

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

559A



**FROM:** TLMA - Transportation Department


**SUBMITTAL DATE:**  
October 21, 2010

**SUBJECT:** Agreement by and between Riverside County and City of Wildomar for Clinton Keith Road at I-15 Interchange Improvements.

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the subject agreement, and;
2. Authorize the Chairman of the Board to execute the same.

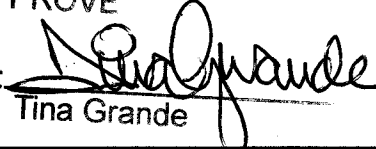
**BACKGROUND:** The County has been working on a project to provide improvements to the existing Clinton Keith Road Interchange at Interstate 15. The proposed improvements include the widening of the existing Clinton Keith Road Overcrossing from two to six through lanes with dual left-turn pockets for the northbound and southbound entrance ramps, realignment and the

  
\_\_\_\_\_  
Juan C. Perez  
Director of Transportation

(Continued On Attached Pages)

<b>FINANCIAL DATA</b>	<b>Current F.Y. Total Cost:</b>	\$ 952,600	<b>In Current Year Budget:</b>	Yes
	<b>Current F.Y. Net County Cost:</b>	\$ 0	<b>Budget Adjustment:</b>	No
	<b>Annual Net County Cost:</b>	\$ 0	<b>For Fiscal Year:</b>	2010/11
<b>SOURCE OF FUNDS:</b> W.O. No. A2-0264 - DIF AP19 Major Improvements Fund (SW Area)			<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
			<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE  
BY:   
Tina Grande

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
DATE: 10/20/10  
BY: MARSHAL VICTOR

Departmental Concurrence

Dep't Recomm.:  Consent  Policy  
Per Exec. Ofc.:  Consent  Policy

**Prev. Agn. Ref.** 1/13/09 3.30;  
12/9/08 3.49;  
5/4/04 3.33 10/21/03 3.1

**District:** 1

**Agenda Number:**

The Honorable Board of Supervisors

RE: Agreement by and between Riverside County and City of Wildomar for Clinton Keith Road at I-15 Interchange Improvements.

October 21, 2010

Page 2

capacity improvement of the ramps, and construction of auxiliary lanes at ramp connections to the interstate. On May 4, 2004, the County executed an agreement with URS Corporation to provide engineering and environmental services necessary to construct the proposed improvements. Subsequently, the County entered into a Project Development Cooperative Agreement with Caltrans on February 9, 2009 establishing the terms and conditions under which the County would be allowed to construct the interchange improvements.

The incorporation of the City of Wildomar on July 1, 2008 included incorporation of the interchange area. Although the project is now located within the jurisdictional boundaries of the City, the County and the City desire to continue developing the project in cooperation Caltrans by maintaining the County as the Lead Agency for the overall development and implementation of the project. The attached agreement provides the terms and conditions under which said project is to be administered, environmentally cleared, engineered, coordinated, managed, constructed, maintained, and financed, subject to availability of funds from various funding programs including WRCOG TUMF, RBBB, and DIF funds previously allocated by the County. It also defines project related activities to be performed by the City, which will be reimbursed by the County per this agreement, including acquisition of property.

Under minute item 3.35 of June 19, 2007, the Board authorized the use of \$4,000,000 of Development Impact Fee (DIF) Roads, Bridges, and Major Improvement Fund for the Southwest Area Plan (Fund 30525) for costs associated with improvements to the Clinton Keith Interchange. These previously approved DIF funds will be used to cover costs related to this agreement.

The County has successfully secured the approval of Environmental Document and Project Report by Caltrans, and is in the process of finalizing the plans, specifications and estimates (PS&E). Right-of-way acquisition is in process. The project is expected to begin construction in the fall of 2011 with construction completion expected in late 2012.

W.O. No. A2-0264

AGREEMENT BY AND BETWEEN Contract No. 10-09-014  
Riverside Co. Transportation  
RIVERSIDE COUNTY

AND

CITY OF WILDOMAR

FOR

**CLINTON KEITH ROAD/I-15 INTERCHANGE IMPROVEMENTS**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the County of Riverside, (hereinafter "COUNTY"), and the City of WILDOMAR (hereinafter "CITY") for the provision of certain activities related to Interchange improvements located at the intersection of Clinton Keith Road and Interstate 15 currently located within the jurisdictional boundaries of the CITY.

**RECITALS**

- A. In 1992 COUNTY programmed a project in the COUNTY Transportation Improvement Program (TIP) to provide improvements to the existing interchange located at the intersection of Clinton Keith Road and Interstate 15 (hereinafter "PROJECT"), which was located within the jurisdictional boundaries of the COUNTY at that time (see Location Map of the Project Site in Exhibit "A").
- B. On May 4, 2004 COUNTY executed an agreement with the firm of URS Corporation to provide engineering and environmental services necessary to construct the proposed improvements to the Clinton Keith Road at Interstate 15 interchange.
- C. As of the date of this Agreement, COUNTY has successfully secured the approval of Environmental Document and Project Report by California Department of Transportation (hereinafter "STATE") on December 9, 2009 and December 21, 2009 respectively, which provide the environmental clearance necessary for construction of the PROJECT. COUNTY is in the process of finalizing the plans, specifications and estimates (PS&E) and is working to obtain the necessary construction permits with involved regulatory agencies.
- D. The incorporation of the City of Wildomar was approved on July 1, 2008 and included incorporation of the PROJECT area.
- E. The PROJECT encroaches onto Interstate 15 facilities that are owned and operated by STATE. On February 9, 2009 COUNTY entered into a Project Development Cooperative Agreement with STATE that provided the terms and conditions under which the COUNTY would be allowed to construct improvements within the

1 STATE right-of-way. The agreement between the STATE and the COUNTY is shown in Exhibit "B".

2 F. Now COUNTY and CITY desire to continue developing the PROJECT in cooperation with STATE to  
3 reconstruct the existing Clinton Keith Road/I-15 Interchange to alleviate congestion and improve traffic  
4 operations. The proposed improvements include the widening of the existing Clinton Keith Road  
5 Overcrossing from two to six through lanes with dual left-turn pockets for the northbound and southbound  
6 entrance ramps and realignment of the ramps at the intersections with Clinton Keith Road. More specifically,  
7 the proposed project maintains the existing diamond interchange configuration while reconstructing the  
8 ramps, widening Clinton Keith Road, and adding auxiliary lanes on the interstate to improve traffic operations  
9 within the interchange area.

10 G. The current County Transportation Improvement Program (2009/2010 TIP, as approved by the Riverside  
11 County Board of Supervisors, November 24, 2009, 3.113) provides that funding for this project will come from  
12 regional programs such as the Transportation Uniform Mitigation Fee (TUMF) program, funds that have been  
13 collected in other development fee programs such as the Southwest Road and Bridge Benefit District and the  
14 Development Impact Fee Program, and City of Murrieta Road and Bridge Funds per Amendment (dated  
15 October 21, 2003 – 3.1) to the Settlement Agreements between the COUNTY and the City of Murrieta (dated  
16 August 13, 1996 and October 19, 1999).

17 H. Although the PROJECT is now located within the jurisdictional boundaries of the CITY, the COUNTY and  
18 CITY desire to have COUNTY maintain responsibility as Lead Agency for the overall development and  
19 implementation of project. COUNTY has extensive experience in the development and implementation of  
20 interchange projects involving Federal and State agencies. Keeping COUNTY as the lead will facilitate  
21 continuity in the development and implementation of PROJECT. COUNTY will therefore provide the  
22 administrative, technical, managerial and support services necessary to complete the development and  
23 implementation of the PROJECT.

24 I. Regardless of the desire to maintain the COUNTY's designation as lead, CITY will assume certain  
25 responsibilities related to PROJECT. These responsibilities shall include the negotiation and related  
26 condemnation of property required for PROJECT as well as issuance of encroachment permits necessary for  
27 the construction of PROJECT. The COUNTY will reimburse CITY for these expenses, as discussed below.

28 J. COUNTY and CITY desire to define herein the terms and conditions under which said project is to be  
29 administered, environmentally cleared, engineered, coordinated, managed, constructed, maintained, and

1 financed. COUNTY and CITY also desires to identify and define project related activities to be performed by  
2 CITY which will be reimbursed by COUNTY.

3 **AGREEMENT**

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

6 **SECTION 1 • COUNTY AGREES:**

- 7 1. To complete, or cause to be completed, detailed PS&E documents for the PROJECT and secure all  
8 necessary construction permits from the regulatory agencies. The COUNTY will seek PS&E approval from  
9 STATE and the Federal Highway Administration.
- 10 2. To timely reimburse CITY for costs and fees associated with the design and construction coordination  
11 necessary to support the PROJECT, all real property right-of-way acquisition activities including legal costs  
12 and fees incurred in connection with the negotiations with the property owners as well as the Eminent Domain  
13 actions and the payments for the purchase of the parcels for acquisition by the CITY. The COUNTY shall  
14 reimburse CITY for costs and fees of CITY staff as well as outside consultants and attorneys hired by CITY.  
15 The total estimated costs for these activities are listed on Exhibit "C." CITY and COUNTY acknowledge and  
16 agree that the dollar amounts listed on Exhibit "C" are estimates only and are not to be construed as a cap on  
17 the total amounts to be reimbursed by COUNTY to CITY. The COUNTY and CITY agree that the actual costs  
18 may be higher than the cost estimates as indicated on Exhibit "C." COUNTY shall remain obligated to  
19 reimburse CITY for CITY'S actual total costs according to this Agreement even if the actual costs exceed the  
20 cost estimates. If the actual costs exceed the cost estimates on Exhibit "C", CITY will continue to forward  
21 invoices to the COUNTY on a monthly basis and COUNTY will reimburse CITY according to the terms of this  
22 Agreement. CITY and COUNTY further agree to modify this Agreement and revise Exhibit "C" if the actual  
23 costs exceed the cost estimates on Exhibit "C."
- 24 3. To prepare certain right-of-way documents in compliance with all applicable State and Federal laws and  
25 regulations. Documents to be prepared by COUNTY include but are not limited to Legal Descriptions, Plats,  
26 Right-of-way Maps and Appraisals.
- 27 4. To advertise, award and administer a public works contract for the construction of PROJECT in accordance  
28 with the local Agency Public Construction Code, the California Labor Code, STATE requirements and in  
29 accordance with an encroachment permit issued by CITY.

- 1 5. COUNTY shall cause COUNTY's contractor to maintain in force, until completion and acceptance of the  
2 PROJECT construction contract, a policy of Contractual Liability Insurance, including coverage of Bodily  
3 Injury Liability and Property Damage Liability, in the amount of \$2,000,000 minimum single limit coverage,  
4 and a policy of Automobile Liability Insurance in the amount of \$1,000,000 minimum. Endorsements to each  
5 policy shall be required which name the CITY, its officers, agents and employees as additionally insured.  
6 COUNTY shall also require COUNTY's contractor to maintain Worker's Compensation Insurance.
- 7 6. To furnish CITY a complete set of full-sized film positive reproducible as-built plans and all contract records,  
8 including survey documents, within one hundred and eighty (180) days following the completion and  
9 acceptance of the PROJECT construction contract.
- 10 7. Within 30 days of the date of this Agreement, COUNTY shall reimburse CITY the amount of \$334,300, which  
11 represents design, real property acquisition, and coordination costs incurred by CITY to date.
- 12 8. To pay within 45 days of receipt all invoices submitted by CITY for services rendered in accordance with this  
13 Agreement.

14 **SECTION 2 • CITY AGREES:**

- 15 1. To conduct the property acquisition activities, negotiations with the property owners, and all pertinent eminent  
16 domain activities, subject to full reimbursement by the COUNTY of all CITY costs and fees, and deliver legal  
17 title to the right-of-way, including access rights in compliance with the current State Right-of-way Manuals,  
18 procedures, and guidelines, including all relevant provisions of the Project Development Cooperative  
19 Agreement between the STATE and the COUNTY as shown in Exhibit "B."
- 20 2. To submit invoices to COUNTY on a monthly basis for the tasks listed on Exhibit "C". In the event that  
21 COUNTY does not timely reimburse CITY, CITY may terminate this Agreement upon written notice to  
22 COUNTY and CITY may cease all work and actions related to the PROJECT.
- 23 3. To issue, at no cost to COUNTY or its contractors, upon proper application by COUNTY or COUNTY's  
24 contractor, an encroachment permit authorizing entry onto CITY's right-of-way to perform survey and other  
25 investigative activities required for preparation of the PS&E and Construction of project.
- 26 4. To provide a representative to coordinate and assist the COUNTY's Resident Engineer during the  
27 construction of PROJECT and to verify facilities are constructed as required by this Agreement.

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

- 29 1. Implementation of PROJECT depends on funds coming from several regional funding programs including the

1 Transportation Uniform Mitigation Fee (TUMF) program and funds that have been collected in other  
2 development fee programs such as the Southwest Road and Bridge Benefit District and the Development  
3 Impact Fee Program as well as other sources. In the event that adequate funds are not available to complete  
4 PROJECT, COUNTY and CITY agree to meet and confer and collectively work to identify adequate funding  
5 for PROJECT. Nothing in this agreement is intended to commit either the CITY or COUNTY to funding any  
6 portion of PROJECT or shall be construed as obligating CITY or COUNTY to provide replacement funding for  
7 any anticipated funding as set forth in the COUNTY Transportation Improvement Program (TIP) for the FY  
8 2010/2011 or to continue with the Project if funds are no longer available.

9 2. COUNTY and CITY mutually agree to budget for the fiscal year at the start of each fiscal year. This will be  
10 documented in a Project Budget Form to be approved by CITY's authorized representative and the COUNTY  
11 Director of Transportation which will identify total project budget for the upcoming fiscal year, available  
12 revenues and funding sources, expected expenditures of COUNTY staff and contracts engaged in project  
13 delivery, and expected expenditures of CITY staff engaged in project delivery. The Project Budget Form will  
14 be amended as necessary throughout the year as required by project financial circumstances or as mutually  
15 agreed.

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

19 4. Neither COUNTY nor CITY shall be responsible for any maintenance of the improvements provided by  
20 PROJECT that are located outside of their respective right-of-way boundaries.

21 5. In the event that COUNTY defaults in the performance of any of its obligations under this Agreement or  
22 materially breaches any of the provisions of this Agreement, CITY shall have the option to terminate this  
23 Agreement upon written notice to COUNTY.

24 6. In the event that CITY defaults in the performance of any of its obligations under this Agreement or materially  
25 breaches any of the provisions of this Agreement, COUNTY shall have the option to terminate this Agreement  
26 upon written notice to CITY.

27 7. In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in  
28 addition to costs and any other relief, the prevailing party shall be entitled to a reasonable attorney's fees.

29 8. Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by

1 reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or  
2 jurisdiction delegated to COUNTY under this Agreement. It is further agreed that pursuant to Government  
3 Code Section 895.4, COUNTY shall fully indemnify and hold CITY harmless from any liability imposed for  
4 injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be  
5 done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under  
6 this Agreement.

7 9. Neither COUNTY nor any officer or employee thereof shall be responsible for any damage or liability  
8 occurring by reason of anything done or omitted to be done by CITY under or in connection with any work,  
9 authority or jurisdiction delegated to CITY under this Agreement. It is further agreed that pursuant to  
10 Government Code Section 895.4, CITY shall fully indemnify and hold COUNTY harmless from any liability  
11 imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or  
12 omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY  
13 under this Agreement.

14 10. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third  
15 parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing  
16 any standard of care with respect to the maintenance of roads different from the standard of care imposed by  
17 law.

18 11. This agreement and the exhibits herein contain the entire agreement between the parties, and is intended by  
19 the parties to completely state the agreement in full. Any agreement or representation respecting the matters  
20 dealt with herein or the duties of any party in relation thereto, not expressly set forth in this agreement, is null  
21 and void.

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

25 13. Each provision, term, condition, covenant and/or restriction in this Agreement shall be considered severable.  
26 In the event that any provision, term, condition, covenant and/or restriction, or part thereof is declared invalid,  
27 unconstitutional or void for any reason, such provision or part thereof shall be severed from this Agreement  
28 and shall not affect the remainder of the Agreement, which shall continue in full force and effect.

29 14. This Agreement may be executed in duplicate originals, each of which is deemed to be an original.



1 15. CITY and COUNTY 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 16. All notices permitted or required under this Agreement shall be deemed made when delivered to the  
4 applicable party's representative as provided in this Agreement. Such notices shall be mailed or otherwise  
5 delivered to the addresses set forth below, or at such other address as the respective parties may provide in  
6 writing for this purpose:

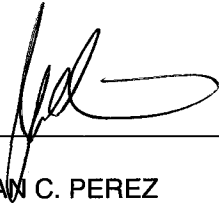
COUNTY	CITY
Director of Transportation	City Manager
County of Riverside • Transportation Department	City of Wildomar
4080 Lemon Street, 8 <sup>th</sup> Floor	23873 Clinton Keith Road, Suite 201
Riverside, CA 92502	Wildomar, CA 92595

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14 Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after  
15 deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address.  
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APPROVALS

COUNTY Approvals

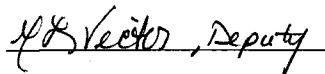
RECOMMENDED FOR APPROVAL:

 Dated: 10/13/10

JUAN C. PEREZ

Director of Transportation

APPROVED AS TO FORM:

 Dated: 10/20/10

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 of Supervisors (SEAL)

CITY OF WILDOMAR Approvals

APPROVED BY:

\_\_\_\_\_ Dated: \_\_\_\_\_

PRINTED NAME

CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_ Dated: \_\_\_\_\_

PRINTED NAME

COUNSEL

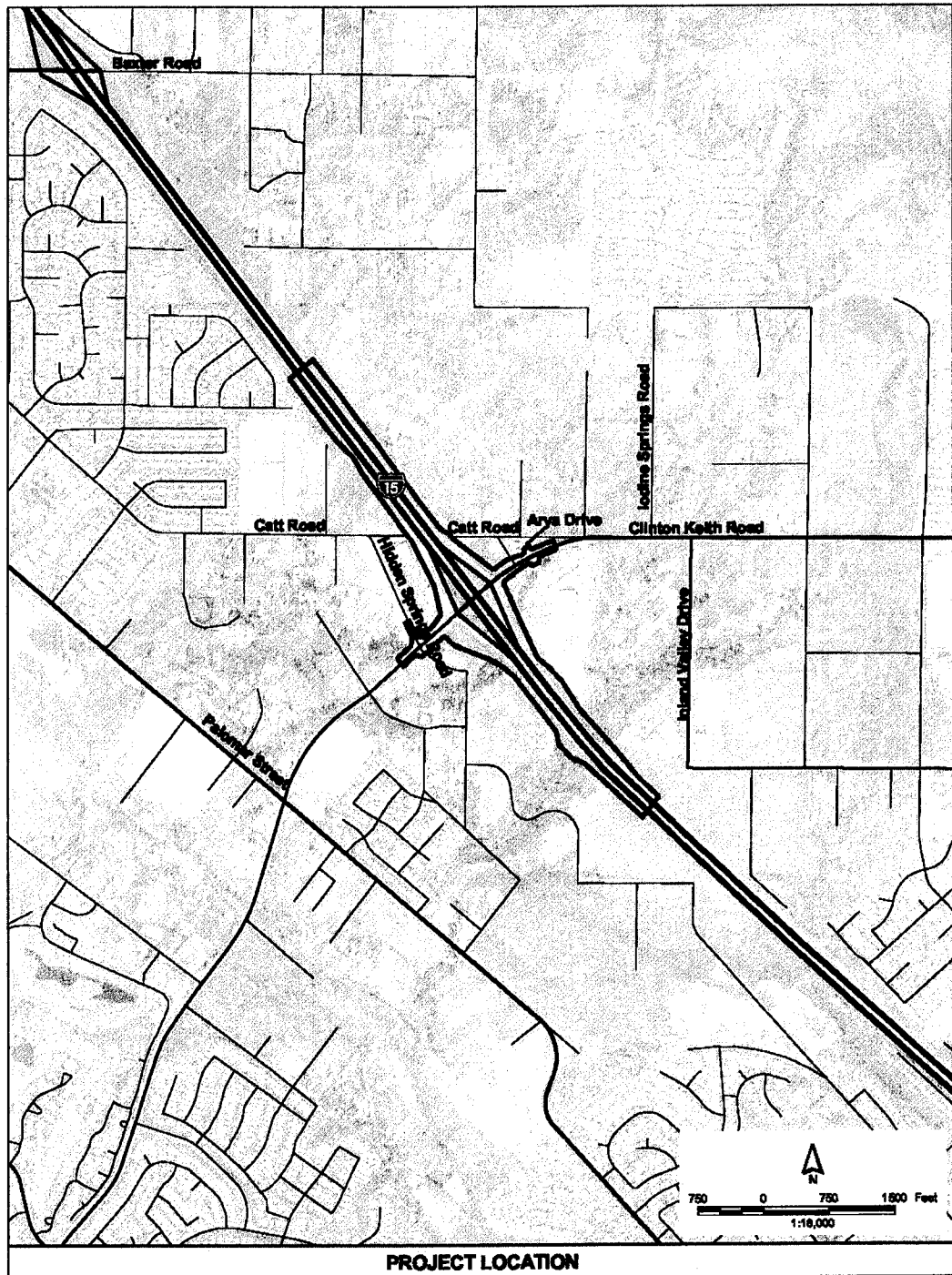
APPROVED BY:

\_\_\_\_\_ Dated: \_\_\_\_\_

PRINTED NAME

CITY CLERK

EXHIBIT A • LOCATION MAP



PROJECT LOCATION

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**EXHIBIT B**

**PROJECT DEVELOPMENT COOPERATIVE AGREEMENT**

**BETWEEN STATE AND COUNTY**

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Contract No. 08-12-001  
Riverside Co. Transportation

08-Riv-15-KP 20.9/23.0  
(PM 13.0/14.3)  
I-15/Clinton Keith Road  
Interchange Improvements  
EA 0F5800  
District Agreement No. 8-1423

## PROJECT DEVELOPMENT COOPERATIVE AGREEMENT

This AGREEMENT, entered into effective on February 9, 2008, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

COUNTY OF RIVERSIDE, a political subdivision of the State of California, referred to herein as "COUNTY."

### RECITALS

1. STATE and COUNTY, pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to the State Highway System (SHS) within COUNTY's jurisdiction.
2. COUNTY desires to widen the overcrossing and modify the interchange on Interstate 15 (I-15) at Clinton Keith Road, referred to herein as "PROJECT."
3. COUNTY is willing to fund one hundred percent (100%) of all capital outlay and support costs, except that the costs of STATE's Independent Quality Assurance (IQA) of PROJECT Project Approval and Environmental Document (PA&ED), Plans, Specifications and Estimates (PS&E) and right of way activities, all hereinafter referred to as PROJECT DEVELOPMENT, and STATE's costs incurred as the California Environmental Quality Act (CEQA) Lead Agency and National Environmental Policy Act (NEPA) Lead Agency, if applicable, in the review, comment and approval, if appropriate, of the PROJECT environmental documentation prepared entirely by COUNTY, will be borne by STATE.
4. STATE funds will not be used to finance any of the PROJECT DEVELOPMENT capital and support costs except as set forth in this Agreement.

5. The terms of this Agreement shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or agreement relating to PROJECT.
6. PROJECT landscape maintenance and construction phases will be the subject of a separate future agreement or agreements.
7. This Agreement will define the roles and responsibilities of the CEQA Lead Agency and CEQA Responsible Agency regarding the environmental documentation, studies, and reports necessary for compliance with CEQA. This Agreement will also define roles and responsibilities for compliance with NEPA, if applicable.
8. The parties now define herein below the terms and conditions under which PROJECT is to be developed, designed, and financed.

### SECTION I

#### COUNTY AGREES:

1. To fund one hundred percent (100%) of all PROJECT DEVELOPMENT capital and support costs except for costs of STATE's IQA and STATE's review, comment and approval if appropriate, of the PROJECT environmental documentation for CEQA, and NEPA if applicable. If it becomes necessary to obtain additional funds to complete PROJECT, these additional funds will be provided by COUNTY using a funding source other than STATE funds.
2. To not use STATE funds for any PROJECT capital and support costs except as set forth in this Agreement.
3. All PROJECT work performed by COUNTY, or performed on COUNTY's behalf, shall be performed in accordance with all State and Federal laws, regulations, policies, procedures, and standards that STATE would normally follow. All such PROJECT work shall be submitted to STATE for STATE's review, comment, and concurrence at appropriate stages of development.
4. All PROJECT work, except as set forth in this Agreement, is to be performed by COUNTY. Should COUNTY request that STATE perform any portion of PROJECT work, except as otherwise set forth in this Agreement, COUNTY shall first agree to reimburse STATE for such work pursuant to an amendment to this Agreement or a separate executed agreement.
5. To have a Project Report (PR) and detailed PS&E prepared, at no cost to STATE, and to submit each to STATE for STATE's review and concurrence at appropriate stages of development. The PR and the final PS&E for PROJECT shall be signed on behalf of COUNTY by a Civil Engineer registered in the State of California. COUNTY agrees to

provide landscape plans prepared and signed by a licensed California Landscape Architect.

6. To have all necessary right of way maps and documents used to acquire right of way by COUNTY prepared by or under the direction of a person authorized to practice land surveying in the State of California. Each right of way map and document shall bear the appropriate professional seal, certificate number, expiration date of registration certification and signature of the licensed person in Responsible Charge of Work.
7. To permit STATE to monitor, participate, and oversee selection of personnel who will prepare the PR, prepare environmental documentation, including the investigative studies and technical environmental reports, prepare the PS&E, provide right of way engineering services, and provide right of way acquisition services for PROJECT. COUNTY agrees to consider any request by STATE to avoid a contract award or to discontinue services of any personnel considered by STATE to be unqualified on the basis of credentials, professional expertise, failure to perform, and/or other pertinent criteria.
8. To submit to STATE for review, comment, concurrence, and/or approval of all Right of Way Engineering Land-Net Maps and Right of Way Appraisal Maps, Records of Survey, and Right of Way Record Maps all prepared in accordance with STATE's Right of Way Manual, Chapter 6, Right of Way Engineering, STATE's Plans Preparation Manual, STATE's Surveys Manual, applicable State laws, and other pertinent reference materials and examples as provided by STATE.
9. Personnel who prepare the preliminary engineering and environmental documentation, including investigative studies and technical environmental reports, shall be made available to STATE, at no cost to STATE, through completion of PROJECT construction to discuss problems which may arise during PS&E, Right of Way, and Construction phases of the PROJECT, and/or to make design revisions for contract change orders.
10. COUNTY shall include a "conflict of interest" requirement in the PROJECT design consultant contract(s) that prohibits the design consultant from being employed or under contract to the future PROJECT construction contractor.
11. Personnel who prepare right of way maps, documents, and related materials shall be made available to STATE, at no cost to STATE, during and after construction of PROJECT until completion and acceptance by STATE of Right of Way Record Maps, Records of Survey, and title to any property intended to be transferred to STATE.
12. To make written application to STATE for necessary encroachment permits authorizing entry of COUNTY, or COUNTY's contractor onto SHS right of way to perform required PROJECT DEVELOPMENT work as more specifically defined elsewhere in this Agreement. COUNTY shall also require COUNTY's consultants and contractors to make written application to STATE for the same necessary encroachment permits.

13. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
14. If any existing utility facilities conflict with the construction of PROJECT or violate STATE's encroachment policy, COUNTY shall make all necessary arrangements with the owners of such facilities for their timely accommodation, protection, relocation, or removal.  
The costs for the PROJECT's positive identification and location, protection, relocation, or removal of utility facilities whether inside or outside STATE's right of way shall be determined in accordance with Federal and California laws and regulations, and STATE's policies and procedures, standards, practices, and applicable agreements including, but not limited to, Freeway Master Contracts.
15. To furnish evidence to STATE, in a form acceptable to STATE, that arrangements have been made for the protection, relocation, or removal of all conflicting facilities within the SHS right of way and that such work will be completed prior to the award of the contract to construct PROJECT or as covered in the PS&E for said contract. This evidence shall include a reference to all required SHS encroachment permits.
16. To acquire and furnish all right of way, if any, outside of the existing SHS right of way and to perform all right of way activities, including all eminent domain activities, if necessary, at no cost to STATE, and in accordance with procedures acceptable to STATE. These activities shall comply with all applicable State and Federal laws and regulations, subject to STATE's IQA to ensure that the completed work and title to property acquired for PROJECT is acceptable for incorporation into the SHS right of way.
17. To utilize the services of a qualified public agency or a qualified consultant, as determined by STATE's District Division Chief of Right of Way, in all matters related to the acquisition of right of way in accordance with STATE's procedures as published in STATE's current Right of Way Manual. Whenever personnel other than personnel of a qualified public agency, or a qualified consultant, are utilized, administration of the personnel contract shall be performed by a qualified Right of Way person employed or retained by COUNTY.
18. To certify legal and physical control of right of way ready for construction and that all right of way parcels were acquired in accordance with applicable State and Federal laws and regulations, subject to review, comment, concurrence, and/or approval by STATE prior to the advertisement for bids for the contract to construct PROJECT.
19. To deliver to STATE legal title to the right of way, including access rights, free and clear of all encumbrances detrimental to STATE's present and future uses not later than the date of acceptance by STATE of maintenance and operation of the SHS facility. Acceptance of said title by STATE is subject to a review of a Policy of Title Insurance in the name of the State of California to be provided and paid for by COUNTY.



20. To be responsible for, and to the STATE's satisfaction, the investigation of potential hazardous material sites within and outside of the existing SHS right of way that could impact PROJECT as part of performing any preliminary engineering work. If COUNTY discovers hazardous material or contamination within the PROJECT study area during said investigation, COUNTY shall immediately notify STATE.
21. If COUNTY desires to have STATE advertise, award, and administer the construction contract for PROJECT, COUNTY shall provide STATE with acceptable plans in a format acceptable to STATE. Reimbursement to STATE for costs incurred by STATE to advertise, award, and administer the construction contract for PROJECT will be covered in the separate Cooperative Agreement.
22. All aerial photography and photogrammetric mapping shall conform to STATE's current standards.
23. A copy of all original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become property of STATE. For aerial mapping, all information and materials listed in the document "Materials Needed to Review Consultant Photogrammetric Mapping" shall be delivered to STATE and shall become property of STATE.
24. All original recorded land title documents created by PROJECT shall be delivered to STATE and become property of STATE.
25. To submit to STATE a list of STATE horizontal and vertical control monuments which will be used to control surveying activities for PROJECT.

## SECTION II

### STATE AGREES:

1. At no cost to COUNTY, to complete STATE's review, comment and approval, if appropriate, as the CEQA Lead Agency and NEPA Lead Agency, if applicable, of the environmental documentation prepared entirely by COUNTY and to provide IQA of all COUNTY PROJECT DEVELOPMENT work necessary for completion of the PR and PS&E for PROJECT done by COUNTY, including, but not limited to, investigation of potential hazardous material sites and all right of way activities undertaken by COUNTY or its designee, and provide prompt reviews, comments, concurrence, and/or approvals as appropriate, of submittals by COUNTY, while cooperating in timely processing of documents necessary for completion of the environmental documentation, PR, and PS&E for PROJECT.

2. Upon proper application by COUNTY and by COUNTY's contractor, to issue, at no cost to COUNTY and COUNTY's contractor, the necessary encroachment permits for required work within the SHS right of way as more specifically defined elsewhere in this Agreement.

### SECTION III

#### IT IS MUTUALLY AGREED:

1. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).
2. The parties to this Agreement understand and agree that STATE's IQA is defined as providing STATE policy and procedural guidance through to completion of the PROJECT preliminary engineering, PS&E, and right of way phases administered by COUNTY. This guidance includes prompt reviews by STATE to assure that all work and products delivered or incorporated into the PROJECT by COUNTY conform with then existing STATE standards. IQA does not include any PROJECT related work deemed necessary to actually develop and deliver the PROJECT, nor does it involve any validation to verify and recheck any work performed by COUNTY and/or its consultants or contractors and no liability will be assignable to STATE, its officers and employees by COUNTY under the terms of this Agreement or by third parties by reason of STATE's IQA activities. All work performed by STATE that is not direct IQA shall be chargeable against PROJECT funds as a service for which STATE will invoice its actual costs and COUNTY will pay or authorize STATE to reimburse itself from then available PROJECT funds pursuant to an amendment to this Agreement authorizing such services to be performed by STATE.
3. The Project Study Report (PSR) for PROJECT, approved on February 8, 2007, is by this reference, made an express part of this Agreement. If there is a conflict of terms between the PSR and this Agreement, the terms of this Agreement shall prevail.
4. The basic design features shall comply with those addressed in the approved PSR, unless modified as required for completion of the PROJECT's environmental documentation and/or if applicable, requested by the Federal Highway Administration (FHWA).
5. The design, right of way acquisition, and preparation of environmental documentation and related investigative studies and technical environmental reports for PROJECT shall be performed in accordance with all applicable Federal and STATE standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be considered by STATE for approval via the processes outlined in STATE's Highway Design Manual and appropriate memoranda and design bulletins published by STATE. In the event that STATE proposes and/or requires a change in

design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual Section 82.5, "Effective Date for Implementing Revisions to Design Standards." STATE shall consult with COUNTY in a timely manner regarding the effect of proposed and/or required changes on PROJECT.

6. STATE will be the CEQA Lead Agency and COUNTY will be a CEQA Responsible Agency. STATE will be the NEPA Lead Agency, if applicable. COUNTY will assess PROJECT impacts on the environment and COUNTY will prepare the appropriate level of environmental documentation and necessary associated supporting investigative studies and technical environmental reports in order to meet the requirements of CEQA and if applicable, NEPA. COUNTY will submit to STATE all investigative studies and technical environmental reports for STATE's review, comment, and approval. The environmental document and/or categorical exemption/exclusion determination, including the administrative draft, draft, administrative final, and final environmental documentation, as applicable, will require STATE's review, comment, and approval prior to public availability.

If, during preparation of preliminary engineering, preparation of the PS&E, performance of right of way activities, or performance of PROJECT construction, new information is obtained which requires the preparation of additional environmental documentation to comply with CEQA and if applicable, NEPA, this Agreement will be amended to include completion of those additional tasks by COUNTY.

7. COUNTY agrees to obtain, as a PROJECT cost, all necessary PROJECT permits, agreements and/or approvals from appropriate regulatory agencies, unless the parties agree otherwise in writing. If STATE agrees in writing to obtain said PROJECT permits, agreements, and/or approvals, those said costs shall be paid by COUNTY, as a PROJECT cost.
8. COUNTY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permit(s), agreement(s) and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.
9. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permit(s), agreement(s), and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
10. COUNTY, subject to STATE's prior review and approval, as a PROJECT cost, shall be responsible for preparing, submitting, publicizing and circulating all public notices related to the CEQA environmental process and if applicable, the NEPA environmental process, including, but not limited to, notice(s) of availability of the environmental document and/or determinations and notices of public hearings. Public notices shall comply with all State and Federal laws, regulations, policies and procedures. STATE will

work with the appropriate Federal agency to publish notices in the Federal Register, if applicable.

STATE, as a PROJECT cost, shall be responsible for overseeing the planning, scheduling and holding of all public meetings/hearings related to the CEQA environmental process and if applicable, the NEPA environmental process. COUNTY, to the satisfaction of STATE and subject to all of STATE's and FHWA's policies and procedures, shall be responsible for performing the planning, scheduling and details of holding all public meetings/hearings related to the CEQA environmental process and if applicable, the NEPA environmental process. STATE will participate as CEQA Lead Agency and if applicable, the NEPA Lead Agency, in all public meetings/hearings related to the CEQA environmental process and if applicable, the NEPA environmental process, for PROJECT. COUNTY shall provide STATE the opportunity to provide comments on any public meeting/hearing exhibits, handouts or other materials at least ten (10) days prior to any such public meetings/hearings. STATE maintains final editorial control of exhibits, handouts or other materials to be used at public meetings/hearings.

11. In the event COUNTY would like to hold separate and/or additional public meetings/hearings regarding the PROJECT, COUNTY must clarify in any meeting/hearing notices, exhibits, handouts or other materials that STATE is the CEQA Lead Agency and if applicable, the NEPA Lead Agency, and COUNTY is the CEQA Responsible Agency. Such notices, handouts and other materials shall also specify that public comments gathered at such meetings/hearings are not part of the CEQA and if applicable, NEPA, public review process. COUNTY shall provide STATE the opportunity to provide comments on any meeting/hearing exhibits, handouts or other materials at least ten (10) days prior to any such meetings/hearings. STATE maintains final editorial control of exhibits, handouts or other materials to be used at public meetings/hearings solely with respect to text or graphics that could lead to public confusion over CEQA and if applicable, NEPA, related roles and responsibilities.
12. All administrative reports, studies, materials, and documentation, including, but not limited to, all administrative drafts and administrative finals, relied upon, produced, created or utilized for PROJECT will be held in confidence pursuant to Government Code section 6254.5(e). The parties agree that said material will not be distributed, released or shared with any other organization, person or group other than the parties' employees, agents and consultants whose work requires that access without the prior written approval of the party with the authority to authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.
13. COUNTY's share of all changes in development and construction costs associated with modifications to the basic design features as described above shall be in the same proportion as described in this Agreement, unless mutually agreed to the contrary by STATE and COUNTY in a subsequent amendment to this Agreement.
14. The party that discovers hazardous materials (HM) will immediately notify the other party(ies) to this Agreement.

HM-1 is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to federal or state law, whether it is disturbed by PROJECT or not.

HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, only if disturbed by PROJECT.

15. STATE, independent of PROJECT, is responsible for any HM-1 found within existing SHS right of way. STATE will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.

COUNTY, independent of PROJECT, is responsible for any HM-1 found outside existing SHS right of way. COUNTY will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.

16. If HM-2 is found within the limits of PROJECT, the public agency responsible for advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM-2 management activities.

Any management activity cost related to HM-2 is a PROJECT construction cost.

17. Management activities related to either HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.
18. STATE's acquisition or acceptance of title to any property on which any hazardous material is found will proceed in accordance with STATE's policy on such acquisition.
19. A separate Cooperative Agreement or agreements will be required to address Landscape Maintenance, and to cover responsibilities and funding for the construction phase of PROJECT.
20. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation, or maintenance of the SHS and public facilities different from the standard of care imposed by law.
21. Neither STATE nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority, or jurisdiction conferred upon COUNTY or arising under this Agreement. It is understood and agreed that, COUNTY will fully defend, indemnify, and save harmless STATE and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse

condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by COUNTY under this Agreement.

22. Neither COUNTY nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority, or jurisdiction conferred upon STATE or arising under this Agreement. It is understood and agreed that, STATE will fully defend, indemnify, and save harmless COUNTY and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
23. Prior to the commencement of any work pursuant to this Agreement, either STATE or COUNTY may terminate this Agreement by written notice to the other party.
24. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
25. This Agreement shall terminate upon the satisfactory completion of all post-PROJECT construction obligations of COUNTY and the delivery of required PROJECT construction documents, with concurrence of STATE, or on December 31, 2014, whichever is earlier in time, except that the ownership, operation, maintenance, indemnification, environmental commitments, legal challenges, and claims articles shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any construction related or other claims arising out of PROJECT be asserted against one of the parties, the parties agree to extend the fixed termination date of this Agreement, until such time as the construction related or other claims are settled, dismissed or paid.

SIGNATURES ON FOLLOWING PAGE:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

COUNTY OF RIVERSIDE

WILL KEMPTON  
Director

By: Jeff Stone  
Chairman, Board of Supervisors  
JEFF STONE

By: Ray Wolfe  
RAYMOND W. WOLFE, PhD  
District Director

Attest: Nancy Romero  
Clerk, Board of Supervisors DEPUTY  
NANCY ROMERO

APPROVED AS TO FORM AND  
PROCEDURE:

APPROVED AS TO FORM AND  
PROCEDURE:

By: [Signature]  
Attorney,  
Department of Transportation

By: Maisha L. Victor, Deputy 12/22/08  
County Counsel  
Maisha L. Victor

CERTIFIED AS TO FUNDS:

By: [Signature]  
District Budget Manager

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By: [Signature]  
Accounting Administrator

EXHIBIT C • ESTIMATED COSTS FOR REIMBURSEMENT TO CITY OF WILDOMAR

TASK	TUMF (WRCOG)	Southwest Area RBB	DIF SW Area	TOTAL
Design Coordination		\$ 104,000		\$ 104,000
Right-of-way			\$ 672,000*	\$ 672,000
Construction Coordination	\$ 90,000			\$ 90,000
Contingency (10%)	\$ 9,000	\$10,400	\$67,200	\$ 86,600
<b>TOTALS</b>	<b>\$ 99,000</b>	<b>\$ 114,400</b>	<b>\$ 739,200</b>	<b>\$ 952,600</b>

\* A portion of this cost estimate includes legal costs and fees incurred in connection with the Eminent Domain activities. Litigation costs are always difficult to predict, especially at this early phase in the process when the property owners have not made their positions known. Therefore, the cost estimates for trial, severance damages and any challenges to the right to take are not included. The costs are estimated as follows:

- Design and coordination costs incurred by CITY to date \$90,000
- Engineering Review/Admin \$8,000
- Construction of RFP Review/Selection \$6,000
- Misc. Remaining Real Property Acquisition activities \$6,000
- Legal Costs and Fees/Eminent Domain \$210,000
- Payment of Parcels for Acquisition \$456,000
- Services During Construction \$90,000