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



FROM: TLMA - Transportation Department

SUBMITTAL DATE: June 16, 2011

SUBJECT:

Cooperative Agreement between the County of Riverside (County), the

Redevelopment Agency for the County of Riverside (Agency), and the County Flood Control and Water Conservation District (District) for the Rubidoux-Daly

Avenue Storm Drain, Stage 1, (MS 50), Project No. 1-0-00289

RECOMMENDED MOTION: That the Board of Supervisors:

- 1. Approve the Cooperative Agreement between the District, the County and the Agency, and;
- 2. Authorize the Chairman to execute the Agreement documents on behalf of the County.

Juan C. Perez

Patricia Romo

Director of Transportation

Deputy Director of Transportation

FK:ra

Departmental Concurrence

(Continued On Attached Page)

Current F.Y. Total Cost:

FINANCIAL

Current F.Y. Net County Cost:

\$0 \$ 0 In Current Year Budget: **Budget Adjustment:**

N/A No

DATA

Annual Net County Cost:

\$0

For Fiscal Year:

2010/11

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30

Requires 4/5 Vote

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes:

Buster, Tavaglione, Stone, Benoit and Ashley

Navs:

None

Absent:

None

n Date:

June 28, 2011

XC:

Transp., Flood

(Comp. Item 1114)

Prev. Agn. Ref.

District: 2

Agenda Number:

Deputy

Kecia Harper-Ihem

Clerk of the Board

Exec. Ofc.

FORM APPROVED COUNTY COUNSE!

Policy Policy

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Consent Consent

Dep't Recomm.:

ATTACHMENTS FILED JE OLERK OF THE ROARD The Honorable Board of Supervisors

RE: Cooperative Agreement between the County of Riverside (County), the Redevelopment Agency for the County of Riverside (Agency), and the County Flood Control and Water Conservation District (District) for the Rubidoux-Daly Avenue Storm Drain, Stage 1, (MS 50), Project No. 1-0-00289

June 16, 2011 Page 2 of 2

BACKGROUND: The Agreement sets forth the terms and conditions by which the Redevelopment Agency for the County of Riverside is to perform the project development and construction of the Rubidoux-Daly Avenue Storm Drain-Stage 1 (MS50) project.

The Agency is providing 100% funding for the design, construction, and administration of the storm drain project.

The District will accept ownership and responsibility for the operation and maintenance of the storm drain. The County Transportation Department is granting the Agency the necessary rights-of-way to construct the project within County road rights-of-way and, upon completion of project construction, the County will assume ownership, operation and maintenance storm drain appurtenances which include, catch basins, connector pipes and storm drain segments that are 36-inches or smaller in diameter.

County Counsel has approved the Agreement as to legal form. A companion item appears on the Flood Control District's agenda this same date.

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COOPERATIVE AGREEMENT RUBIDOUX-DALY AVENUE STORM DRAIN, STAGE 1 (MS 50) Project No. 1-0-00289

The RIVERSIDE COUNTY FLOOD CONTROL **AND** WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the RIVERSIDE COUNTY TRANSPORTATION DEPARTMENT. hereinafter called "COUNTY" and the REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE, hereinafter called "AGENCY", agree as follows:

RECITALS

- A. AGENCY has budgeted for and plans to design and construct Rubidoux-Daly Avenue Storm Drain in the unincorporated community of Rubidoux consisting of approximately 1,830 lineal feet of underground concrete pipe, hereinafter called "STORM DRAIN", as shown in red on Exhibits "A" and "B" attached hereto and made a part hereof. At its downstream terminus, STORM DRAIN connects to DISTRICT'S Rubidoux Crestmore Channel (Project No. 1-0-00290), as shown in DISTRICT Drawing No. 1-641; and
- B. Associated with the construction of STORM DRAIN is the construction of lateral storm drains thirty-six inches (36") or less in diameter, various catch basins and connector pipes located within COUNTY rights of way, hereinafter called "APPURTENANCES". STORM DRAIN and APPURTENANCES are hereinafter altogether called "PROJECT"; and
- C. Construction of PROJECT will benefit the community of Rubidoux and RIVERSIDE COUNTY through reduced flooding of streets, improved traffic safety and circulation, and reduced street maintenance costs; therefore, DISTRICT is willing to accept STORM DRAIN segments that are greater than 36" in diameter for ownership, operation and maintenance as set forth herein. COUNTY is willing to accept APPURTENANCES for

ownership, operation and maintenance as set forth herein; and

D. AGENCY is willing to: (i) prepare PROJECT plans and specifications, hereinafter called "IMPROVEMENT PLANS", in accordance with DISTRICT and COUNTY standards; (ii) act as Lead Agency pursuant to the California Environmental Quality Act (CEQA); (iii) obtain all rights of way necessary for the construction, operation and maintenance of PROJECT; (iv) secure all regulatory approvals, permits and rights of entry necessary to construct, inspect, operate and maintain PROJECT; (v) advertise, award and administer a public works construction contract for PROJECT; (vi) provide all necessary funding to construct PROJECT; (vii) reimburse DISTRICT for its costs for review and approval of IMPROVEMENT PLANS and its final construction inspection(s) of STORM DRAIN; and (viii) reimburse COUNTY for its costs for review and approval of IMPROVEMENT PLANS and its final construction inspection(s) of APPURTENANCES; and E. DISTRICT is willing to: (i) review and approve AGENCY prepared

E. DISTRICT is willing to: (i) review and approve AGENCY prepared IMPROVEMENT PLANS; (ii) conduct a final inspection of STORM DRAIN; and (iii) accept ownership and sole responsibility for operation and maintenance of STORM DRAIN upon completion of PROJECT construction provided: (i) AGENCY provides DISTRICT and COUNTY an opportunity to review and approve IMPROVEMENT PLANS prior to constructing PROJECT; (ii) COUNTY grants DISTRICT all necessary rights to operate and maintain STORM DRAIN within COUNTY rights of way; (iii) PROJECT is constructed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS; and (iv) AGENCY reimburses DISTRICT for its costs for review and approval of IMPROVEMENT PLANS and for its final construction inspection(s) of STORM DRAIN; and

F. COUNTY is willing to: (i) review and approve AGENCY prepared IMPROVEMENT PLANS; (ii) conduct a final construction inspection of APPURTENANCES;

(iii) grant DISTRICT necessary rights to operate and maintain STORM DRAIN within COUNTY rights of way; and (iv) accept ownership and sole responsibility for operation and maintenance of APPURTENANCES upon completion of PROJECT construction provided: (i) AGENCY provides DISTRICT and COUNTY an opportunity to review and approve IMPROVEMENT PLANS prior to constructing PROJECT; (ii) APPURTENANCES are constructed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS; and (iii) AGENCY reimburses COUNTY for its costs for review and approval of IMPROVEMENT PLANS and its final construction inspection(s) of APPURTENANCES; and

G. It is in the public interest to proceed with the construction of PROJECT in a timely manner.

NOW, THEREFORE, the parties hereto mutually agree as follows:

SECTION I

AGENCY shall:

- 1. At its sole expense, prepare or cause to be prepared, IMPROVEMENT PLANS in accordance with DISTRICT and COUNTY standards.
- 2. Provide DISTRICT and COUNTY with an opportunity to review and approve IMPROVEMENT PLANS prior to advertising PROJECT for construction.
- 3. Pursuant to the California Environmental Quality Act (CEQA), assume Lead Agency role and responsibility for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to PROJECT'S construction, operation, and maintenance.
- 4. Obtain all necessary licenses, agreements, permits, approvals, rights of way, rights of entry and easement as may be needed for the construction, operation and maintenance of PROJECT.

- 5. Advertise, award, and administer a public works project construction contract.
- 6. Provide DISTRICT (Attention: Administrative Services Section) and COUNTY (Attention: Transportation Department) with written notice that AGENCY has awarded a construction contract for PROJECT.
- 7. Prior to commencing PROJECT construction, schedule and conduct a mandatory pre-construction meeting between AGENCY, AGENCY'S construction manager, AGENCY'S contractor(s), DISTRICT, COUNTY and other affected entities. AGENCY shall notify DISTRICT (Attention: Contract Administration Section) and COUNTY (Attention: Transportation Department) in writing at least twenty (20) days prior to conducting the pre-construction meeting.
- 8. Construct or cause to be constructed, PROJECT pursuant to an AGENCY administered construction contract, in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.
- 9. Except as otherwise provided herein, inspect PROJECT construction or cause PROJECT'S construction to be inspected by its construction manager.
- 10. Except as otherwise provided herein, furnish or cause its construction manager to furnish all construction survey and materials testing services necessary to construct PROJECT and provide DISTRICT and COUNTY with appropriate documentation establishing that PROJECT was constructed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.
- 11. Require its principal PROJECT construction contractor to procure and maintain comprehensive liability insurance which shall protect DISTRICT and COUNTY from claims for damages for personal injury, including accidental or wrongful death, as well as from

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claims for property damage, which may arise from AGENCY'S construction of PROJECT or the performance of its obligations hereunder, whether such construction or performance be by AGENCY, the aforementioned construction contractor(s), or any subcontractors to said construction contractor(s), or by anyone employed directly or indirectly by said construction contractor(s) or subcontractors. Such insurance shall provide for coverage limits of not less than two million dollars (\$2,000,000) per occurrence and shall name DISTRICT and COUNTY as additional insureds with respect to this Agreement and the obligations of AGENCY hereunder. Said insurance coverage shall be provided by an insurance company licensed to transact insurance business in the State of California, having an A.M. Best rating of A:VIII (A:8) or better and shall be evidenced by a certificate (or certificates) of insurance indicating that the insurance is in full force and effect and that DISTRICT and COUNTY are named as additional insureds. Said certificates(s) of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be provided to AGENCY, DISTRICT and COUNTY prior to any modification, cancellation, or reduction in coverage of said insurance.

Prior to AGENCY issuing a Notice to Proceed to its construction contractor(s) to begin construction of PROJECT, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT and COUNTY.

- 12. Furnish DISTRICT with the final mylar IMPROVEMENT PLANS and assign its ownership to DISTRICT prior to the start of PROJECT construction.
- 13. Not permit any change to, or modification of, IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT and COUNTY.
- 14. Require its construction contractor(s) to comply with all Cal/OSHA safety regulations, including regulations concerning confined space and maintain a safe working environment for all AGENCY, DISTRICT and COUNTY employees on the site.

- space procedure specific to PROJECT. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined Space and District confined Space Procedures, SOM-18. The procedure shall be provided to DISTRICT no less than twenty (20) days prior to requesting that DISTRICT perform a final inspection for acceptance of STORM DRAIN. The procedure shall be reviewed and approved by DISTRICT prior to conducting the final inspection.
- 16. Reimburse DISTRICT for its costs for review and approval of IMPROVEMENT PLANS and final inspection(s) of STORM DRAIN.
- 17. Reimburse COUNTY for its costs for review and approval of IMPROVEMENT PLANS and final inspection(s) of APPURTENANCES.
- 18. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Contract Administration Section) and COUNTY (Attention: Transportation Department) with written notice that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of STORM DRAIN and COUNTY conduct a final inspection of APPURTENANCES.
- 19. Assume ownership and sole responsibility for PROJECT until construction is completed and until such time as DISTRICT accepts ownership and responsibility for STORM DRAIN and COUNTY accepts ownership and responsibility for APPURTENANCES as set forth herein.
- 20. Upon completion of PROJECT construction but prior to acceptance of PROJECT for ownership, operation and maintenance, AGENCY'S civil engineer of record or construction civil engineer of record, duly registered in the State of California, shall provide

DISTRICT and COUNTY a redline "as-built drawings" copy of IMPROVEMENT PLANS. After DISTRICT and COUNTY approval of the redlined "as-built drawings", AGENCY'S engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the engineer shall review, stamp, and sign "as-built drawings" of IMPROVEMENT PLANS.

SECTION II

DISTRICT shall:

- 1. Review and approve IMPROVEMENT PLANS prior to AGENCY'S advertising of PROJECT for construction.
- 2. Upon completion of PROJECT construction, perform a final construction inspection of STORM DRAIN for conformance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.
- 3. Accept ownership and responsibility for the operation and maintenance of STORM DRAIN upon (i) AGENCY acceptance of PROJECT construction as being complete, (ii) DISTRICT acceptance of STORM DRAIN construction as being complete, (iii) DISTRICT receipt of stamped and signed "as-built drawings" of IMPROVEMENT PLANS, (iv) DISTRICT receipt of all applicable regulatory permits or approvals as may be required for the operation and maintenance of STORM DRAIN, (v) DISTRICT receipt of all appropriate documentation establishing that STORM DRAIN was constructed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS, (vi) COUNTY acceptance of APPURTENANCES for ownership, operation and maintenance, (vii) DISTRICT'S sole determination that STORM DRAIN is in a satisfactorily maintained condition, and (viii) AGENCY'S reimbursement of DISTRICT'S costs for its review and approval of IMPROVEMENT PLANS and final construction inspection(s) of STORM DRAIN.

4. Upon acceptance by COUNTY of APPURTENANCES for ownership, operation and maintenance, provide COUNTY with a duplicate set of "as-built drawings" of IMPROVEMENT PLANS.

5. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of IMPROVEMENT PLANS and its final construction inspection(s) of STORM DRAIN. DISTRICT shall submit a final cost statement to AGENCY within forty-five (45) days after DISTRICT acceptance of STORM DRAIN as being complete. AGENCY shall reimburse DISTRICT within thirty (30) days after receipt of final cost statement from DISTRICT.

SECTION III

COUNTY shall:

- Review and approve IMPROVEMENT PLANS prior to AGENCY'S advertising of PROJECT for construction.
- 2. Upon completion of PROJECT construction, perform a final construction inspection of APPURTENANCES for conformance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.
- 3. Accept ownership and responsibility for the operation and maintenance of APPURTENANCES upon (i) AGENCY acceptance of PROJECT construction as being complete, (ii) DISTRICT acceptance of STORM DRAIN construction as being complete, (iii) DISTRICT acceptance of STORM DRAIN for ownership, operation and maintenance, and (iv) AGENCY'S reimbursement of COUNTY'S costs for its review and approval of IMPROVEMENT PLANS and final construction inspection(s) of APPURTENANCES.

4. As requested by AGENCY or DISTRICT, accept any outstanding offers of dedication necessary for the construction, inspection, operation and maintenance of PROJECT.

5. Keep an accurate accounting of all COUNTY costs associated with the review and approval of IMPROVEMENT PLANS and its final construction inspection(s) of APPURTENANCES. COUNTY shall submit a final cost statement to AGENCY within forty-five (45) days after COUNTY acceptance of APPURTENANCES as being complete. AGENCY shall reimburse COUNTY within thirty (30) days after receipt of final cost statement from COUNTY.

SECTION IV

It is further mutually agreed:

- 1. All construction work associated with PROJECT shall be inspected by AGENCY, or its construction manager, but shall not be deemed complete until DISTRICT and COUNTY mutually agree that construction is completed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS. AGENCY shall not request DISTRICT or COUNTY to accept any portion of PROJECT for ownership, operation, or maintenance until PROJECT construction is deemed fully complete and all necessary rights of way have been conveyed as set forth herein.
- 2. DISTRICT and COUNTY personnel may observe and inspect all work being done on PROJECT, but shall provide any quality control comments to AGENCY personnel, or its construction manager, who shall be solely responsible for all communications with AGENCY'S contractor.
- 3. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of STORM DRAIN, STORM DRAIN shall be in a satisfactorily

maintained condition as solely determined by DISTRICT. If, in the sole discretion of DISTRICT, STORM DRAIN is not in an acceptable condition, corrections will be made at sole expense of AGENCY.

- 4. AGENCY shall indemnify, defend, save and hold harmless DISTRICT and COUNTY (including their respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to AGENCY (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.
- 5. DISTRICT shall indemnify, defend, save and hold harmless COUNTY and AGENCY (including their respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DISTRICT (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not

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limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

6. COUNTY shall indemnify, defend, save and hold harmless DISTRICT and AGENCY (including their respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to COUNTY (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

7. Any and all notices sent or required to be sent to another party(ies) shall be mailed to the following addresses:

RIVERSIDE COUNTY

Riverside, CA 92502-1090

Attn: Transportation Department

Post Office Box 1090

RIVERSIDE COUNTY FLOOD CONTROI AND WATER CONSERVATION DISTRICT 1995 Market Street

Riverside, CA 92501

Attn: Administrative Services Section

REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE 3403 10th Street, 5th Floor

Riverside, CA 92501

8. Pursuant to Government Code Sections 895.4 and 895.6, if any party hereto is held liable upon any judgment for damages caused by a negligent or wrongful act or omission in connection with the performance of their respective duties and obligations set forth in this Agreement and pays in excess of its pro rata share in satisfaction of such judgment, such

party shall be entitled to contribution from the other party(ies) to this Agreement. The pro rata share of each party for purposes of this Section shall be determined according to the comparative fault of the respective party(ies), as between them.

In the event of any arbitration, action or suit brought by a party hereto against another party hereunder by reason of any breach on the part of the other party of any of the mutual covenants and agreements set forth herein or any other dispute between the parties concerning this Agreement, then, the prevailing party in any such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover from the other party(ies) all costs and expenses of suit or claim, including but not limited to, attorneys' fees and experts' fees. This Section shall survive any termination of this Agreement.

- 9. This Agreement is to be construed in accordance with the laws of the State of California.
- 10. The parties hereto shall not assign this Agreement without the written consent of the other parties, and such consent will not be unreasonably withheld.
- 11. This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action based upon the provisions of this Agreement.
- 12. This Agreement is the result of negotiations between the parties hereto and with the advice and assistance of their respective counsel. No provision contained herein shall be construed against DISTRICT solely because, as a matter of convenience, it prepared the Agreement in final form.
- 13. Any waiver by DISTRICT, COUNTY or AGENCY of any breach by the other of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term thereof. Failure on the part of

DISTRICT, COUNTY or AGENCY to require from the other exact, full and complete compliance with any terms hereof, shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT, COUNTY or AGENCY from enforcement hereof.

- 14. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect without being impaired or invalidated in any way.
- 15. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.
- 16. This Agreement is intended by the parties hereto as their final expression with respect to the matters herein, and is a complete and exclusive statement of the terms and conditions thereof. This Agreement shall not be changed or modified except by the written consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

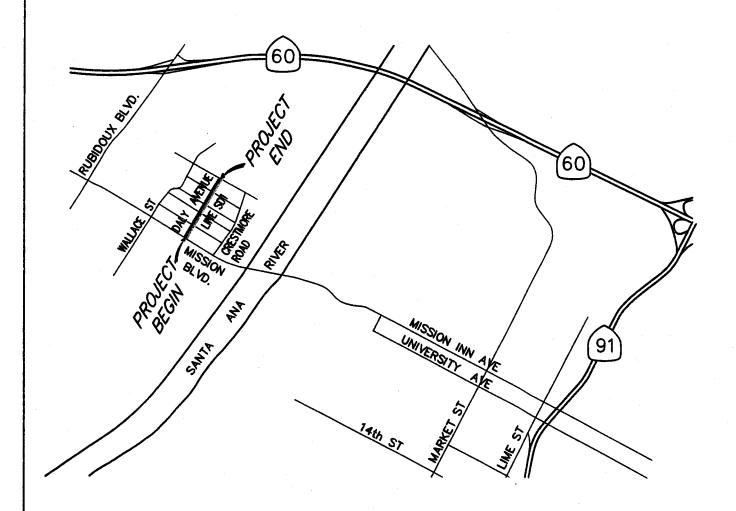
1 2 (to be filled in by Clerk of the Board) 3 RIVERSIDE COUNTY FLOOD CONTROL 4 RECOMMENDED FOR APPROVAL: AND WATER CONSERVATION DISTRICT 5 6 By By 7 WARREN D. WILLIAMS MARION ASHLEY, Chairman General Manager-Chief Engineer Riverside County Flood Control and Water 8 Conservation District Board of Supervisors 9 10 11 APPROVED AS TO FORM: ATTEST: 12 PAMELAJ. WALLS KECIA HARPER-IHEM 13 County Counsel Clerk of the Board 14 Bv By Deputy NEAL R. KIPNIS 15 Deputy County Counsel (SEAL) 16 17 18 19 20 21 22 23 24 25 Cooperative Agreement Rubidoux-Daly Avenue SD, Stage 1 (MS-50) 4/14/11 27 ΓT:blj 28

	RECOMMENDED FOR APPROVAL:	COUNTY OF RIVERSIDE
1	By talling Long	
2	JUAN C. PEREZ Director of Transportation	BOB BUSTER, Chairman
3	Patricia Romo	County of Riverside Board of Supervisors
4	Deputy Director of Transportation	
5		ATTEST:
6		KECIA HARPER-IHEM
7		Clerk of the Board
8	FORM APPROVED COUNTY COUNSEL	By
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	RECOMMENDED FOR APPROVAL:	REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE
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	ROBERT FIELD Executive Director	BOB BUSTER, Chairman
		Board of Directors
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ç	D //	ATTEST:
10	PAMELA V. WALLS County Counsel	KECIA HARPER-IHEM Clerk of the Board
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12	ANITA WILLIS	By A WWW MAN
13	Deputy County Counsel	(SEAL)
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EXHIBIT A



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COOPERATIVE AGREEMENT RUBIDOUX - DALY AVENUE STORM DRAIN - STAGE 1 PROJECT No. 1-0-00289 (MS 50)

VICINITY MAP

