal, state or local statutes, ordinances, orders, governmental requirements, laws or regulations, including but not limited to the local agency public construction codes, the Chula Vista Municipal Code, the Chula Vista City Charter, California Labor Code, and California Public Contract Code.
6. To furnish a representative to perform the function of Resident Engineer during construction of CITY PROJECT.

7. To furnish qualified support staff to assist the Resident Engineer; such assistance shall include, but not be limited to, construction surveys, soils and compaction tests, measurement and computation of quantities, testing of construction materials, checking submittals, preparation of estimates and reports, preparation of as-built drawings, and other inspection and staff services necessary to assure that the construction is performed in accordance with the PS&E documents.
8. To construct the CITY PROJECT in accordance with approved PS&E documents.
9. To submit any contract change order that causes the amount of the CITY PROJECT improvements to exceed \$187,586 (as shown in Exhibit B) to CITY for review and approval prior to final authorization by COUNTY.
10. To furnish CITY as-built plans, within one hundred and eighty (180) days following the completion and acceptance of the CITY PROJECT construction contract.
11. To furnish CITY a final reconciliation of project expenses within ninety (90) days following the completion and acceptance of the CITY PROJECT construction contract. If final costs associated with the CITY's improvements are in excess of the Deposit provided in Section 2, COUNTY shall include a final bill with the financial reconciliation. If final costs associated with the CITY's improvements are less than the Deposit provided in Section 2, COUNTY shall reimburse CITY for the difference with the financial reconciliation.

SECTION 2 • CITY AGREES:

1. To fund one hundred percent (100%) of the cost of the CITY PROJECT. CITY agrees that should unforeseen circumstances arise which result in an increase of any costs over those shown in "Exhibit B", CITY will in good faith amend this Agreement to include any such costs under this Agreement, subject to City Council or other CITY approval as applicable.
2. To deposit with COUNTY, within 30 days of executing this Agreement, the full value of the COST ESTIMATE (the "Deposit") as provided in Section 3.1 of this Agreement.
3. To approve the COUNTY's or its contractor's properly submitted and completed Public Right-of-Way Permit application to authorize entry onto CITY's right-of-way to perform all surveys and other field activities required for preparation of the PS&E, utility coordination, and construction of the CITY PROJECT within 45 days of the application being deemed complete. CITY agrees to reimburse COUNTY for COUNTY's, or its contractor's, cost to obtain such permit and for any requirements of said permit not required by COUNTY's construction contract.
4. To provide a representative to coordinate with the COUNTY's Project Manager during the development and the construction of CITY PROJECT, and to verify facilities are constructed as required by this Agreement, if applicable.
5. To provide oversight of the CITY PROJECT, to provide reviews and approvals, as appropriate, of submittals by COUNTY, and to cooperate in processing of the CITY PROJECT.
6. To pay within 45 days of receipt, the invoice for final reconciled cost in excess of the Deposit amount for CITY PROJECT submitted by COUNTY for services rendered in accordance with this Agreement, subject to City Council or other CITY approval as applicable.

SECTION 3 • IT IS MUTUALLY AGREED AS FOLLOWS:

1. The total cost to CITY to complete PS&E documents, construction, including construction survey, inspection and a material testing for CITY PROJECT is estimated to be, two hundred twenty three

thousand, eight hundred fourteen dollars and eighty six cents (\$223,814.86) as detailed in "Exhibit B" ("COST ESTIMATE").

2. COUNTY shall not be obligated to commence construction of the CITY PROJECT until after receipt of CITY's Deposit as required in Section 2.
3. During any portion of the CITY PROJECT, if a cost overrun exceeding ten percent (10%) of the COST ESTIMATE is identified, COUNTY and CITY shall endeavor to agree upon a course of action in a timely manner to avoid construction delay, contractor mobilization, or similar costs.
4. Construction by COUNTY of improvements referred to herein which lie within CITY's rights-of-way shall not be commenced until a Public Right-of-Way Permit has been issued to COUNTY, or COUNTY's contractor, authorizing such work.
5. The PARTIES shall obtain and/or cause any agent, subcontractor, or other representative of that PARTY to maintain insurance at its own cost and expense, and keep in force and effect during the term of this Agreement, including all extensions, policies of insurance or programs of self-insurance with policy limits in sufficient amounts to cover any and all potential liability of such PARTY hereunder. COUNTY shall ensure that any contractor or subcontractors working on the CITY PROJECT will name the City of Chula Vista and its respective elected officials, officers, employees, agents, and representatives as additional insureds under all policies of insurance, and shall ensure that additional insured certificates be provided to CITY as specifically set forth in Exhibit D, City of Chula Vista Insurance Requirements. COUNTY shall also ensure that any contractor or subcontractor working on the CITY PROJECT will agree to defend and indemnify the CITY and its respective elected officials, officers, employees, agents, and representatives against any claims arising out of the CITY PROJECT, with the exception of claims arising out of the CITY'S active negligence or willful misconduct. Ownership and title to all materials, equipment, and appurtenances installed as part of this Agreement will be automatically vested with the jurisdiction in which the improvements reside, and no further agreement will be necessary to transfer ownership.
6. CITY shall be responsible for the maintenance of the improvements provided by CITY PROJECT. COUNTY shall be responsible for the maintenance of the improvements provided by COUNTY PROJECT.
7. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by all parties and no oral understanding or agreement not incorporated herein shall be binding on each PARTY hereto.
8. In the event that either party defaults in the performance of any of its obligations under this Agreement or materially breaches any of the provisions of this Agreement, the other party shall have the option to terminate this Agreement for default.
9. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the same shall be deemed severable from the remainder of this Agreement, and the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.
10. This Agreement is to be construed in accordance with the laws of the State of California.
11. Neither the CITY nor COUNTY shall assign this Agreement without the written consent of the other PARTY.
12. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided by this Agreement shall be tried in a court of competent jurisdiction in the

City and County of San Diego, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

13. This Agreement is the result of negotiations between the PARTIES hereto, and the advice and assistance of their respective counsel. The fact that this Agreement was prepared as a matter of convenience by CITY or COUNTY shall have no importance or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against the PARTY that prepared it in its final form.
14. Any waiver by COUNTY or CITY of any breach by any other PARTY of any provision of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other provision hereof. Failure on the part of COUNTY or CITY to require from any other party exact, full and complete compliance with any of the provisions of this Agreement shall not be construed as in any manner changing the terms hereof or stopping COUNTY or CITY from enforcing this Agreement.
15. This Agreement and the Exhibits herein contain the entire agreement between the PARTIES and are intended by the PARTIES to completely state the Agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any PARTY in relation thereto, not expressly set forth in this Agreement, is null and void.
16. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not a party to this Agreement or affect the legal liability of any party to the Agreement by imposing any standard of care with respect to the maintenance of roads different from the standard of care imposed by law.
17. CITY and COUNTY shall retain or cause to be retained for audit, all records and accounts relating to CITY PROJECT for a period of minimum three (3) years from the date of Notice of Completion of the CITY PROJECT.
18. The Parties shall be in conformity with all applicable federal, State, County, and local laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all licenses, permits, notices and certificates as are required. The Parties shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation.
19. Any PARTY may propose amendments to this Agreement by providing written notice of such amendments to the other PARTY. This Agreement may only be amended by a written amendment signed by each PARTY'S administrator.
20. This Agreement only applies to the CITY PROJECT described herein and does not set forth any additional current or future obligations or agreements between the parties, except that the parties may by written amendment amend the scope of this Agreement.
21. This Agreement shall become effective on the date all of the parties have signed this Agreement and be in force until two years from the execution date.
22. The COUNTY or CITY may, by written notice stating the extent and effective date, terminate this Agreement for convenience in whole or in part, at any time prior to the award of a construction contract for the CITY PROJECT by COUNTY.
23. This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument.

24. All notices, demands, invoices, and other communications required or permitted hereunder shall be in writing and delivered to the following addresses or such other address as the Parties may designate:

COUNTY:

County of San Diego, Department of Public Works
Attn: Jeff Moneda, Director of Public Works
5510 Overland Ave, Suite 410
San Diego, CA 92123
Phone: (858) 694-2233

CITY:

City of Chula Vista, Department of Engineering & Capital Projects
William S. Valle, City Engineer
276 Fourth Avenue, Chula Vista, CA 91910

Attachments:

1. EXHIBIT A – PROJECT MAP
2. EXHIBIT B – ESTIMATED CITY PROJECT COSTS
3. EXHIBIT C – AGREEMENT DESIGNATING THE COUNTY OF SAN DIEGO AS THE LEAD AGENCY FOR PROJECT
4. EXHIBIT D – CITY OF CHULA VISTA INSURANCE REQUIREMENTS

IN WITNESS WHEREOF, this Agreement is executed by the City of Chula Vista and the County of San Diego, acting by and through their authorized officers.

COUNTY OF SAN DIEGO

CITY OF CHULA VISTA

BY: _____
ANDREW POTTER
Executive Officer/ Clerk of the Board of Supervisors
DATE: _____

BY: _____
MARY CASILLAS SALAS
Mayor
DATE: _____

Approved as to form this ___ day of _____, 2021.

ATTEST

BY: _____
THOMAS BOSWORTH
County Counsel

BY: _____
KERRY K. BIGELOW, MMC
City Clerk
DATE: _____

Approved as to form this ___ day of _____, 2021.

BY: _____
GLEN R. GOOGINS
CITY ATTORNEY