

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

914A



**FROM:** TLMA - Transportation Department

**SUBMITTAL DATE:**  
August 29, 2012

**SUBJECT:** Cooperative Agreement between the County of Riverside and the City of Menifee for the Newport Road/I-215 Interchange project

**RECOMMENDED MOTION:** That the Board approve and execute the attached Cooperative Agreement between the County of Riverside and the City of Menifee and authorize the Chairman to execute the same.

**BACKGROUND:** Newport Road is one of the key east-west corridors in Southwest Riverside County. The proposed project will reconstruct and widen the existing interchange at Newport Road and I-215 and reconfigure the on and off ramps to improve travel through the corridor and

*Patricia Romo*

Juan C. Perez      Patricia Romo  
Director of Transportation and Director of Management

(Continued On Attached Page)

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 4,257,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

**SOURCE OF FUNDS:** Menifee RBBB (35.8%), Developer Contribution (10.2%), TUMF (54%)  
There are no General Funds used in this project.

<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*  
Tina Grande

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
BY: *W. A. Victor*  
MARSHAL VICTOR  
DATE: 8/27/12

Departmental Concurrence

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

Prev. Agn. Ref.

District: 3/3

Agenda Number:

3.44

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

The Honorable Board of Supervisors

RE: Cooperative Agreement between the County of Riverside and the City of Menifee for the Newport Road/I-215 Interchange project

August 29, 2012

Page 2 of 2

ease congestion caused by the significant increase in traffic volume.

On July 22, 2009 the County entered into a Project Development Cooperative agreement with the California State Department of Transportation (Caltrans) for preparation of the environmental and design documents. The project environmental document is anticipated to be approved in October 2012. The project has been coordinated with the I-215 widening project currently under construction and will accommodate additional future widening as identified in the County's General Plan.

This Cooperative Agreement between the County and the City of Menifee outlines each agency's responsibilities for the environmental and design completion, construction and funding of the improvements of the Newport Road/I-215 Interchange project. This cooperative agreement designates the County as the lead agency to complete the project development phase, perform right-of-way activities, to advertise, award, and administer the construction contract and outlines the terms and conditions of cooperation between the County and City of Menifee. The cost of project oversight and quality assurance will be borne by the State.

The County is contributing \$4,971,000 to the project out of developer contributions earmarked for this project and developer fees collected in the Menifee Road and Bridge Benefit District that is administered by the County. A further \$2,000,000 has been identified for this project in the Transportation Uniform Mitigation Fee (TUMF) program from the central zone. Construction funding for this project has not been fully identified at this time. The County and City of Menifee will work together to secure this additional funding needed.

Project No. B5-0682

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**COOPERATIVE AGREEMENT BY AND BETWEEN**

**RIVERSIDE COUNTY**

**AND**

**CITY OF MENIFEE**

**Contract No. 12-07-001  
Riverside Co. Transportation**

**FOR**

**NEWPORT ROAD/INTERSTATE 215 INTERCHANGE IMPROVEMENTS**

This Agreement is entered into this 5<sup>th</sup> day of June, 2012, by and between the County of Riverside, (hereinafter "COUNTY"), and the City of Menifee (hereinafter "MENIFEE"), for the provision of certain activities related to Interchange improvements located at the intersection of Newport Road and Interstate 215 (I-215) currently located within the jurisdictional boundaries of MENIFEE.

**RECITALS**

- A. The COUNTY Transportation Improvement Program (TIP) provides for improvements to the existing interchange located at the intersection of Newport Road and Interstate 215 (hereinafter "PROJECT"), as shown on Exhibit "A", which is located within the jurisdictional boundaries of the City of Menifee.
- B. On May 16, 2006, the COUNTY executed an agreement with the firm of URS Corporation to provide engineering and environmental services necessary to construct the proposed improvements at the Newport Road/Interstate 215 interchange.
- C. The COUNTY entered into a Project Development Cooperative Agreement with The State of California acting through the Department of Transportation (STATE) that provided the terms and conditions under which the COUNTY, as lead agency, would be allowed to environmentally clear and design PROJECT improvements. The cooperative agreement between STATE and the COUNTY is shown in Exhibit "B".
- D. The COUNTY and MENIFEE desire to continue developing the PROJECT in cooperation with STATE to alleviate congestion and improve traffic operations at the Newport Road and I-215 Interchange. The proposed project includes reconstructing the bridge over the I-215 to provide three lanes in each direction,

1 widening and realigning the off-ramps, adding loop on-ramps, constructing retaining walls, widening Newport  
2 Road, and adding auxiliary lanes on Interstate 215 to improve traffic merging within the interchange area.

3 E. The current County Transportation Improvement Program (2011/2012 TIP, as approved by the Riverside  
4 County Board of Supervisors, January 10, 2012) identifies funding from various sources as shown in Exhibit  
5 "C". Available funds include the Menifee Road and Bridge Benefit District (RBBD), Newport Road/I-215  
6 Interchange Community Facilities District (CFD), Measure A, TUMF and Developer Contributions. Currently  
7 these funds are being used to complete the Environmental, and Design phases of the project.

8 F. The COUNTY and MENIFEE desire to have the COUNTY maintain responsibility as Lead Agency for the  
9 overall development and implementation of the PROJECT. The COUNTY has extensive experience in the  
10 development and implementation of interchange projects involving Federal and State agencies. Keeping the  
11 COUNTY as the lead will facilitate continuity in the development and implementation of the PROJECT. The  
12 COUNTY will therefore provide the administrative, technical, managerial and support services necessary to  
13 complete the development and implementation of the PROJECT.

14 G. The COUNTY and MENIFEE desire to define herein the terms and conditions under which said project is to  
15 be administered, engineered, coordinated, managed, constructed, maintained, and financed.

16 H. California Government Code Section 6502 provides that "[i]f authorized by their legislative or governing  
17 bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting  
18 parties".

19 I. California Code of Civil Procedure Section 1240.140(b) provides that "[t]wo or more public agencies may  
20 enter into an agreement for the joint exercise of their respective powers of eminent domain, whether or not  
21 possessed in common, for acquisition of property as a single parcel".

22 J. The COUNTY and MENIFEE desire to designate the COUNTY as lead agency to perform right-of-way  
23 activities required to acquire necessary right-of-way for the PROJECT, including eminent domain on behalf of  
24 MENIFEE.

25  
26 **AGREEMENT**

27 NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as

1 follows:

2 **SECTION 1 • COUNTY AGREES:**

- 3 1. To complete, or cause to be completed, detailed Environmental and PS&E documents for the PROJECT, and  
4 secure all necessary construction permits from the regulatory agencies. The COUNTY will seek PS&E  
5 approval from the STATE and the Federal Highway Administration.
- 6 2. To perform right-of-way activities required to acquire necessary right-of-way for the PROJECT including  
7 appraisals, acquisition, relocation and condemnation, if necessary.
- 8 3. To coordinate utility relocations for the PROJECT, if necessary.
- 9 4. To deliver legal title to the right-of-way, including access rights in compliance with the current State Right-of-  
10 Way manuals, procedures, and guidelines, including all relevant provisions of the Project Development  
11 Cooperative Agreement between STATE and the COUNTY as shown in Exhibit "B", attached hereto and  
12 incorporated by this reference.
- 13 5. To consider, at a future date, an agreement to jointly exercise the powers of eminent domain pursuant to the  
14 authority of California Government Code Section 6502 and California Code of Civil Procedure 1240.140, and  
15 to thereby agree and accept the authorization for the COUNTY to act as lead agency for condemnation of  
16 properties within the cities of MENIFEE, should it become necessary.
- 17 6. To prepare certain right-of-way documents in compliance with all applicable State and Federal laws and  
18 regulations. Documents to be prepared by COUNTY include but are not limited to Legal Descriptions, Plats,  
19 Right-of-way Maps and Appraisals.
- 20 7. To advertise, award and administer a public works contract for the construction of the PROJECT in  
21 accordance with the Local Agency Public Construction Act, Federal Regulations, the California Labor Code,  
22 STATE requirements and in accordance with an encroachment permit issued by STATE and MENIFEE.
- 23 8. To invoice MENIFEE periodically, but not more frequently than monthly, for reimbursement of PROJECT  
24 costs.
- 25 9. Nothing in this agreement is intended to commit the COUNTY to funding any portion of the PROJECT beyond  
26 the funds available as shown in Exhibit "C", attached hereto and incorporated by this reference, or shall be  
27 construed as obligating the COUNTY to provide replacement funding for any anticipated funding or to

1 continue with the PROJECT, if funds are no longer available.

2 10. To cause the COUNTY's contractor to maintain in force, until completion and acceptance of the PROJECT  
3 construction contract, a policy of Contractual Liability Insurance, including coverage of Bodily Injury Liability  
4 and Property Damage Liability, in the amount of \$2,000,000 minimum single limit coverage, and a policy of  
5 Automobile Liability Insurance in the amount of \$1,000,000 minimum. Endorsements to each policy shall be  
6 required which name the MENIFEE, its officers, agents and employees as additionally insured. The COUNTY  
7 shall also require the COUNTY's contractor to maintain Worker's Compensation Insurance.

8 11. To furnish MENIFEE one complete set each of full-sized film positive reproducible as-built plans and all  
9 contract records, including survey documents, within three hundred and sixty-five (365) days following the  
10 completion and acceptance of the PROJECT construction contract.

11 12. To provide MENIFEE upon completion and acceptance of the PROJECT, a full accounting of project funding  
12 costs.

13  
14 **SECTION 2 • MENIFEE AGREES:**

15 1. To consider, at a future date, an agreement to jointly exercise the powers of eminent domain pursuant to the  
16 authority of California Government Code Section 6502 and California Code of Civil Procedure 1240.140 and  
17 to thereby authorize the COUNTY to act as lead agency for condemnation of properties within the City of  
18 MENIFEE, should it become necessary; and to cooperate as requested by COUNTY or required by law in  
19 exercising said power.

20 2. To provide at no cost to the PROJECT, oversight of the PROJECT, to provide prompt reviews and approvals,  
21 as appropriate, of submittals by COUNTY, and to cooperate in timely processing of the PROJECT.

22 3. To issue, at no cost to COUNTY or its consultants and contractors, upon proper application by the COUNTY  
23 or COUNTY's consultants or contractors, an encroachment permit authorizing entry onto MENIFEE's right-of-  
24 way to perform construction, survey and other investigative activities required for preparation of  
25 Environmental, PS&E, and construction of the PROJECT.

26 4. To provide at no cost to the PROJECT, a representative to coordinate and assist the COUNTY's Resident  
27 Engineer during the construction of the PROJECT and to verify facilities are constructed as required by this

1 Agreement.

- 2 5. To enter into an agreement, as required by STATE, for the division of maintenance responsibilities of the  
3 PROJECT improvements.

4  
5 **SECTION 3 • IT IS MUTUALLY AGREED AS FOLLOWS:**

- 6 1. The Recitals set forth above at the beginning of this Agreement are incorporated herein by this reference.
- 7 2. The total cost to complete the PROJECT including project administration, management, design completion  
8 and approval, right-of-way, environmental, construction, and utilities is estimated to be \$37,257,000.
- 9 3. To meet and confer and collectively work to identify adequate funding for PROJECT when the final design  
10 has been completed. Nothing in this Agreement is intended to commit either the CITY or COUNTY to funding  
11 any portion of PROJECT or shall be construed as obligating CITY or COUNTY to continue with PROJECT if  
12 funds are not available.
- 13 4. Ownership and title to all materials, equipment, and appurtenances installed as part of this agreement will  
14 automatically be vested with the jurisdiction in which the improvements reside and no further agreement will  
15 be necessary to transfer ownership.
- 16 5. The COUNTY shall not be responsible for any maintenance of the improvements provided by the PROJECT.
- 17 6. In the event that the COUNTY defaults in the performance of any of its obligations under this Agreement or  
18 materially breaches any of the provisions of this Agreement, MENIFEE shall have the option to terminate this  
19 Agreement upon 90 days written notice to COUNTY.
- 20 7. In the event that MENIFEE defaults in the performance of any of its obligations under this Agreement or  
21 materially breaches any of the provisions of this Agreement, the COUNTY shall have the option to terminate  
22 this Agreement upon 90 days written notice to MENIFEE.
- 23 8. In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in  
24 addition to costs and any other relief, the prevailing party shall be entitled to reasonable attorney's fees.
- 25 9. Neither MENIFEE nor any officer or employee thereof shall be responsible for any damage or liability  
26 occurring by reason of anything done or omitted to be done by the COUNTY under or in connection with any  
27 work, authority or jurisdiction delegated to the COUNTY under this Agreement. It is further agreed that

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

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

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

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

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

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

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





1 16. The COUNTY and MENIFEE shall retain or cause to be retained for audit for a period of three (3) years from  
2 the date of final payment, all records and accounts relating to the PROJECT.

3 17. 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:

Juan C. Perez  
Director of Transportation and Land  
Management  
County of Riverside • Transportation Department  
4080 Lemon Street, 8<sup>th</sup> Floor  
Riverside, CA 92502

Terri Willoughby  
Finance Director  
City of MENIFEE  
29714 Haun Road  
Menifee, CA 92586

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

**APPROVALS**

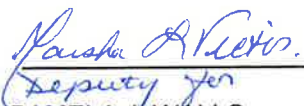
**COUNTY Approvals**

RECOMMENDED FOR APPROVAL:

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

JUAN C. PEREZ  
Director of Transportation and Land Management

APPROVED AS TO FORM:

 Dated: 8/27/12  
*Deputy for*  
PAMELA J. WALLS  
County Counsel

APPROVAL BY THE BOARD OF SUPERVISORS:

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

JOHN TAVAGLIONE  
Chairman, Riverside County Board of  
Supervisors

ATTEST:

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


KECIA HARPER-IHEM  
Clerk of the Board of Supervisors (SEAL)

**CITY OF MENIFEE Approvals**


APPROVED BY:

 Dated: 6/5/12  
JOHN V. DENVER  
Mayor

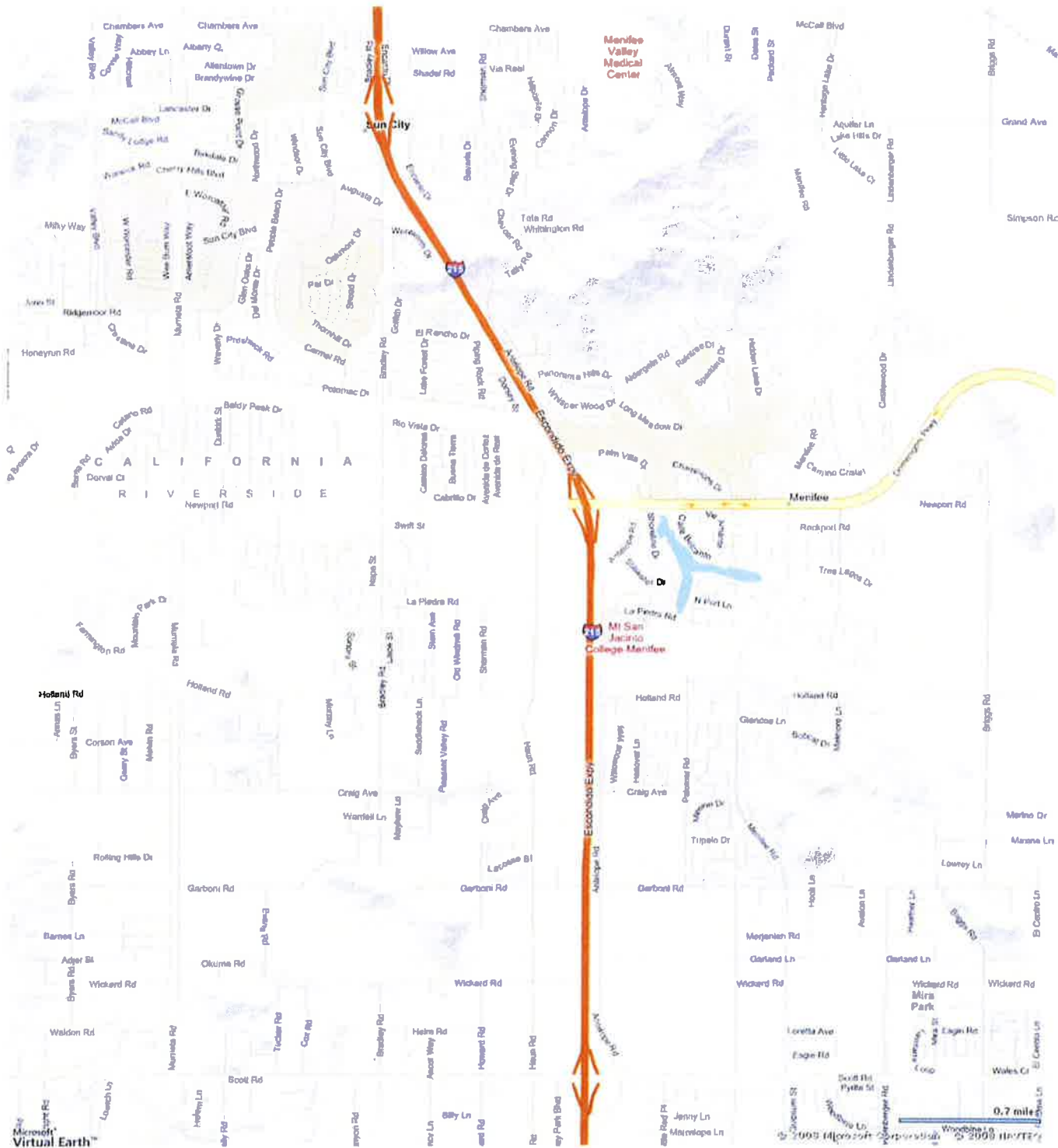
APPROVED AS TO FORM:

 Dated: 6/5/12  
JOSEPH V. FLETCHER  
City Attorney

ATTEST:

 Dated: 6/5/12  
KATHY BENNETT  
City Clerk

**EXHIBIT A**  
**PROJECT LOCATION**



**EXHIBIT B • PROJECT DEVELOPMENT COOPERATIVE AGREEMENT BETWEEN STATE AND COUNTY**

Contract No. 09-05-005  
Riverside Co. Transportation

08-Riv-215-PM 17.7-19.3  
I-215 Newport Road  
Interchange improvements  
EA 0J4400  
District Agreement No. 8-1420

**PROJECT DEVELOPMENT  
COOPERATIVE AGREEMENT**

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON July 31, 2009, 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."

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 construct improvements to the existing interchange at Interstate 215 (I-215)/Newport Road in the County of Riverside, 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 Approval and Environmental Document (PA&ED), Plans Specifications and Estimates (PS&E), and Right of Way (R/W), 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 will be the subject of a separate future agreement or agreements.

JUL 14 2009 3:53

7. This Agreement will define roles and responsibilities of the CEQA Lead Agency and CEQA Responsible Agency regarding 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. COUNTY 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.
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, concurrence, and/or approval 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, concurrence, and/or approval 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 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 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 SHS 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 SHS right of way and that such work will be completed prior to 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 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 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 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 existing SHS right of way that could impact PROJECT as part of performing any work pursuant to this Agreement. 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 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 that 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, PS&E and right of way activities 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, PS&E and right of way activities 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 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).
4. The design, right of way acquisition, and preparation of environmental documentation, including 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.
5. 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.

6. 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 a PROJECT cost.
7. COUNTY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permits, agreements, and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.
8. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permits, agreements, and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
9. 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.

10. 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.
11. 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.
12. 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.

13. 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 associated with HM-1 management activities.

STATE, has no responsibility for management activities or costs associated with HM-1 found outside the existing SHS right of way. COUNTY, independent of PROJECT, is responsible for any HM-1 found within PROJECT limits outside existing SHS right of

way. COUNTY will undertake, or cause to be undertaken, HM-1 management activities with minimum impact to PROJECT schedule, and COUNTY will pay, or cause to be paid, all costs associated with HM-1 management activities.

14. 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 associated with HM-2 is a PROJECT construction cost.
15. Management activities associated with either HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.
16. STATE's acquisition of 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.
17. 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.
18. 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.
19. 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 under this Agreement. It is understood and agreed that, COUNTY will fully defend, indemnify and save harmless STATE and all 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.
20. 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 under this Agreement. It is understood and agreed that, STATE will fully defend, indemnify and save harmless COUNTY and all 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.

21. 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.
22. 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.
23. This Agreement shall terminate upon 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, 2016, 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  
Supervisor, Board of Supervisors  
JEFF STONE

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

Attest: Kezia Harper-Ihem DEPUTY  
Clerk, Board of Supervisors  
KECIA HARPER-IHEM

APPROVED AS TO FORM AND  
PROCEDURE:

APPROVED AS TO FORM AND  
PROCEDURE:

By: [Signature]  
Attorney,  
Department of Transportation

By: Marsha L. Victor  
Counsel Marsha 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 PROJECT COSTS**

<b>TASK</b>	<b>Cost to Date</b>	<b>Estimated cost to Complete</b>	<b>Total</b>
Environmental/Design	\$ 1,727,400	\$ 2,230,000	\$ 3,957,000
Right-of-way	\$ 0	\$ 300,000	\$ 300,000
Construction (includes contingency)	\$ 0	\$ 33,000,000	\$33,000,000
<b>TOTAL</b>		<b>\$ 35,530,000</b>	<b>\$ 37,257,000</b>

**FUNDING – SUMMARY**

<b>Fund Source</b>	<b>Project Phase</b>			<b>Total Fund Amount</b>
	<b>Env/Design</b>	<b>R/W</b>	<b>Construction</b>	

Menifee RBBB	\$1,522,000	\$	\$ 3,014,000	\$ 4,536,000
Developer Contributions	\$ 435,000	\$ 0	\$ 0	\$435,000
TUMF	2,000,000	\$ 300,000	\$ 600,000	\$2,900,000
Measure A	\$0	\$ 0	\$ 51,000	\$51,000
TBD	\$0	\$ 0	\$ 29,335,000	\$ 29,335,000
<b>Total</b>	<b>\$3,957,000</b>	<b>\$ 300,000</b>	<b>\$ 33,000,000</b>	<b>\$ 37,257,000</b>