

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: TLMA - Transportation Department

SUBMITTAL DATE:
 May 13, 2010

SUBJECT: Cooperative Funding Agreement between the County of Riverside and the City of Banning for a proposed new Grade Separation at the intersection of Sunset Avenue and the Union Pacific Railroad.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Cooperative Funding Agreement between the County of Riverside and the City of Banning, and;
2. Authorize the Chairman of the Board to execute the same.

BACKGROUND: The Sunset Avenue railroad crossing is currently at street level and causes significant traffic delays. A grade separation project has been proposed to enhance traffic flows along Sunset Avenue and would provide a route for emergency services to access residents

Juan C. Perez
 Director of Transportation

(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 3,200,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/10
SOURCE OF FUNDS: City of Banning (TUMF) (100%) Project No. C0-0529				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Tina Grande
 Tina Grande

County Executive Office Signature

Policy Policy

Consent Consent

Dept's Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.

District: 5

Agenda Number:

ATTACHMENTS FILED
 WITH THE CLERK OF THE BOARD

3.63

The Honorable Board of Supervisors

RE: Cooperative Funding Agreement between the County of Riverside and the City of Banning for a proposed new Grade Separation at the intersection of Sunset Avenue and the Union Pacific Railroad.

May 13, 2010

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south of the railroad tracks, while improving overall safety in the area.

The 2008 Regional Transportation Improvement Program includes Federal and State funds programmed in the amount of \$20,600,000 from several sources including: FFY 2006 Appropriations Earmarks, Demo-SAFETEA-LU, Projects of National and Regional Significance, Surface Trans Program-HR4818, and Trade Corridor Improvement Funds (TCIF). The Western Riverside Transportation Uniform Mitigation Fee (TUMF) program has also allocated \$4,200,000 to the project.

The TCIF funding requirements include a stipulation that construction activities for the project must commence on or before December 31, 2013. The proposed facilities are located within the jurisdictional boundaries of the City of Banning and the City has requested that the County assist the City in expediting the project through the State Department of Transportation (Caltrans) in an effort to meet the grant obligation deadline, given the Transportation Department's extensive experience in delivering major interchanges and bridges.

The Cooperative Agreement will designate the County as the lead agency and permit the County to provide the services necessary to develop the project and obtain relevant and necessary approvals from Caltrans and the Union Pacific Railroad. The terms of the agreement also provide reimbursement to the County for the cost of the services to be provided.

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

AGREEMENT BY AND BETWEEN

RIVERSIDE COUNTY

Contract No. 10-04-009
Riverside Co. Transportation

AND

CITY OF BANNING

FOR ROADWAY AND BRIDGE IMPROVEMENT SERVICES ON

SUNSET AVENUE BETWEEN RAMSEY ST AND SOUTHERLY OF THE UNION PACIFIC RAILROAD

This Agreement entered into this _____ day of _____, 2010, by and between the COUNTY of Riverside, (hereinafter "COUNTY"), and the CITY of Banning, (hereinafter "CITY") for the provision of certain roadway improvements on Sunset Avenue located within the jurisdictional boundaries of the CITY.

RECITALS

- A. CITY and COUNTY have determined that there is great need for grade separation improvements on Sunset Avenue and the Union Pacific Railroad (hereinafter "PROJECT") as shown in Exhibit A (Vicinity Map).
- B. The 2008 Regional Transportation Improvement Program (hereinafter "RTIP") includes Federal and State funds programmed in the amount of \$20,600,000 from several sources including: FFY 2006 Appropriations Earmarks, Demo-SAFETEA-LU, Projects of National and Regional Significance, Surface Trans Program-HR4818, and Trade Corridor Improvement Funds (TCIF). The RTIP also identifies local funds from the Western Riverside Transportation Uniform Mitigation Fee (TUMF) program in the amount of \$4,200,000.
- C. TCIF funding requirements include a stipulation that construction activities for the PROJECT must commence on or before December 31, 2013 and is anticipated to be completed on or before June 30, 2016.
- D. CITY is designated as the responsible Agency in the RTIP.
- E. CITY and Western Riverside Council of Governments (WRCOG) have entered into an agreement titled "TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM - SUNSET AVENUE GRADE SEPERATION" dated MAY 14, 2008. Said agreement authorizes CITY to expend up to \$4.2 Million on PROJECT. All appropriate PROJECT expenses incurred by CITY, including services by COUNTY under contract to CITY, are reimbursable from WRCOG TUMF funds.
- F. COUNTY has extensive experience in the development and implementation of Federal and State involved interchange and grade separation projects. CITY and COUNTY desire to designate COUNTY as the lead agency in the development and implementation of PROJECT in part due to the experience and expertise of the COUNTY and the impending TCIF deadline. COUNTY will therefore provide the administrative, technical,

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

1 managerial and support services necessary to develop and implement PROJECT.

2 G. COUNTY and CITY desire to define herein the terms and conditions under which said PROJECT is to be
3 administered, environmentally cleared, engineered, coordinated, constructed, managed, maintained and
4 financed.

5 H. PROJECT is located adjacent to the Interstate 10 and Sunset Avenue Interchange. It has been determined
6 that the construction of PROJECT improvements will encroach in the State right-of-way and will impact the
7 existing overpass as well as the east-bound and west-bound ramps. Coordination with the State of California,
8 Transportation Department ("hereinafter CALTRANS") and possibly Federal agencies will be required as a
9 result of this encroachment.

10 I. PROJECT is located within the right-of-way of the Union Pacific Railroad ("hereinafter UPRR") and will
11 therefore require coordination with UPRR.

12 J. CITY has completed substantial engineering work for the preparation of a Project Study Report (PSR), a Draft
13 Supplemental Project Study Report (SPSR) and a Preliminary Environmental Analysis Report (PEAR).

14 K. COUNTY and CITY intend to authorize the PROJECT services under this agreement in multiple phases. The
15 first phase will include the work needed to complete the planning studies, provide preliminary engineering,
16 provide utility coordination, perform technical studies, obtain environmental clearance, provide right-of-way
17 engineering and prepare final plans, specifications and estimates. The first phase is authorized to proceed
18 upon execution of this agreement by the parties. It is anticipated that COUNTY will provide services to
19 perform right-of-way acquisition, utility relocations, complete construction of the improvements, and provide
20 construction support services under a future phase or phases that will be authorized through amendments to
21 this agreement.

22 **AGREEMENT**

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

25 **SECTION 1 • COUNTY AGREES:**

26 1. To prepare, or cause to be prepared, detailed PS&E documents for the PROJECT in accordance with State of
27 California Department of Transportation (Caltrans), Union Pacific Railroad (UPRR), CITY and Federal
28 Highways Administration requirements. COUNTY will submit environmental and design documents to CITY
29 for review and approval at appropriate stages of development. Final plans for improvements shall be

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

1 designed to appropriate standards and signed by a Civil Engineer registered in the State of California.

2 2. To identify and locate all utility facilities within the PROJECT area. If any existing public and/or private utility
3 facilities conflict with PROJECT construction, COUNTY shall make all necessary arrangements with the
4 owners of such facilities for their protection, relocation, or removal. COUNTY shall require the utility owner
5 and/or its contractors performing the relocation work within CITY's right-of-way to obtain a CITY
6 encroachment permit prior to the performance of said relocation work. COUNTY and CITY shall coordinate
7 and cooperate in the effort to establish prior rights related to utility encroachments.

8 3. To prepare an environmental document in accordance with the California Environmental Quality Act (CEQA)
9 and the National Environmental Policy Act (NEPA) by August 31, 2011. It has not yet been determined if the
10 project will be done following Caltrans standard oversight procedures or under a streamlined oversight
11 process. Caltrans will be the Environmental Lead Agency for both NEPA and CEQA in the event the project
12 is processed as a standard oversight project. County will be the Environmental Lead Agency for CEQA and
13 Caltrans will be the Environmental Lead Agency for NEPA in the event the project is done under a
14 streamlined process.

15 4. In the event the project is processed as a standard oversight project, COUNTY will provide the necessary
16 services to complete the Project Study Report and Project Report as those services are defined and required
17 under Caltrans standard oversight procedures.

18 5. To perform right-of-way engineering services including but not limited to the preparation of Right-of-way
19 Requirement Maps, Legals, Plats and Right-of-way Maps. COUNTY may also provide Property appraisal
20 services upon request of CITY, however, actual land acquisition is not included in this first phase of services.

21 **SECTION 2 - CITY AGREES:**

22 1. To fund one hundred (100) percent of the cost of the preparation of planning studies (PSR), preparation of
23 technical studies, providing utility coordination, providing preliminary engineering services (PR), preparation of
24 an environmental document (ED) and obtaining environmental clearance, preparation of plans, specifications
25 and estimates (PS&E) and providing right-of-way engineering services necessary to construct PROJECT
26 improvements to the extent of the cap provided in Exhibit "B" (Project Cost Estimate). It is anticipated that
27 COUNTY shall invoice CITY for services provided by COUNTY. CITY shall be responsible for submitting
28 COUNTY invoices to WRCOG for reimbursement consistent with the terms of the agreement between CITY
29 and WRCOG. The estimated cost for these services is provided in Exhibit "B" attached hereto and

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

1 incorporated herein. CITY agrees that should unforeseen circumstances arise which result in an increase of
2 any costs over those shown in Exhibit "B", CITY will in good faith consider an amendment to this agreement
3 to include any such costs under this agreement. In the event that the County determines that the Budget is
4 insufficient, County shall give City at least ninety (90) days advance notice, and the parties shall meet and
5 confer to determine if the scope can be reduced or if additional revenues are available.

6 2. Construction shall commence on or before December 31, 2013 and is anticipated to be completed on or
7 before June 30, 2016. CITY agrees that should unforeseen circumstances arise through no fault of COUNTY,
8 which result in a delay to the Project schedule, CITY will in good faith consider an amendment to this
9 agreement to extend the anticipated construction completion date. COUNTY will give CITY notice promptly
10 upon encountering any circumstance which may impact the construction schedule.

11 3. To provide, at no cost to COUNTY, electronic copies of all work product prepared by CITY and CITY's
12 engineering consultant(s) to date.

13 4. To provide, at no cost to COUNTY, oversight of PROJECT and to provide prompt reviews and approvals, as
14 appropriate, of submittals by COUNTY, and to cooperate in timely processing of PROJECT.

15 5. To issue, at no cost to COUNTY or its contractors, upon proper application by COUNTY or COUNTY's
16 contractor, an encroachment permit authorizing entry onto CITY's right-of-way to perform survey and other
17 investigative activities required for preparation of the ED, PS&E or Construction of project.

18 6. To pay within 45 days of receipt all invoices submitted by COUNTY for services rendered in accordance with
19 this agreement.

20 **SECTION 3 • IT IS MUTUALLY AGREED AS FOLLOWS:**

21 1. The cost of the Engineering and Environmental Services for the PROJECT is estimated to be \$ 3.2 Million as
22 detailed in Exhibit "B".

23 2. Services performed by COUNTY may be performed by COUNTY staff or by consultants hired by COUNTY.

24 3. Ownership and title to all materials, equipment, and appurtenances installed as part of this agreement will
25 automatically be vested with the jurisdiction for which the improvements reside and no further agreement will
26 be necessary to transfer ownership.

27 4. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by
28 both parties and no oral understanding or agreement not incorporated herein shall be binding on either party
29 hereto.

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

- 1 5. COUNTY and CITY shall retain or cause to be retained for audit for a period of three (3) years from the date
2 of final payment, all records and accounts relating to PROJECT.
- 3 6. Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by
4 reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or
5 jurisdiction delegated to COUNTY under this Agreement. It is further agreed that pursuant to Government
6 Code Section 895.4, COUNTY shall fully indemnify and hold CITY harmless from any liability imposed for
7 injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be
8 done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under
9 this Agreement.
- 10 7. Neither COUNTY nor any officer or employee thereof shall be responsible for any damage or liability
11 occurring by reason of anything done or omitted to be done by CITY under or in connection with any work,
12 authority or jurisdiction delegated to CITY under this Agreement. It is further agreed that pursuant to
13 Government Code Section 895.4, CITY shall fully indemnify and hold COUNTY harmless from any liability
14 imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or
15 omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY
16 under this Agreement.
- 17 8. This agreement and the exhibits herein contain the entire agreement between the parties, and are intended
18 by the parties to completely state the agreement in full. Any agreement or representation respecting the
19 matters dealt with herein or the duties of any party in relation thereto, not expressly set forth in this
20 agreement, is null and void.
- 21 9. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third
22 parties not party to this Agreement or affect the legal liability of either party to the Agreement by imposing any
23 standard of care with respect to the maintenance of roads different from the standard of care imposed by law.
- 24 10. This agreement may be executed in one or more counterparts and when a counterpart shall have been
25 signed by each party hereto, each shall be deemed an original, but all of which constitute one and the same
26 instrument.
- 27 11. This Agreement shall terminate upon completion and acceptance of the construction contract for PROJECT
28 or on 12/31/2017 whichever is earlier in time, except Sections 3(5), 3(6) and 3(7) above shall survive
29 termination of this Agreement.

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

APPROVALS

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COUNTY Approvals

APPROVED AS TO FORM:

PK Victor, Deputy Dated: 5/17/10
Marsha L. Victor
PAMELA J. WALLS

County Counsel

APPROVAL BY THE BOARD OF SUPERVISORS

_____ Dated: _____

PRINTED NAME
Chairman, Riverside County Board of Supervisors

ATTEST:

_____ Dated: _____

KECIA HARPER-IHEM
Clerk of the Board (SEAL)

CITY OF BANNING Approvals

APPROVED BY:

Robert E. Botts Dated: 4-13-10

PRINTED NAME **Robert E. Botts**
Mayor

TITLE

APPROVED BY:

_____ Dated: _____

PRINTED NAME

TITLE

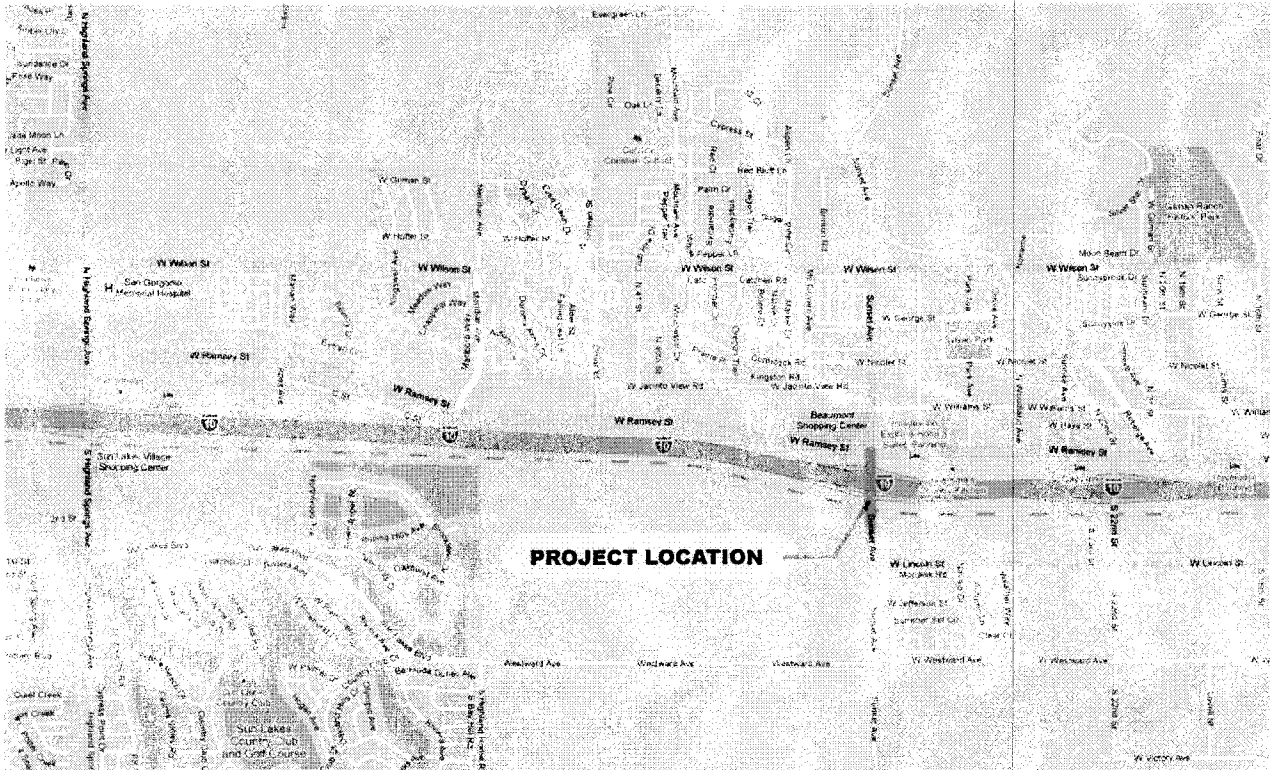
ATTEST:

Marie A. Calderon
Marie A. Calderon
City Clerk

Dated: 4-13-10

City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

EXHIBIT A • VICINITY MAP



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EXHIBIT B • PROJECT COST ESTIMATE

TASK	COUNTY	CITY	TOTAL
Engineering & Environmental	\$ 0	\$ 3,200,000	\$ 3,200,000
Right-of-way Acquisition	TBD	TBD	TBD
Utilities	TBD	TBD	TBD
Construction	TBD	TBD	TBD
Construction Support	TBD	TBD	TBD
TOTALS	\$ 0	\$3,200,000	\$ 3,200,000

TBD = To Be Determined

Note:

The Engineering estimate includes preliminary survey, planning studies, preliminary engineering, relevant technical studies, utility coordination, right-of-way engineering and preparation of PS&E documents.

The Environmental estimate includes relevant technical studies, preparation of the environmental document and obtaining environmental clearance.

The Right-of-way Acquisition, Utility, Construction and Construction Support services are anticipated to be included in this agreement by a future amendment to this agreement. Cost Estimates for these services will be included with the relevant amendment(s) to this agreement.