

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: November 17, 2022

PREPARED BY: Bassam AL-Beitawi, Transportation Manager

REQUEST: APPROVE A COOPERATIVE AGREEMENT WITH THE CITIES OF LA QUINTA AND INDIAN WELLS FOR THE OPERATION AND MAINTENANCE OF SHARED TRAFFIC SIGNALS AND SAFETY LIGHTING

RECOMMENDATION:

1. Approve a Cooperative Agreement with the Cities of La Quinta and Indian Wells for the operation and maintenance of shared traffic signals and safety lighting.
2. Authorize the City Manager to finalize and execute the agreement.

BACKGROUND/ANALYSIS:

Since 2001, the Cities of Palm Desert, La Quinta, and Indian Wells have partnered to share the cost of traffic signal and highway safety lighting maintenance and operations at shared jurisdiction intersections.

Currently, the City of Palm Desert operates and maintains the traffic signal and highway safety lighting at the following shared intersections:

- Washington Street at Fred Waring Drive (Contract No. C19650 – see Attachment 2)
- Palm Royale Drive and Washington Street (Contract No. C33220 – see Attachment 3)

Being the designated lead agency per the two contracts, Palm Desert incurs full costs for operation and maintenance at the two intersections and then invoices Indian Wells and La Quinta annually for their shares.

Proposed Agreement:

The City of La Quinta has requested to replace Palm Desert as the lead agency for operation and maintenance at the two intersections. La Quinta and Indian Wells lead the traffic management efforts of Washington Street and other roadways east of Washington Street in conjunction with annual festivals and major events to the east of Palm Desert. In addition, La Quinta has increased their staffing and technical capabilities and conducted capital improvement projects in recent years, which gives them the ability to assume responsibility for operation and maintenance.

The proposed agreement will replace the previous agreements and authorize the City of La Quinta to oversee the operation and maintenance of the traffic signal and highway safety lighting at the two shared intersections. In addition, the proposed agreement establishes that Palm Desert and Indian Wells will reimburse La Quinta for the maintenance and operational costs per the percent ownership of each intersection at the rates included in the Agreement. This

City of Palm Desert
Traffic Signal Cooperative Agreement Approval

Agreement does not include maintenance of fiber optic traffic signal interconnect facilities, which facilities shall be maintained by their respective cities. The City Councils of Indian Wells and La Quinta have authorized the execution of the proposed agreement. The City Attorney has reviewed the proposed agreement.

The table below depicts the current and proposed ownership and shares of maintenance responsibilities at the intersections of Washington Street at Fred Waring Drive and Palm Royale Drive at Washington Street.

| Lead Agency | | Description of Shared Facility and Location | Percent Ownership | | |
|-------------|-----------|---|-------------------|-------------|--------------|
| Current | Proposed | | La Quinta | Palm Desert | Indian Wells |
| Palm Desert | La Quinta | Traffic Signal and Highway Safety Lighting: Washington Street at Palm Royale Drive. Cost Share for maintenance and electricity | 50% | 50% | 0% |
| Palm Desert | La Quinta | Traffic Signal and Highway Safety Lighting: Washington Street at Fred Waring Drive. Cost share for maintenance and electricity. | 50% | 25% | 25% |

FINANCIAL IMPACT:

Staff invoices the City of La Quinta and Indian Wells for their portion of the costs under the current agreements, which amounts to an annual average of \$5,000. These expenses are included in the Public Works Operations budget along with \$2,500 for contingent reimbursement costs under Account No. 1104250-43325000, R/M Traffic Signal, for a total of \$7,500. Staff estimates that the City's portion for annual maintenance costs in these intersections will not exceed said amount this year. Therefore, there is no financial impact to the general fund this fiscal year. Reimbursement expenses for future fiscal years will be budgeted accordingly during the budget approval process.

REVIEWED BY:

| | |
|-------------------------|-----------------------|
| Department Director: | <i>Martin Alvarez</i> |
| Finance Director: | <i>John Ramont</i> |
| Assistant City Manager: | <i>Chris Escobedo</i> |
| City Manager: | <i>Todd Hileman</i> |

ATTACHMENTS:

1. Proposed Cooperative Agreement
2. Contract No. C19650
3. Contract No. C33220

**COOPERATIVE AGREEMENT
FOR OPERATION AND MAINTENANCE
OF TRAFFIC SIGNAL AND SAFETY LIGHTING**

This Cooperative Agreement for Operation and Maintenance of Traffic Signals and Safety Lighting (hereinafter "Agreement") entered into this ____ day of _____, 2022, is between the City of La Quinta, a California municipal corporation, referred to herein as "La Quinta", the City of Indian Wells, a California municipal corporation, referred to herein as "Indian Wells", and the City of Palm Desert, a California municipal corporation, referred to herein as "Palm Desert". La Quinta, Indian Wells and Palm Desert are sometimes hereinafter individually referred to as "Party" and/or collectively referred to in this Agreement as "Parties".

RECITALS

- 1) La Quinta, Indian Wells and Palm Desert, municipal corporations and members of the California Joint Powers Insurance Authority, desire to specify the terms and conditions under which traffic signals (installations) located on shared boundaries will be maintained, as well as the obligations and responsibilities of the Parties with respect to those traffic signals.
- 2) The installation(s) are listed and shown in Exhibit B, attached hereto and incorporated herein by this reference. The installations are owned proportionately by each Party as shown in Exhibit B. As installations are added or removed from this Agreement, the locations may be updated by either Party submitting to the other Party a proposed revised Exhibit B. The Director of Public Works, or equivalent, of each Party must approve in writing the revised Exhibit B prior to the revision taking effect.

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

Section I – SCOPE OF SERVICES

- 1) La Quinta shall provide routine maintenance work and emergency call-out service on traffic signals, street safety lighting, flashing beacons, and other electrically operated traffic control or warning devices associated with the installations. Routine maintenance services hereunder shall include the following work: inspect the signal system and clean the control cabinet quarterly; clean and re-lamp signal heads as required; clean and re-lamp luminaires as required. Emergency call-out services shall include all repairs and maintenance of the subject traffic control and warning devices or reasonable temporary measures necessary to preserve the public safety in the

event of a signal system failure. La Quinta shall apply to the local power company for service and pay for delivery of electrical power to the signals.

2) Extra Work:

Any work to be performed beyond the scope of services described in paragraph 1), above, shall constitute extra work ("Extra Work"). Extra Work shall be compensated for with extra compensation calculated in a fair and equitable method in accordance with La Quinta's current rates and/or La Quinta's emergency/after-hours contractor's current rates. The current rates as they exist upon the effective date of this Agreement are set forth in Exhibit A. La Quinta may update those rates from time to time and shall provide notice to Indian Wells and Palm Desert of such updated rates. La Quinta shall promptly notify Indian Wells and Palm Desert of any work that it has determined constitutes Extra Work before performing such Extra Work. Indian Wells and Palm Desert shall promptly respond and if they agree that the subject work constitutes Extra Work, will authorize La Quinta, in writing, to perform the Extra Work, Indian Wells and Palm Desert shall compensate La Quinta for the Extra Work in accordance with this paragraph and La Quinta's then current rates. La Quinta shall make the final determination whether such work constitutes Extra Work, provided, however, that Indian Wells and Palm Desert shall be entitled to any and all legal remedies in the event of a dispute concerning such determination, including the right to terminate this Agreement with 30-day's notice.

Section II – La Quinta's Obligations

La Quinta Agrees:

- 1) To operate and maintain the installations in accordance with Scope of Services in Section 1, paragraph 1), and to pay the percentage of all operations, maintenance, repair, and replacement costs, including electrical energy costs, for the installations, as noted in Exhibit B.
- 2) Records: Records for the work provided under this Agreement shall be kept by La Quinta and shall include the costs of all services performed. Such records shall be maintained for at least two (2) years and, upon reasonable notice, shall be made available for inspection by Indian Wells or Palm Desert.

Section III – Indian Wells’ Obligations

Indian Wells Agrees:

- 1) To pay the percentage of all operation, maintenance, repair, and replacement costs, including electrical energy costs, for the installations, as noted in Exhibit B.
- 2) To pay all of above-referenced amounts within thirty (30) days of receipt of the billing from La Quinta therefore.
- 3) Billing by La Quinta shall be made no more frequently than semi-annually, and if annually, shall cover the period beginning July 1 and ending June 30.
- 4) Upon full execution of this Agreement, the first billing submitted by La Quinta may include all eligible expenses incurred after full execution of this Agreement. All expenses incurred by La Quinta prior to full execution of this Agreement shall not be eligible for reimbursement.
- 5) In the event of a dispute, Indian Wells shall submit any such dispute in writing to La Quinta. The Parties shall endeavor to resolve any such dispute and pay the balance due, if any, within a reasonable period of time.

Section IV – Palm Desert’s Obligations

Palm Desert Agrees:

- 6) To pay the percentage of all operation, maintenance, repair, and replacement costs, including electrical energy costs, for the installations, as noted in Exhibit B.
- 7) To pay all of above-referenced amounts within thirty (30) days of receipt of the billing from La Quinta therefore.
- 8) Billing by La Quinta shall be made no more frequently than semi-annually, and if annually, shall cover the period beginning July 1 and ending June 30.
- 9) Upon full execution of this Agreement, the first billing submitted by La Quinta may include all eligible expenses incurred after full execution of this Agreement. All expenses incurred by La Quinta prior to full execution of this Agreement shall not be eligible for reimbursement.

- 10) In the event of a dispute, Palm Desert shall submit any such dispute in writing to La Quinta. The Parties shall endeavor to resolve any such dispute and pay the balance due, if any, within a reasonable period of time.

Section V – General Provisions

- 1) Terms and Termination:

Once signed by all Parties, this Agreement shall remain in force until terminated by any Party hereto upon thirty (30) days written notice to the other Party of such termination. Any payment obligation then outstanding shall survive such termination.

- 2) Invalid Provision:

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

- 3) Amendment and Waiver:

This Agreement may be amended or revoked at any time by a written agreement executed by La Quinta, Indian Wells and Palm Desert. No change or modification of this Agreement shall be valid unless the same is in writing and signed by all Parties. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the Party granting such waiver, and in no event shall any such waiver be deemed to be a waiver of any other term, covenant or condition of this Agreement.

- 4) Attorney's Fees:

Each of the Parties shall bear its own fees and costs, including without limitation attorney's fees, in the event of any dispute pertaining to this agreement.

- 5) Governing Law:

This Agreement shall be construed and governed by the laws of the State of California.

- 6) Independent Counsel:

Each Party has had the opportunity to consult with its own attorney with respect to this Agreement, and in the event that any language contained herein is construed to be vague or ambiguous, this Agreement shall not be strictly construed against any Party.

- 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 verbal understanding or agreement not incorporated herein shall be binding on either party hereto.
- 8) Upon completion of all work under this Agreement, ownership and title to all materials, equipment, and appurtenances installed in Indian Wells shall be vested in Indian Wells, all materials, equipment, and appurtenances installed in Palm Desert shall be vested in Palm Desert, and all materials, equipment, and appurtenances installed in La Quinta shall be vested in La Quinta.
- 9) Neither Indian Wells, Palm Desert, nor any officer or employee, thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by La Quinta under or in connection with any work, authority or jurisdiction delegated to La Quinta under this Agreement. It is also agreed that, pursuant to Government Code Section 895.4, La Quinta shall fully indemnify and hold Indian Wells and Palm Desert harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by La Quinta under or in connection with any work, authority or jurisdiction delegated to La Quinta under this Agreement except to the extent that such injury results from Indian Wells' or Palm Desert's own misconduct or negligence.
- 10) Neither La Quinta nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Indian Wells or Palm Desert under or in connection with any work, authority or jurisdiction delegated to Indian Wells or Palm Desert under this Agreement. It is also agreed that, pursuant to Government Code Section 895.4, Indian Wells and Palm Desert shall fully indemnify and hold La Quinta harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Indian Wells or Palm Desert under or in connection with any work, authority or jurisdiction delegated to Indian Wells or Palm Desert under this Agreement except to the extent that such injury results from La Quinta's own misconduct or negligence.
- 11) Notices

All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery

by means of professional overnight courier service which confirms receipt in writing (such as Federal Express or UPS)), or sent by certified or registered mail, return receipt requested, postage prepaid, to the following parties at the following addresses or number:

If to "La Quinta": City of La Quinta
Attn: Public Works Director
78-495 Calle Tampico
La Quinta, CA 92253
Tel: (760) 777-7045

If to "Indian Wells": City of Indian Wells
Attn: Public Works Director
44-950 Eldorado Drive
Indian Wells, CA 92210
Tel: (760) 346-2489

If to "Palm Desert": City of Palm Desert
Attn: Public Works Director
73-510 Fred Waring Drive
Palm Desert, CA 92260
Tel: (760) 776-6450

Notices sent in accordance with this paragraph shall be deemed delivered upon the next business day following: (1) the date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier services); (2) the date of the actual receipt (if personally delivered by other means); or; (3) the date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this paragraph.

IN WITNESS WHEREOF, the Parties have executed the Agreement as of the dates set forth below.

CITY OF LA QUINTA,
a California Municipal Corporation

JON McMILLEN, City Manager
City of La Quinta, California

Dated: _____

ATTEST:

MONIKA RADEVA, City Clerk
City of La Quinta, California

APPROVED AS TO FORM:

WILLIAM H. IHRKE, City Attorney
City of La Quinta, California

CITY OF PALM DESERT,
a California Municipal Corporation

City Manager
City of Palm Desert, California

Dated: _____

ATTEST:

City Clerk
City of Palm Desert, California

APPROVED AS TO FORM:

City Attorney
City of Palm Desert, California

CITY OF INDIAN WELLS,
a California Municipal Corporation

City Manager
City of Indian Wells, California

Dated: _____

ATTEST:

City Clerk
City of Indian Wells, California

APPROVED AS TO FORM:

City Attorney
City of Indian Wells, California

**EXHIBIT A
STANDARD BILLING RATES
CITY OF LA QUINTA
STAFF AND EQUIPMENT**

All rates subject to yearly update

Rates are shown per hour and are billed pro-rated for any portion of an hour.
Rates are established by City Council.

| Staff Position | Regular Rate | Overtime Rate | Premium Rate |
|---|---------------------|----------------------|---------------------|
| Public Works Personnel | \$167/hr. | \$167/hr. | \$167/hr. |
| Contract Traffic Signal Repair Services | \$95/hr. | \$138/hr. | \$164/hr. |

| Equipment | Regular Rate |
|---|---------------------|
| City Bucket Truck or Service Truck with Message Board | \$10/hr. |
| Contract Traffic Signal Repair Bucket Truck | \$32/hr. |

EXHIBIT "B"

INSTALLATIONS

| MAINTAINED BY | DESCRIPTION OF SHARED FACILITY AND LOCATION | PERCENT OWNERSHIP | | |
|---------------|---|-------------------|-------------|--------------|
| | | La Quinta | Palm Desert | Indian Wells |
| La Quinta | Traffic Signal and Safety lighting: Washington Street at Palm Royale Drive. Cost share for maintenance and electricity. | 50% | 50% | |
| La Quinta | Traffic Signal and Safety lighting: Washington Street at Fred Waring Drive. Cost share for maintenance and electricity. | 50% | 25% | 25% |

Bryan McKinney, P.E.
City Engineer/Public Works Director
City of La Quinta

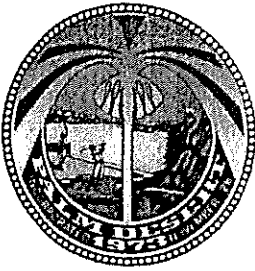
Date

Ken Seumalo, P.E.
Public Works Director
City of Indian Wells

Date

Public Works Director
City of Palm Desert

Date



CITY OF PALM DESERT

73-510 FRED WARING DRIVE
PALM DESERT, CALIFORNIA 92260-2578
TEL: 760 346-0611
FAX: 760 340-0574
info@palm-desert.org

December 26, 2001

Mr. Tim Wassil
Director of Public Works
City of Indian Wells
44-950 Eldorado Drive
Indian Wells, California 92210

Mr. Roy Stephenson
Director of Public Works
City of La Quinta
78-495 Calle Tampico
La Quinta, California 92253

Dear Messrs. Wassil and Stephenson:

Subject: Contract No. C19650 - Traffic Signal and Safety Lighting Maintenance Agreement - Fred Waring Drive and Washington Street

At its regular meeting of December 13, 2001, the Palm Desert City Council, by Minute Motion, approved the subject Agreement with the City of Indian Wells and City of La Quinta, and authorized the Mayor to execute same.

Enclosed is a fully executed Agreement for your records.

If you have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

RACHELLE D. KLASSEN
DEPUTY CITY CLERK

RDK:nb

Enclosure (as noted)

cc: Public Works Department

AGREEMENT FOR MAINTENANCE OF TRAFFIC SIGNALS AND SAFETY LIGHTING

This AGREEMENT FOR MAINTENANCE OF TRAFFIC SIGNALS AND SAFETY LIGHTING ("Agreement") is entered by and among the City of Palm Desert, California, a California municipal corporation ("Palm Desert"), the City of La Quinta, California, a California municipal corporation ("~~La Quinta~~"), and the City of Indian Wells, California, a California municipal corporation ("~~Indian Wells~~").

RECITALS

This Agreement is made with reference to the following facts:

- A. La Quinta and Indian Wells (the "Serviced Cities") and Palm Desert jointly own certain traffic signal and highway safety lighting installations located partly within the boundaries of each city, as shown by Exhibit "A", attached hereto and incorporated herein by this reference (the "Installations"), which Installations are owned in the proportions shown by Exhibit "A".
- B. Palm Desert and the Serviced Cities desire to arrange for maintenance of the Installations and sharing the cost therefor.
- C. Palm Desert desires to maintain the Installations for itself and the Serviced Cities, and the Serviced Cities desire that Palm Desert perform such maintenance.

AGREEMENT

NOW THEREFORE, in consideration of the facts set forth above and the mutual covenants, promises and agreements set forth herein, the parties hereto do hereby agree as follows:

- 1. Maintenance.
 - 1.1 Scope of Services. Palm Desert shall provide routine maintenance work and emergency call-out service on traffic signals, highway safety lighting, flashing beacons, and other electrically operated traffic control or warning devices associated with the Installations. Routine maintenance services hereunder shall include the following work: inspect the signal system and clean the control cabinet every six (6) weeks; re-lamp and clean signal heads every two (2) years; re-lamp and clean luminaries every five (5) years. Emergency call-out services shall include all repairs and maintenance of the subject traffic control and warning devices or reasonable temporary measures necessary to preserve the public safety in the event of an Installation failure. Palm Desert shall also arrange for delivery of electrical power to the Installations.

- 1.2 Extra Work. In the event that Palm Desert determines that any work it has been requested or directed to perform is beyond the scope of this Agreement and, therefore, constitutes extra work ("Extra Work"), Palm Desert shall promptly notify the requesting city or Serviced Cities, as the case may be, of that determination before performing such Extra Work. If the requesting city or Serviced Cities agree that the requested work constitutes Extra Work and authorize Palm Desert, in writing, to perform the Extra Work, the authorizing city or Serviced Cities shall provide extra compensation to Palm Desert upon a fair and equitable basis in accordance with Palm Desert's standard rates. Palm Desert shall determine whether such work constitutes Extra Work, however, the Serviced Cities shall be entitled to any and all legal remedies in the event of a dispute concerning such determination.
2. Compensation. The total cost of the work and services to be provided by Palm Desert under this Agreement (the "Cost of Services"), not including Extra Work, shall be allocated among the Serviced Cities and Palm Desert in proportion to ownership of the Installations. Serviced Cities shall pay Palm Desert that percentage of the Cost of Services represented by the percentage ownership of the Installations shown by Exhibit "A". Palm Desert shall be responsible for that percentage of the Cost of Services represented by its percentage ownership of the Installations shown by Exhibit "A". Palm Desert shall charge for the Cost of Services in accordance with its standard rates.
3. Payment. Billing by Palm Desert shall be made annually and shall include an itemized accounting of all costs and services rendered during the period. Serviced Cities shall pay the billed amount within thirty (30) calendar days after receipt of billing from Palm Desert. In the event of a billing dispute, Serviced Cities shall submit any such dispute in writing to Palm Desert together with payment in full, in accordance with this section. Any such dispute shall be resolved and any refund owed by Palm Desert shall be settled within a reasonable period of time.
4. Records. Records for the work provided under this Agreement shall be kept by Palm Desert and shall include the cost of all services performed. Such records shall be maintained for at least two (2) years and, upon reasonable notice, shall be made available for inspection by Serviced Cities.
5. Term and Termination. This Agreement shall commence on April 1, 2001 and shall remain in force until terminated in accordance with this section. Notwithstanding the foregoing, with respect to the delivery of electrical power to the Installations this agreement shall commence on January 1, 2001. This Agreement may be terminated by any party hereto upon thirty (30) days' written notice to the other parties of such termination. Any payment obligations outstanding and the indemnity provisions hereinbelow shall survive any such termination.
6. Indemnity. Serviced Cities, and each of them, shall indemnify, defend, save and hold harmless Palm Desert, its officers, agents, servants and employees of and from any and all liability,

claims, demands, debts, damages, suits, actions and causes of action of whatsoever kind, nature or sort, including, but not by way of limitation, wrongful death, personal injury or damage to property, the expenses of the defense of said parties and the payment of attorneys' fees in any such claim or action, arising out of or in any manner connected with activities of Serviced Cities or employees of Serviced Cities and this Agreement.

Palm Desert shall indemnify, defend, save and hold harmless Serviced Cities, their officers, agents, servants and employees of and from any and all liability, claims, demands, debts, damages, suits, actions and causes of action of whatsoever kind, nature, or sort, including, but not by way of limitation, wrongful death, personal injury or damage to property, the expenses of the defense of said parties and the payment of attorneys' fees in any such claim or action, arising out of or in any manner connected with activities of Palm Desert or employees of Palm Desert in furnishing the services and materials under this Agreement.

7. Insurance. Serviced Cities, and each of them, shall procure and maintain for the duration of this Agreement liability insurance against claims for injuries to persons or damages to property in an amount not less than One Million Dollars (\$1,000,000.00) which may arise from or in connection with the activities of the Serviced Cities or employees of the Serviced Cities and this Agreement by including Palm Desert as a "Protected Party" within the insurance program maintained by the Serviced Cities with the CJPIA.

Palm Desert shall procure and maintain for the duration of this Agreement liability insurance against claims for injuries to persons or damages to property in an amount not less than One Million Dollars (\$1,000,000.00) which may arise from or in connection with the performance of this Agreement by Palm Desert by including the Serviced Cities, and each of them, as a "Protected Party" within the insurance program maintained by Palm Desert with the CJPIA.

8. Notice. Any notice required or permitted hereunder shall be in writing and sent to each party by regular mail and shall be deemed given two (2) business days after deposit in the mail. Notices shall be addressed as set forth below, but any addressee may change its address by written notice in accordance herewith.

City of Palm Desert
73-510 Fred Waring Dr.
Palm Desert, CA 92260

City of Indian Wells
44-950 Eldorado Drive
Indian Wells, CA 92210

City of La Quinta
78-495 Calle Tampico
La Quinta, CA 92253

Attn: Director of Public
Works

Attn: Director of Public
Works

Attn: Director of Public
Works

9. General Provisions.

- 9.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto, and contains all of the agreements between the parties with respect to

the subject matter hereof. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof.

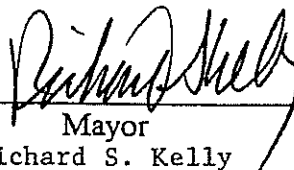
- 9.2 Amendment and Waiver. This Agreement may be amended or revoked at any time by a written agreement executed by Palm Desert and Serviced Cities. No change or modification of this Agreement shall be valid unless the same be in writing and signed by all the parties. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the party granting such waiver, and in no event shall any such waiver be deemed to be a waiver of any other term, covenant or condition of this Agreement.
- 9.3 Invalid Provision. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 9.4 Headings. The headings of the articles, sections, subsections or paragraphs of this Agreement are inserted solely for convenience of reference, and shall not be deemed to govern, limit or aid in the construction or interpretation of any term of this Agreement.
- 9.5 Independent Counsel. Each party has had the opportunity to consult with its own attorney with respect to this Agreement, and in the event that any language contained herein is construed to be vague or ambiguous, this Agreement shall not be strictly construed against any party.
- 9.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Palm Desert and the Serviced Cities.
- 9.7 Other Documents. The parties hereto agree that each shall, concurrently herewith, or at any time hereafter, on the demand of the other, execute any other documents or instruments or cause to be done any other acts and things as may be necessary or convenient to carry out the intents and purposes of this Agreement.
- 9.8 Counterparts. This Agreement may be executed in any one or more counterparts, and all so executed shall constitute one and the same instrument. Any signature page on any counterpart hereof may be detached from and added to any other counterpart identical in form hereto.
- 9.9 Attorneys' Fees. In the event that any party to this Agreement shall bring an action to enforce the provisions of this Agreement or as a result of any default in the performance of any of the provisions of this Agreement, the prevailing party in such action shall be entitled to recover all costs and expenses, including reasonable

attorneys' fees, incurred by such party in connection with such action.

9.10 Governing Law. This Agreement shall be construed and governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on December 13, 2001


CITY OF PALM DESERT

By: 
Mayor
Richard S. Kelly


Attest:

By: 
Deputy City Clerk


CITY OF INDIAN WELLS

By: 
Mayor

Attest:

By: 
City Clerk

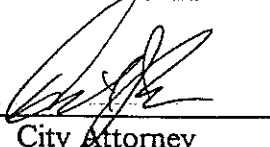
CITY OF LA QUINTA

By: 
Mayor

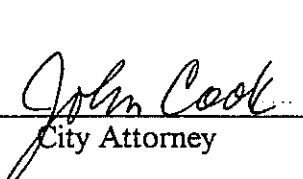
Attest:

By: 
City Clerk

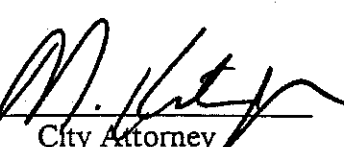
Approved as to form:

By: 
City Attorney

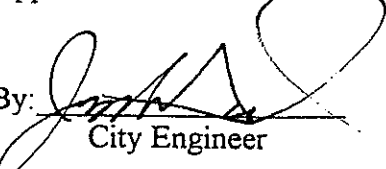
Approved as to form:

By: 
City Attorney

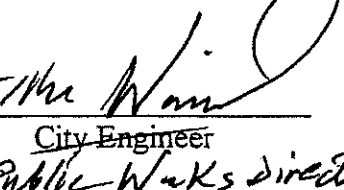
Approved as to form:

By: 
City Attorney

Approved as to content:

By: 
City Engineer

Approved as to content:

By: 
City Engineer
Public Works Director

Approved as to content:

By: 
City Engineer

EXHIBIT "A"**TRAFFIC SIGNAL AND HIGHWAY SAFETY LIGHTING INSTALLATIONS
JOINTLY OWNED BY PALM DESERT, LA QUINTA, AND INDIAN WELLS**

| TRAFFIC SIGNAL LOCATION | % OWNERSHIP |
|---------------------------------------|--|
| Fred Waring Drive & Washington Street | 25% Palm Desert 50% La Quinta 25% Indian Wells |

EXHIBIT "B"

PALM DESERT STANDARD BILLING RATES

| | |
|------------------------------|--------------------|
| Hourly | \$22.6050 per hour |
| Overtime | \$33.9075 per hour |
| <hr/> | |
| Equipment / Asset Allocation | \$20.3560 per hour |



CITY OF PALM DESERT

73-510 FRED WARING DRIVE
PALM DESERT, CALIFORNIA 92260-2578
TEL: 760 346-0611
info@cityofpalmdesert.org

January 17, 2014

City of La Quinta
Attn: Public Works Director
78-495 Calle Tampico
La Quinta, California 92253

Dear Sir or Madam:

Subject: Contract No. C33220 – Cooperative Agreement for Operation and Maintenance of Traffic Signal and Safety Lighting Between the City of La Quinta and the City of Palm Desert for the Traffic Signal at Washington Street and Mountain View/Palm Royale Drive

At its regular meeting of January 9, 2014, the Palm Desert City Council, by Minute Motion, authorized the Mayor to execute the subject Cooperative Agreement between the Cities of La Quinta and Palm Desert for Operation and Maintenance of the Traffic Signal and Safety Lighting at Washington Street and Mountain View/Palm Royale Drive.

Enclosed is a fully executed Cooperative Agreement for your records. If you have any questions or require any additional information, please do not hesitate to contact my office.

Sincerely,

RACHELLE D. KLASSEN, MMC
CITY CLERK

RDK:rg

Enclosure (as noted)

cc: ✓ Mark Greenwood, P.E., Director of Public Works
Finance Department

**COOPERATIVE AGREEMENT
FOR OPERATION AND MAINTENANCE
OF TRAFFIC SIGNAL AND SAFETY LIGHTING**

This Cooperative Agreement for Operation and Maintenance of Traffic Signals and Safety Lighting (hereinafter "Agreement") entered into this 9 day of January, 2014, is between the City of LA QUINTA, a California municipal corporation, referred to herein as "LA QUINTA" and the City of PALM DESERT, a California municipal corporation, referred to herein as "PALM DESERT". LA QUINTA and PALM DESERT are sometimes hereinafter individually referred to as "PARTY" and/or collectively referred to in this Agreement as "PARTIES".

RECITALS

- 1) LA QUINTA and PALM DESERT, municipal corporations and members of the California Joint Powers Insurance Authority, desire to specify the terms and conditions under which traffic signals (INSTALLATIONS) located on shared boundaries will be maintained, as well as the obligations and responsibilities of the PARTIES with respect to those traffic signals.
- 2) The INSTALLATION(S) are listed and shown in Exhibit B, attached hereto and incorporated herein by this reference. The INSTALLATIONS are owned proportionately by each PARTY as shown in Exhibit B. As INSTALLATIONS are added or removed from this Agreement, the locations may be updated by either PARTY submitting to the other PARTY a proposed revised Exhibit B. The Director of Public Works, or equivalent, of each PARTY must approve in writing the revised Exhibit B prior to the revision taking effect.

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

Section I – SCOPE OF SERVICES

- 1) **General Scope of Services:**

PALM DESERT shall provide routine maintenance work and emergency call-out service on traffic signals, street safety lighting, flashing beacons, and other electrically operated traffic control or warning devices associated with the INSTALLATIONS. Routine maintenance services hereunder shall include the following work: inspect the signal system and clean the control cabinet quarterly; clean and re-lamp signal heads as required; clean and re-lamp luminaires as required. Emergency call-out services shall include all repairs and maintenance of the subject traffic control and warning devices or reasonable temporary measures necessary to preserve the public safety in

the event of a signal system failure. PALM DESERT shall apply to the local power company for service and pay for delivery of electrical power to the signals.

2) Extra Work:

Any work to be performed beyond the scope of services described in paragraph 1), above, shall constitute extra work ("Extra Work"). Extra Work shall be compensated for with extra compensation calculated in a fair and equitable method in accordance with PALM DESERT's current rates and/or PALM DESERT's emergency /after-hours contractor's current rates. The current rates as they exist upon the effective date of this Agreement are set forth in Exhibit A. PALM DESERT may update those rates from time to time, and shall provide notice to LA QUINTA of such updated rates. PALM DESERT shall promptly notify LA QUINTA of any work that it has determined constitutes Extra Work before performing such Extra Work. LA QUINTA shall promptly respond and if it agrees that the subject work constitutes Extra Work, will authorize PALM DESERT, in writing, to perform the Extra Work, LA QUINTA shall compensate PALM DESERT for the Extra Work in accordance with this paragraph and PALM DESERT's then current rates. PALM DESERT shall make the final determination whether such work constitutes Extra Work, provided, however, that LA QUINTA shall be entitled to any and all legal remedies in the event of a dispute concerning such determination, including the right to terminate this Agreement with 30-day's notice.

Section II –PALM DESERT’S OBLIGATIONS

PALM DESERT AGREES:

- 1) To operate and maintain the INSTALLATIONS IN ACCORDANCE WITH Scope of Services in Section 1,paragraph 1), and to pay fifty percent (50%) of all operations, maintenance, repair, and replacement costs, including electrical energy costs, for the INSTALLATIONS
- 2) Records: Records for the work provided under this Agreement shall be kept by PALM DESERT and shall include the costs of all services performed. Such records shall be maintained for at least two (2) years and, upon reasonable notice, shall be made available for inspection by LA QUINTA.

Section III –LA QUINTA’S OBLIGATIONS

LA QUINTA AGREES:

- 1) To pay fifty percent (50%) of all operations, maintenance, repair, and replacement costs, including electrical energy costs, for the INSTALLATIONS.
- 2) To pay all of above-referenced amounts within thirty (30) days of receipt of the billing from PALM DESERT therefore.
- 3) Billing by PALM DESERT shall be made no more frequently than semi-annually, and if annually, shall cover the period beginning July 1 and ending June 30.
- 4) Upon full execution of this Agreement, the first billing submitted by PALM DESERT may include all eligible expenses incurred after full execution of this Agreement. All expenses incurred by PALM DESERT prior to full execution of this Agreement shall not be eligible for reimbursement.
- 5) In the event of a dispute, LA QUINTA shall submit any such dispute in writing to PALM DESERT. The Parties shall endeavor to resolve any such dispute and pay the balance due, if any, within a reasonable period of time.

Section IV – GENERAL PROVISIONS

1) Terms and Termination:

Once signed by all PARTIES, this Agreement shall remain in force until terminated in accordance with this section. This Agreement may be terminated by any PARTY hereto upon thirty (30) days written notice to the

other PARTY of such termination. Any payment obligation then outstanding shall survive such termination.

2) Invalid Provision:

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

3) Amendment and Waiver:

This Agreement may be amended or revoked at any time by a written agreement executed by LA QUINTA and PALM DESERT. No change or modification of this Agreement shall be valid unless the same is in writing and signed by all PARTIES. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the PARTY granting such waiver, and in no event shall any such waiver be deemed to be a waiver of any other term, covenant or condition of this Agreement.

4) Attorney's Fees:

Each of the PARTIES shall bear its own fees and costs, including without limitation attorney's fees, in the event of any dispute pertaining to this agreement.

5) Governing Law:

This Agreement shall be construed and governed by the laws of the State of California.

6) Independent Counsel:

Each PARTY has had the opportunity to consult with its own attorney with respect to this Agreement, and in the event that any language contained herein is construed to be vague or ambiguous, this Agreement shall not be strictly construed against any PARTY.

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 verbal understanding or agreement not incorporated herein shall be binding on either party hereto.

8) Upon completion of all work under this Agreement, ownership and title to all materials, equipment, and appurtenances installed in PALM DESERT shall be vested in PALM DESERT and all materials, equipment, and appurtenances installed in LA QUINTA shall be vested in LA QUINTA.

- 9) Neither PALM DESERT nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by LA QUINTA under or in connection with any work, authority or jurisdiction delegated to LA QUINTA under this Agreement. It is also agreed that, pursuant to Government Code Section 895.4, LA QUINTA shall fully indemnify and hold PALM DESERT harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by LA QUINTA under or in connection with any work, authority or jurisdiction delegated to LA QUINTA under this Agreement except to the extent that such injury results from PALM DESERT' own misconduct or negligence.
- 10) Neither LA QUINTA nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by PALM DESERT under or in connection with any work, authority or jurisdiction delegated to PALM DESERT under this Agreement. It is also agreed that pursuant to Government Code Section 895.4. PALM DESERT shall fully indemnify and hold LA QUINTA harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by PALM DESERT under or in connection with any work, authority or jurisdiction delegated to PALM DESERT under this Agreement except to the extent that such injury results from LA QUINTA's own misconduct or negligence.

11) Notices

All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing (such as Federal Express or UPS)), sent by telecopier or facsimile ("FAX") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid, to the following parties at the following addresses or numbers:

If to "LA QUINTA": City of La Quinta
78-495 Calle Tampico
La Quinta, CA 92247-1504
Attn: Public Works Director
Tel: (760) 777-7075
Fax: (760) 777-7155

If to "PALM DESERT": City of PALM DESERT
73-510 Fred Waring Drive
PALM DESERT, CA 92260
Attn: Public Works Director
Tel: (760) 776-6450
Fax: (760) 341-7098

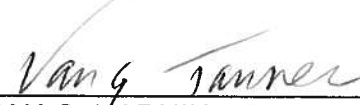
Notices sent in accordance with this paragraph shall be deemed delivered upon the next business day following: (1) the date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier services); (2) the date of the actual receipt (if personally delivered by other means); (3) the date of transmission (if sent by facsimile machine), or; (4) the date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this paragraph.

IN WITNESS WHEREOF, the PARTIES have executed the Agreement as of the dates set forth below.

CITY OF LA QUINTA

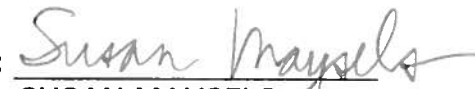
CITY OF PALM DESERT

By: 
DONALD ADOLPH, Mayor

By: 
~~JAN G. HARNIK, Mayor~~
Van G. Tanner, Mayor

ATTEST:

ATTEST:


By: 
SUSAN MAYSELS,
City Clerk

By: 
RACHELLE D. KLASSEN,
City Clerk

APPROVED AS TO FORM:

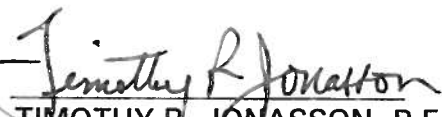
APPROVED AS TO FORM:

By: **SIGNED IN COUNTERPART**
M. KATHERINE JENSON,
City Attorney

By: 
DAVID J. ERWIN,
City Attorney

APPROVE AS TO CONTENT:

APPROVE AS TO CONTENT:

By: 
TIMOTHY R. JONASSON, P.E.
Public Works Director/City Engineer

By: 
MARK GREENWOOD, P.E.,
Public Works Director

IN WITNESS WHEREOF, the PARTIES have executed the Agreement as of the dates set forth below.

CITY OF LA QUINTA

CITY OF PALM DESERT

SIGNED IN COUNTERPART

By: _____
DONALD ADOLPH, Mayor

By: Van G. Tanner
~~JAN O. HARNIK, Mayor~~
Van G. Tanner, Mayor

ATTEST:

ATTEST:

SIGNED IN COUNTERPART

By: _____
SUSAN MAYSELS,
City Clerk

By: Rachelle D. Klassen
RACHELLE D. KLASSEN,
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: M. Katherine Jensen
M. KATHERINE JENSON,
City Attorney

By: David J. Erwin
DAVID J. ERWIN,
City Attorney

APPROVE AS TO CONTENT:

APPROVE AS TO CONTENT:

By: Timothy R. Jonasson
TIMOTHY R. JONASSON, P.E.
Public Works Director/City Engineer

By: Mark Greenwood
MARK GREENWOOD, P.E.,
Public Works Director

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside

On January 21, 2014 before me, Grace L. Mendoza, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Van G. Tanner
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ ~~(is)~~~~are~~ subscribed to the within instrument and acknowledged to me that ~~(he)~~~~she~~~~they~~ executed the same in ~~(his)~~~~her~~~~their~~ authorized capacity~~(ies)~~, and that by ~~(his)~~~~her~~~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature: Grace L. Mendoza

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: C332200 - CO-OP Agreement.

Document Date: 1-9-2014 Number of Pages: 10

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
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RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

**EXHIBIT A
STANDARD BILLING RATES
CITY OF PALM DESERT
STAFF AND EQUIPMENT**

All rates subject to yearly update

Rates are shown per hour and are billed pro-rated for any portion of an hour.
Rates are established by City Council.

| Staff Position | Regular Rate | Overtime Rate |
|---------------------------|---------------------|----------------------|
| Traffic Signal Technician | \$ 134 / hr. | \$ 161 / hr. |
| Traffic Signal Specialist | \$ 138 / hr. | \$ 162 / hr. |
| Landscape Inspector | \$ 106 / hr. | \$ 130 / hr. |

| Equipment | Regular Rate |
|----------------------------------|---------------------|
| Service Truck | \$ 7 / hr. |
| Bucket Truck | \$ 27 / hr. |
| Service Truck with Message Board | \$ 19 / hr. |
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EXHIBIT "B"
INSTALLATIONS

| MAINTAINED BY | DESCRIPTION OF SHARED FACILITY AND LOCATION | PERCENT OWNERSHIP | |
|------------------|--|-------------------|----------------|
| | | LA QUINTA | PALM DESERT |
| Palm Desert | Traffic Signal and safety lighting: Washington Street at Palm Royale Drive. Cost share for maintenance and electricity | 50% | 50% |
| | | | |

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