

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

226A



**FROM:** TLMA - Transportation Department

**SUBMITTAL DATE:**  
March 15, 2012

**SUBJECT:** Agreement by and between the County of Riverside (COUNTY) and the City of Riverside (CITY) for the "A" Street (Fairway Drive) Street Improvement Project

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

1. Approve the attached Agreement between the COUNTY and the CITY for the "A" Street (Fairway Drive) Street Improvement Project (Agreement), and;
2. Authorize the Chairman of the Board to execute this Agreement on behalf of the COUNTY and delegate authority to the Transportation Director to take all necessary administrative actions to implement the agreement.

Juan C. Perez  
Director of Transportation

Departmental Concurrence

FORM APPROVED COUNTY COUNSEL.  
BY: Marshall Victor DATE: 3/14/12  
MARSHAL L. VICTOR

(Continued On Attached Page)

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

<b>SOURCE OF FUNDS:</b> N/A	<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**

Dep't Recomm.:  Consent  Policy

Per Exec. Ofc.:  Consent  Policy

Prev. Agn. Ref. 3.58 of 12/18/07;  
3.63 of 11/30/10 | District: 1 / 1 | Agenda Number:

3.38

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

The Honorable Board of Supervisors

RE: Agreement by and between the County of Riverside (COUNTY) and the City of Riverside (CITY) for the "A" Street (Fairway Drive) Street Improvement Project

March 15, 2012

Page 2 of 2

**BACKGROUND:** The "A" Street project is a proposed two lane collector road connecting McAllister Parkway to Van Buren Boulevard, of which 40 percent is located within the jurisdictional boundaries of the COUNTY and 60 percent is located within the jurisdictional boundaries of the CITY. In 2006 the COUNTY approved Tract 30153 (McAllister Hills), which would have constructed a golf course residential community development. The COUNTY required this tract to construct a new road between McAllister and Van Buren, referred to as "A" Street, which would serve traffic from the development and provide an alternate access route for residents of Victoria Grove, The Orchards, and other communities in the area north of Cajalco and east of La Sierra.

On December 18, 2007, the Board of Supervisors approved item 3.58 which consented to and authorized the CITY to act as lead agency on behalf of the COUNTY for purposes of land acquisition services and eminent domain necessary for "A" Street, since most of the property to be acquired was within CITY limits. The road design was nearly complete and right-of-way acquisition was about to commence in 2008 when work ceased on the developer's project, which went into foreclosure due to the economic downturn.

Since that time, the community desires to see "A" Street move forward ahead of development due to the closure of the extension of McAllister north into the City of Riverside, which was done by the CITY in 2009. The CITY and COUNTY are working together to identify potential funding for this project.

On November 30, 2010, the Board of Supervisors approved item 3.63, Engineering Services Agreement by and between Hunsaker and Associates and the COUNTY. The engineering firm did the original road design for the Developer. The firm is in the process of reviewing and revising the original design, including additional geotechnical engineering work to see what can be done to reduce construction and right-of-way costs via a reduced roadway section and engineered slopes.

The Agreement between the COUNTY and the CITY provides the terms and conditions under which said Project is to be pursued. The Agreements further defines project-related activities, including real property activities, to be performed by the CITY and the COUNTY. The Agreement will also formally revoke the COUNTY's consent to authorize the CITY to act as lead agency on behalf of the COUNTY for purposes of land acquisition services and eminent domain necessary for said Project, and designates the County as lead agency.

This item will also appear on the City of Riverside's Agenda on this same date, March 27, 2012.

The Form 11 has been reviewed and approved by County Counsel as to legal form.

WO# C1-0641

AGREEMENT BY AND BETWEEN

RIVERSIDE COUNTY

AND

CITY OF RIVERSIDE

FOR

"A" STREET (FAIRWAY DRIVE) IMPROVEMENTS

Contract No. 12-03-003  
Riverside Co. Transportation

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the County of Riverside, (hereinafter "COUNTY") and the City of Riverside (hereinafter "CITY") for the provision of certain activities related to street improvements located along "A" Street (also known as Fairway Dive), between McAllister Parkway and Van Buren Boulevard, of which 40% is located within the jurisdictional boundaries of the COUNTY and 60% is located within the jurisdictional boundaries of the CITY. COUNTY AND CITY collectively shall hereinafter be referred to as PARTIES.

RECITALS

- A. WHEREAS, on August 14, 2007, CITY executed a Right of Way Acquisition and Reimbursement Agreement with Lake Mathews Venture LLC (DEVELOPER) for the purpose of facilitating construction of a new street connection between McAllister Street and Van Buren Boulevard (hereinafter "PROJECT"), which is located within the jurisdiction of both the COUNTY and CITY (see Location Map of the Project Site in Exhibit "A");
- B. WHEREAS, COUNTY required DEVELOPER as a condition to Tentative Tract Map 30153 (TTM 30153) to voluntarily acquire the right-of-way needed for A Street from the various property owners and to construct the PROJECT;
- C. WHEREAS, the land on which the PROJECT was to be constructed was land in which neither DEVELOPER, COUNTY or CITY had sufficient title or interest at the time the map was filed, and did not have such title or interest, sufficient to permit the improvements to be made;
- D. WHEREAS, the COUNTY had requested of CITY that CITY take the lead in acquiring the necessary right-of-way for the PROJECT;

1 E. WHEREAS, on December 18, 2007, the COUNTY consented to and authorized the CITY to act as lead  
2 agency on behalf of the COUNTY for purposes of land acquisition services and eminent domain  
3 necessary for said PROJECT;

4 F. WHEREAS, the design was nearly complete and right-of-way acquisition was about to commence when  
5 work ceased on the TTM 30153, which went into foreclosure due to the economic downturn;

6 G. WHEREAS, on November 30, 2010, the COUNTY entered into Engineering Services Agreement by and  
7 between Hunsaker and Associates for the purposes of finalizing design work and completing any  
8 additional geotechnical engineering work;

9 H. WHEREAS, the COUNTY filed an Order Permitting Entries onto Real Property on June 18, 2011 (Case  
10 No. 1110399) in Superior Court of the State of California, Riverside County, for the purposes of  
11 environmental surveys and geotechnical studies;

12 I. WHEREAS, although the PROJECT continues to be 40% located within the jurisdictional boundaries of  
13 the COUNTY and 60% located within the jurisdictional boundaries of the CITY, the COUNTY and CITY  
14 now desire to have COUNTY be the Lead Agency for the PROJECT, and CITY will assume certain  
15 responsibilities related to PROJECT;

16 J. COUNTY AND CITY desire to define herein the terms and conditions under which said PROJECT is to be  
17 administered, environmentally cleared, engineered, coordinated, managed, constructed, maintained, and  
18 financed.

19  
20 **AGREEMENT**

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

23 **SECTION 1 • COUNTY agrees:**

24 1. That "PROJECT" consists of street improvements located along "A" Street (also known as Fairway Drive),  
25 between McAllister Parkway and Van Buren Boulevard, as more specifically shown on the map in Exhibit  
26 "A", attached hereto and incorporated herein by this reference.

27 2. To revoke the COUNTY'S consent from December 18, 2007 that authorized the City to act as lead agency  
28 on behalf of the COUNTY for purposes of land acquisition services and eminent domain necessary for the  
29 PROJECT.

3. To complete, or cause to be completed, detailed Plans, Specifications & Estimates (PS&E) for the PROJECT, including review and revision (if any) of the original design of the PROJECT and including geotechnical engineering work and securing all necessary construction permits from the regulatory agencies.
4. To identify and locate all utility facilities within the PROJECT area as a part of the PROJECT design responsibility, if applicable. If any existing public and/or private utility franchise facilities conflict with PROJECT construction, COUNTY shall make all necessary arrangements with the owners of such facilities for their protection, relocation or removal.
5. To prepare environmental documentation (ED) as necessary, and to obtain necessary environmental clearances in accordance with the California Environmental Quality Act (CEQA), if applicable.
6. Once adequate funding has been identified, to complete all real property right-of-way acquisition activities and prepare certain right-of-way documents in compliance with all applicable State and Federal laws and regulations. Acquisition activities include legal costs and fees incurred in connection with the negotiations with the property owners as well as any associated eminent domain actions. Right-of-way documents to be prepared by COUNTY include but are not limited to Legal Descriptions, Plats, Right-of-Way Maps, Right of Entries (if needed), Acquisition Agreements, and Appraisals.
7. To advertise, award and administer a public works contract for the construction of PROJECT in compliance with all applicable state and local laws governing the construction of PROJECT, and in accordance with a construction permit issued by CITY. No construction work will be awarded on the PROJECT until both PARTIES confirm in writing that adequate funding is available to complete PROJECT.
8. To fund utilizing Development Impact Fee fund 30511 Roads, Bridges and Major Improvements.

**SECTION 2 • CITY agrees:**

1. That the City of Riverside City Council acknowledges and accepts the COUNTY'S revocation of its consent that authorized the CITY to act as lead agency on behalf of the COUNTY for purposes of land acquisition services and eminent domain activities for PROJECT.
2. To provide, at no cost to COUNTY, oversight of PROJECT and to provide prompt review and approval, as appropriate, of submittals by COUNTY and to cooperate in timely processing of PROJECT.
3. To issue, at no cost to COUNTY or its contractors, upon proper application by COUNTY or COUNTY'S contractor, a construction permit authorizing entry onto CITY right-of-way to perform activities required for

1 preparation of ED, PS&E, or construction of PROJECT.

2 SECTION 3 • IT IS MUTUALLY AGREED AS FOLLOWS:

- 3 1. The PARTIES mutually agree to meet and confer and collectively work to identify adequate funding for  
4 PROJECT when the final design has been completed. Nothing in this Agreement is intended to commit  
5 either the CITY or COUNTY to funding any portion of PROJECT or shall be construed as obligating CITY  
6 or COUNTY to continue with PROJECT if funds are not available.
- 7 2. Neither COUNTY or CITY shall be responsible for any maintenance of the improvements provided by  
8 PROJECT that are located outside of their respective jurisdictions.
- 9 3. Ownership and title to all materials, equipment and appurtenances installed as part of this Agreement will  
10 automatically be vested with the jurisdiction for which the improvements reside and no further agreement  
11 will be necessary to transfer ownership.
- 12 4. Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring  
13 by reason of anything done or omitted to be done by COUNTY under or in connection with any work,  
14 authority or jurisdiction delegated to COUNTY under this Agreement. It is further agreed that pursuant to  
15 Government Code Section 895.4, COUNTY shall fully indemnify and hold CITY harmless from any liability  
16 imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done  
17 or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated  
18 to COUNTY under this Agreement.
- 19 5. Neither COUNTY nor any officer or employee thereof shall be responsible for any damage or liability  
20 occurring by reason of anything done or omitted to be done by CITY under or in connection with any work,  
21 authority or jurisdiction delegated to CITY under this Agreement. It is further agreed that pursuant to  
22 Government Code Section 895.4, CITY shall fully indemnify and hold COUNTY harmless from any liability  
23 imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done  
24 or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to  
25 CITY under this Agreement.
- 26 6. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third  
27 parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing  
28 any standard of care with respect to the maintenance of roads different from the standard of care imposed  
29 by law.

7. In the event that CITY defaults in the performance of any of its obligations under this Agreement or materially breaches any of the provisions of this Agreement, COUNTY shall have the option to terminate this Agreement upon ninety (90) days written notice to CITY.
8. In the event that COUNTY defaults in the performance of any of its obligations under this Agreement or materially breaches any of the provisions of this Agreement, CITY shall have the option to terminate this Agreement upon ninety (90) days written notice to COUNTY.
9. In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in addition to costs and any other relief, the prevailing party shall be entitled to attorneys fees.
10. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by both PARTIES and no oral understanding or agreement not incorporated herein shall be binding on either party hereto.
11. Each provision, term, condition, covenant and/or restriction in this Agreement shall be considered severable. In the event that any provision, term, condition, covenant and/or restriction, or part thereof is declared invalid, unconstitutional or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect the remainder of the Agreement, which shall continue in full force and effect.
12. This Agreement and the Exhibits herein contain the entire agreement between the PARTIES, and is intended by the PARTIES to completely state the Agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any party in relation hereto, not expressly set forth in this Agreement, is null and void.
13. CITY and COUNTY shall retain or cause to be retained for audit for a period of three (3) years from the date of final payment, all records and accounts relating to PROJECT.
14. All notices permitted or required under this Agreement shall be deemed made when delivered to the applicable party's representative as provided in this Agreement. Such notices shall be mailed or otherwise delivered to the addresses set forth below, or at such other address as the respective PARTIES may provide in writing for this purpose:

If to COUNTY:

Juan C. Perez, Director of Transportation

1 County of Riverside  
2 Transportation Department  
3 4080 Lemon Street, 8<sup>th</sup> Floor  
4 Riverside, California 92502

5  
6 If to CITY:  
7 Tomas J. Boyd  
8 Interim Public Works Director/City Engineer  
9 City of Riverside  
10 3900 Main Street, 4<sup>th</sup> Floor  
11 Riverside, California 92522

12  
13 Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after  
14 deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address.

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16 (SIGNATURES ON NEXT PAGE)  
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APPROVALS

COUNTY Approvals

RECOMMENDED FOR APPROVAL:

 Dated: 3/14/12

JUAN C. PEREZ  
Director of Transportation

APPROVED AS TO FORM:

COUNTY COUNSEL

 Dated: 3/14/12

BY: DEPUTY

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 RIVERSIDE Approvals

APPROVED BY:

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

PRINTED NAME

City Manager

ATTEST:

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

PRINTED NAME

City Clerk

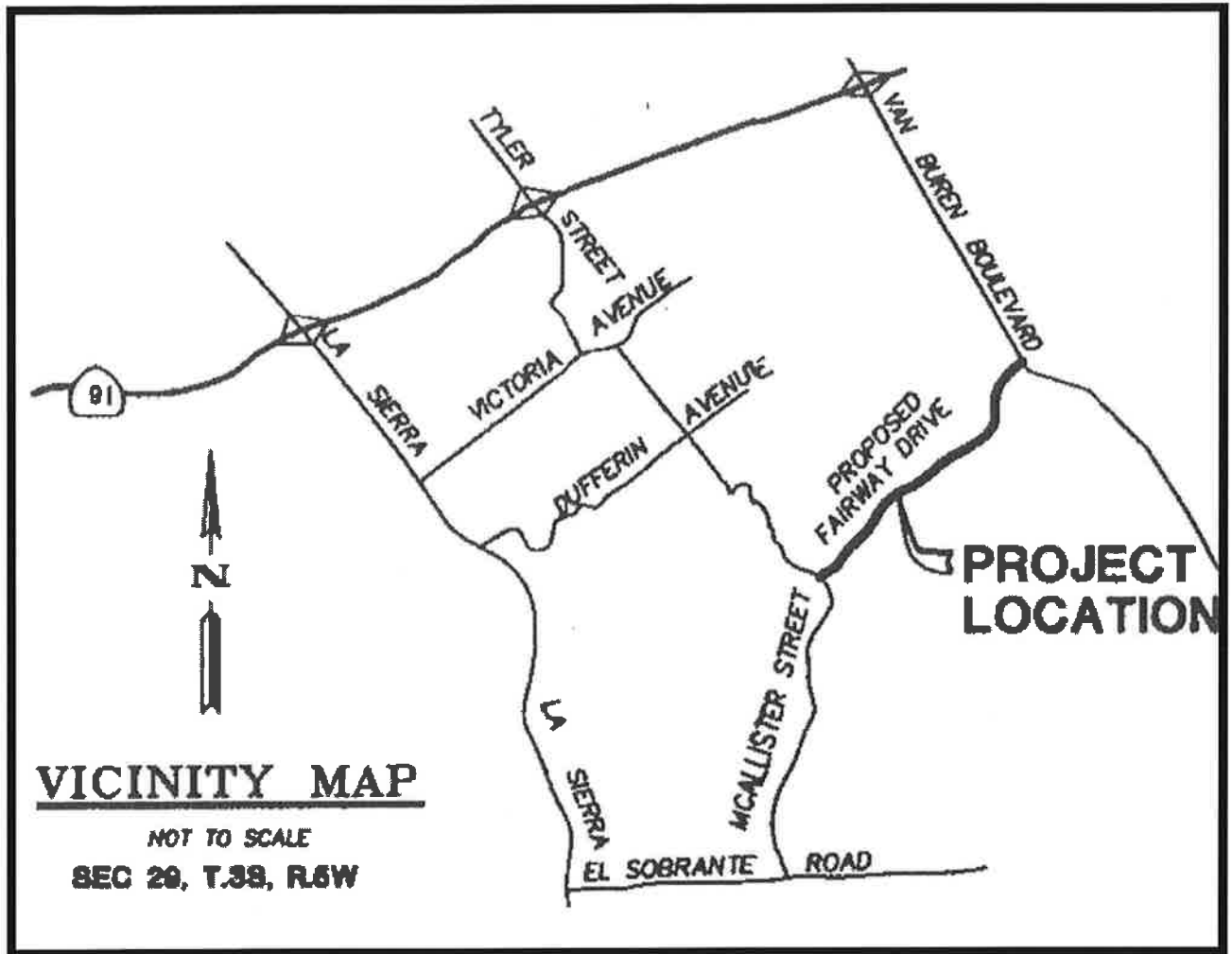
APPROVED AS TO FORM:

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

PRINTED NAME

City Attorney

EXHIBIT A • VICINITY MAP



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