

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

428A



FROM: TLMA - Transportation Department

SUBMITTAL DATE:
April 5, 2012

SUBJECT: Funding Agreement between the County of Riverside (COUNTY) and the March Joint Powers Authority (March JPA) for the Interstate 215 (I-215) at Van Buren Boulevard interchange improvement project.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the attached Agreement between the COUNTY and March JPA and;
2. Authorize the Chairman to execute the same.

BACKGROUND: The proposed project consists of replacing and widening the Van Buren Boulevard freeway and railroad overcrossing structures, reconfiguring and signaling of the on

Juan C. Perez
Director of Transportation

(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 3,124,621	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/2012

SOURCE OF FUNDS: March JPA (100%)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
There are no General Funds used on this project	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
BY:
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY:
MARSHAL VICTOR
DATE: 4/5/12

Departmental Concurrence

Dep't Recomm.: Policy

Per Exec. Ofc.: Policy

Prev. Agn. Ref. 12/20/11 (3.26) | **District:** 1/1&5/5 | **Agenda Number:**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.19

The Honorable Board of Supervisors

RE: Funding Agreement between the County of Riverside (COUNTY) and the March Joint Powers Authority (March JPA) for the Interstate 215 (I-215) at Van Buren Boulevard interchange improvement project.

April 5, 2012

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and off ramps and adding auxiliary lanes on Interstate 215. Landscaping and aesthetic features are also part of the project. The project will improve traffic capacity and operation of the interchange and provide for future traffic growth that is anticipated including the Meridian Business Park and re-use of the March Air Reserve Base.

The Meridian Business Park, developed by LNR Properties, LLC under the jurisdiction of March JPA, has committed a total of \$7 million to the Van Buren Interchange project. LNR Properties spent approximately \$3.876 million for the environmental approval and conceptual design phases of the project. The remaining \$3.124 million of the committed \$7 million is now to be used for the construction phase of the project. As the presiding jurisdiction over the Meridian development project, March JPA now desires to transfer these funds to the County for use in construction of the project.

The attached agreement outlines the terms and conditions by which the developer funds will be transferred to the County. The project has been advertised for construction as approved by the Board December 20, 2011, agenda item 3.26, and a construction contract is anticipated to be awarded by the Board of Supervisors on this same Board agenda. This item will be considered at the March JPA meeting on April 18th 2012.

Construction is anticipated to begin in the Summer of 2012.

Received
Project No. B70798

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AGREEMENT

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

SECTION 1 • MJPA AGREES:

- 1. To secure the Developer Contribution funding in the amount of \$3,124,621.
- 2. To transfer the Developer Contribution to the COUNTY within 30 calendar days of the request made by the COUNTY's Director of Transportation.

SECTION 2 • COUNTY AGREES:

- 1. To use the Developer Contribution funding exclusively for the Project.
- 2. To advertise, award and administer a public works contract for the construction of the Project in accordance with local agency Public Works Bidding Requirements, Public Contract Codes and California Labor Codes.
- 3. To construct the Project in accordance with approved plans, specifications and estimates (PS&E) documents.

SECTION 3 • IT IS MUTUALLY AGREED AS FOLLOWS:

- 1. The Developer Contribution is a component of the overall funding plan for the Project, which is estimated to total approximately \$48,000,000 when complete.
- 2. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by all Parties and no oral understanding or agreement not incorporated herein shall be binding on either party hereto.
- 3. MJPA and COUNTY shall retain or cause to be retained for audit, all records and accounts relating to Project for a period of three (3) years from the date of final payment.
- 4. Neither COUNTY 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 MJPA under or in connection with any work, authority or jurisdiction delegated to MJPA under this Agreement. It is further agreed that pursuant to Government Code Section 895.4, MJPA shall fully indemnify and hold COUNTY 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 MJPA under or in connection with any work, authority or jurisdiction delegated to MJPA under this Agreement.
- 5. Neither MJPA 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 COUNTY under or in connection with any work, authority or

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

6 6. In the event of any arbitration, action or suit brought by either MJPA or COUNTY against the other by reason
7 of any breach on the part of the other party or any of the covenants and agreements set forth in this
8 Agreement, or any other dispute between the COUNTY and MJPA concerning this Agreement, the prevailing
9 party in any such action or dispute, by a final judgment or arbitration award, shall be entitled to have and
10 recover from the other party all costs and expenses or claims, including but not limited to attorneys fees and
11 expert witness fees. This section shall survive any termination of this Agreement.

12 7. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or
13 unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or
14 invalidated in any way.

15 8. This Agreement is to be construed in accordance with the laws of the State of California.

16 9. Neither the MJPA nor COUNTY shall assign this Agreement without the written consent of the other party.

17 10. Any action at law or in equity brought by any of the Parties hereto for the purpose of enforcing a right or rights
18 provided by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State
19 of California, and the Parties hereto waive all provisions of law providing for a change of venue in such
20 proceedings to any other county.

21 11. This Agreement is the result of negotiations between the Parties hereto, and the advice and assistance of
22 their respective counsel. The fact that this Agreement was prepared as a matter of convenience by MJPA or
23 COUNTY shall have no importance or significance. Any uncertainty or ambiguity in this Agreement shall not
24 be construed against the party that prepared it in its final form.

25 12. Any waiver by COUNTY or MJPA of any breach by any other party of any provision of this Agreement shall
26 not be construed to be a waiver of any subsequent or other breach of the same or any other provision hereof.
27 Failure on the part of COUNTY or MJPA to require from any other party exact, full and complete compliance
28 with any of the provisions of this Agreement shall not be construed as in any manner changing the terms
29 hereof, or stopping COUNTY or MJPA from enforcing this Agreement.

1 13. This Agreement and the exhibits herein contain the entire agreement between the Parties, and are intended
2 by the Parties to completely state the Agreement in full. Any agreement or representation respecting the
3 matters dealt with herein or the duties of any party in relation thereto, not expressly set forth in this
4 Agreement, is null and void.

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

8 15. This Agreement may be signed in counterparts, each of which shall constitute an original and which
9 collectively shall constitute one instrument.

10 16. All notices, demands, invoices, and other communications required or permitted hereunder shall be in writing
11 and delivered to the following addresses or such other address as the Parties may designate:

12 **COUNTY:**

MJPA:

13 Riverside County Transportation Department

March Joint Powers Authority

14 Attn: Juan C. Perez, Director of Transportation

Attn: Lori M. Stone, Executive Director

15 4080 Lemon Street, 8th Floor

23555 Meyer Dr.

16 Riverside, CA 92501

Riverside, CA 92518

17 Phone: (951) 955-6740

Phone: (951) 656-7000

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19 **[Signatures of Parties on Following Page]**
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APPROVALS


COUNTY Approvals

RECOMMENDED FOR APPROVAL:

 _____ Dated: 4/5/12

JUAN C. PEREZ
Director of Transportation

APPROVED AS TO FORM:
PAMELA J. WALLS, COUNTY COUNSEL

 _____ Dated: 4/5/12
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

MARCH JPA Approvals

APPROVED BY:

_____ Dated: _____

Lori M. Stone
Executive Director

APPROVED AS TO FORM:

_____ Dated: _____

John E. Brown
MJPA Counsel

ATTEST:
Carey L. Allen, CMC,
March Joint Powers Authority Clerk

_____ Dated: _____

EXHIBIT A



Kimley-Horn and Associates, Inc

VAN BUREN BOULEVARD / INTERSTATE 215 INTERCHANGE IMPROVEMENTS