

INSURANCE NOT REQUIRED
 WORK MAY PROCEED
 CLERK OF COUNCIL

DATE:

**AMENDMENT NUMBER TWO
 TO COOPERATIVE AGREEMENT NO. A-2016-092
 BETWEEN THE CITY OF SANTA ANA AND THE CITY OF COSTA MESA
 FOR THE CONSTRUCTION OF THE SANTA ANA DELHI DIVERSION
 FORCED SEWER MAIN UNDER BRISTOL STREET FROM
 BAKER STREET TO NEWPORT BOULEVARD**

This Amendment Number Two to Cooperative Agreement ("Amendment") is made and entered into this 3rd day of September, 2019 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("COSTA MESA"), and the CITY OF SANTA ANA, a municipal corporation ("SANTA ANA").

RECITALS:

- A. COSTA MESA and SANTA ANA entered into Cooperative Agreement No. A-2016-092 ("Agreement") on May 18, 2016 for the construction of the Santa Ana Delhi diversion forced sewer main pipeline under Bristol Street from Baker Street to Newport Boulevard (the "Project"). The Project is a portion of the Diversion Channel Project; and
- B. Pursuant to the Agreement, SANTA ANA committed to advance One Million One Hundred Thousand Dollars (\$1,100,000.00) toward the Project, which amount represented the entire estimated cost to pay COSTA MESA's contractor to complete the Project; and
- C. Pursuant to the Agreement, COSTA MESA agreed to reimburse SANTA ANA up to \$600,000.00, which amount represented COSTA MESA's lump sum obligation on the Diversion Channel Project; and
- D. Subsequent to execution of the Agreement, COSTA MESA and SANTA ANA learned that the entire estimated cost to perform the work on the Project was One Million Seven Hundred Thousand Dollars (\$1,700,000.00); and
- E. COSTA MESA and SANTA ANA agreed to have COSTA MESA contribute Six Hundred Thousand Dollars (\$600,000.00) toward the overall cost for the work rather than reimburse SANTA ANA in such amount, through Amendment No. 1 to the Agreement; and
- F. Due to delays caused by the requirement that the cities obtain Caltrans encroachment permits in connection with the Project, COSTA MESA removed the installation of the diversion sewer main pipelines within the Caltrans right-of-way from the scope of work on COSTA MESA's Bristol Street Median Project, which postponed the installation of the forced sewer main pipeline; and
- G. COSTA MESA and SANTA ANA have now secured the required encroachment permits from Caltrans, and COSTA MESA has awarded a construction contract to Gwinco Incorporated for Phase II of COSTA MESA's Santa Ana Delhi Channel Diversion Pipeline Project, which includes installation of the forced sewer main pipeline; and
- H. The cost to install the forced sewer main pipeline exceeds the amount initially contemplated by approximately One Hundred Forty-Eight Thousand Five Hundred Dollars (\$148,500.00); and


- I. SANTA ANA has agreed to reimburse COSTA MESA One Hundred Forty-Eight Thousand Five Hundred Dollars (\$148,500.00) for such cost; and
- J. SANTA ANA and COSTA MESA desire to further amend the Agreement accordingly.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. A new subsection 4 shall be added to Section B (SANTA ANA Rights and Duties) as follows:
 - 4. In addition to the Advanced Expended Funds set forth herein, SANTA ANA agrees to reimburse COSTA MESA up to One Hundred Forty-Eight Thousand Five Hundred Dollars (\$148,500.00) for costs associated with the installation of the forced sewer main pipeline. SANTA ANA shall reimburse COSTA MESA for such costs within thirty (30) days of receipt of an invoice from COSTA MESA detailing the work performed and the costs associated with same.
- 2. All terms not defined herein shall have the same meaning and use as set forth in the Agreement.
- 3. All other terms, conditions, and provisions of the Agreement, as amended by Amendment No. 1, shall remain in full force and effect.


IN WITNESS WHEREOF, COSTA MESA and SANTA ANA have caused this Amendment to be executed by and through their respective authorized officers, as of the date first written above.

**CITY OF COSTA MESA,
A municipal corporation**



Lori Ann Farrell Harrison
City Manager

ATTEST:



Brenda Green
City Clerk

RECOMMENDED FOR APPROVAL:



Raja Sethuraman
Public Services Director

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

**CITY OF SANTA ANA,
A municipal corporation**



Kristine Ridge
City Manager

ATTEST:



Daisy Gomez
Clerk of the Council



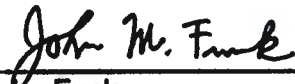
RECOMMENDED FOR APPROVAL:



Nabil Saba
Executive Director
Public Works Agency

APPROVED AS TO FORM:

Sonia R. Carvalho
City Attorney

By: 

John Funk
Assistant City Attorney