

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

324
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FROM: TLMA - Transportation Department

SUBMITTAL DATE:
July 3, 2013

SUBJECT: Pipeline Engineering and Inspection Agreement with SFPP, L.P. (SFPP), Airport Boulevard Grade Separation Project, Thermal Area

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the submitted Pipeline Engineering and Inspection Agreement between the County of Riverside (County) and SFPP for the planned railroad grade separation improvement project at the Airport Boulevard and Union Pacific Railroad (UPRR) crossing in the Thermal Area; and
2. Authorize the Chairman of the Board of Supervisors to execute the agreement on behalf of the County.

Juan C. Perez
Director of Transportation and Land Management

JP:sd

(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 110,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2013/2014

SOURCE OF FUNDS: TUMF Coachella Valley Association of Governments (CVAG) - 100%	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

There are no General Funds used in this project.

C.E.O. RECOMMENDATION:

APPROVE

BY
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY:
MARSH L. VICTOR
DATE: 7/10/13

Departmental Concurrence

Dept Recomm.: Policy Policy
Per Exec. Ofc.: Consent Consent

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: July 30, 2013
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref. | District: 4/4 | Agenda Number:

3-57

The Honorable Board of Supervisors

RE: Pipeline Engineering and Inspection Agreement with SFPP, L.P. (SFPP), Airport Boulevard Grade Separation Project, Thermal Area

July 3, 2013

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BACKGROUND: Airport Boulevard (also known as Avenue 56) is designated in the Riverside County General Plan as a six-lane urban arterial highway that serves the Thermal community of eastern Riverside County, the City of Coachella, and the City of La Quinta while providing direct access from State Route 86 and Grapefruit Boulevard (SH-111) to the Jacqueline Cochran Regional Airport. A UPRR at-grade crossing currently exists on Airport Boulevard just south of the City of Coachella, paralleling State Route 86. A grade separation project that will separate Airport Boulevard from the UPRR mainline tracks has been proposed, and it is anticipated that construction will begin in the first quarter of 2014.

The railroad grade separation project includes the construction of a bridge structure to elevate Airport Boulevard over the UPRR tracks. The project will improve motorist safety by separating vehicle traffic from rail traffic.

This project has been identified to receive \$10 million from the State's Prop 1B Bonds Goods Movement Program, administered through Transportation Corridor Improvement Funds. A Project Baseline Agreement with the California Transportation Commission identifying the scope and cost of the project was approved by the Riverside County Board of Supervisors on July 29, 2008. The County is required to execute a construction agreement of the improvements by December 31, 2013, under the terms of the Project Baseline Agreement.

The project has been environmentally cleared. Final plans, specifications, and estimates have been prepared; and, right-of-way acquisitions are in progress.

The project will construct improvements directly over a 20" pipeline that is owned and operated by Kinder-Morgan, a division of SFPP. The high-pressure pipeline typically carries petroleum products and will be protected in-place by the County's contractor. Due to the critical nature of the pipeline, it is required by the pipeline's owner that the operations of the County's contractor be monitored by SFPP to ensure that the pipeline is properly protected during all construction activities above or near the pipeline. Inspection and engineering associated with the monitoring of the work will be performed by SFPP or its contract forces. The County is responsible for all costs in this matter, inasmuch as SFPP has superior property rights.

The letter agreement is consistent with the project requirements and has been reviewed and approved by County Counsel.

Project No. A6-0241

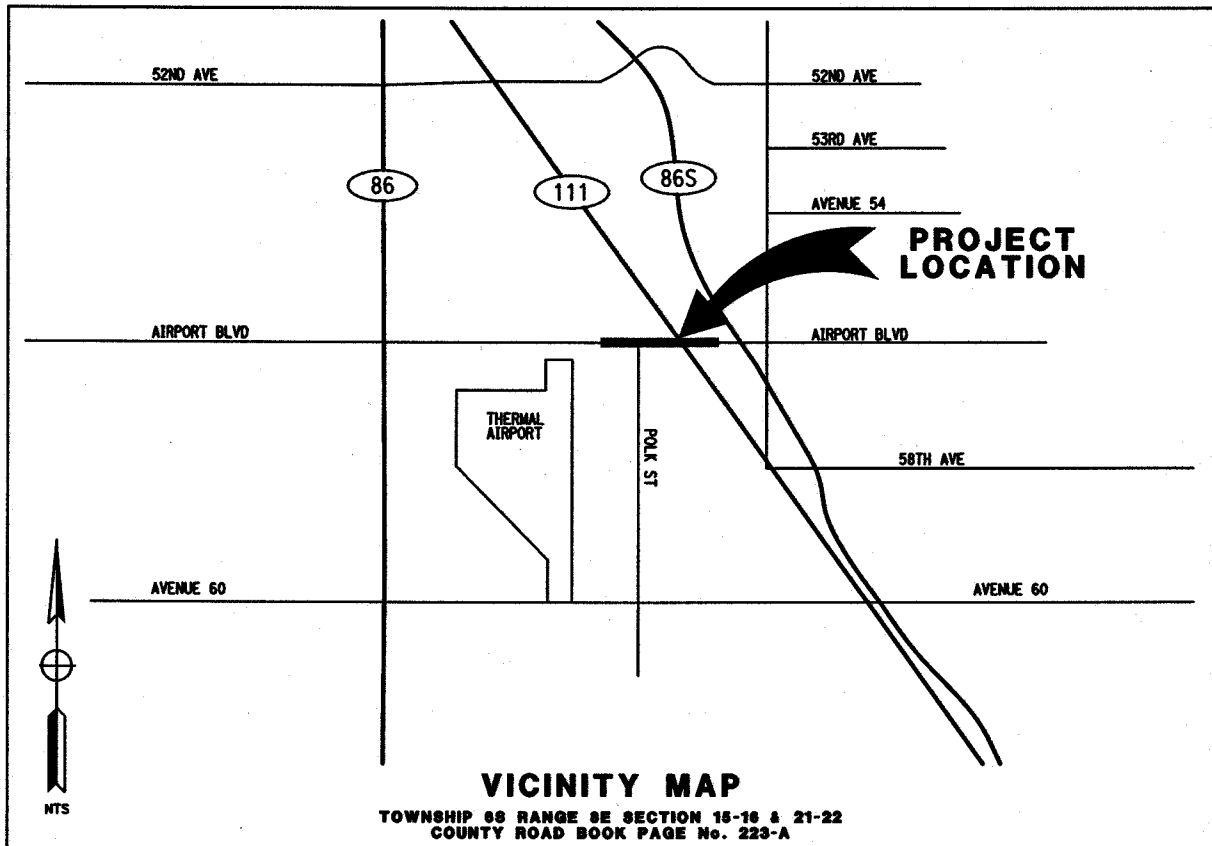
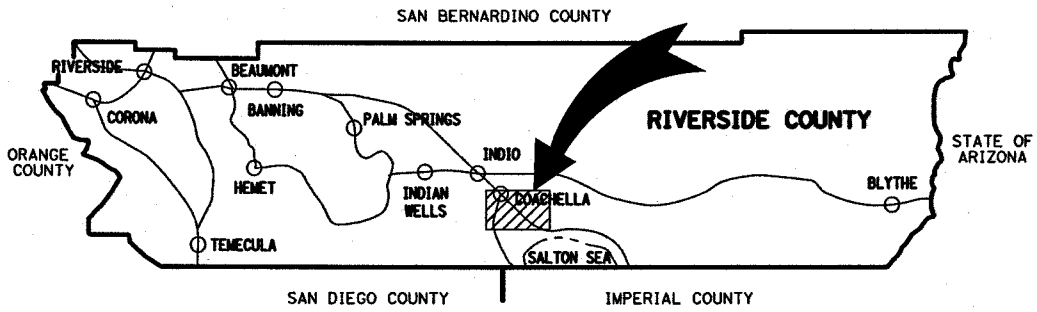
COUNTY OF RIVERSIDE
DEPARTMENT OF TRANSPORTATION

AIRPORT BLVD GRADE SEPARATION

FROM 0.49 MILES WEST OF GRAPEFRUIT BLVD
TO 0.34 MILES EAST OF GRAPEFRUIT BLVD

COMMUNITY OF THERMAL

PROJECT No. A6-0241



PIPELINE ENGINEERING AND INSPECTION AGREEMENT

This PIPELINE ENGINEERING AND INSPECTION AGREEMENT ("*Agreement*") is made and entered into this 30th day of July, 2013 ("*Effective Date*"), by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("*COUNTY*") and SFPP, L.P., a Delaware limited partnership, ("*SFPP*"), with reference to the following facts:

RECITALS

WHEREAS, COUNTY is planning construction of the Airport Boulevard (Ave 56) Railroad Grade Separation ("*Project*") over SFPP's 20-inch pipeline located in the Thermal area in the County of Riverside, California ("*Subject Facilities*"); and

WHEREAS, COUNTY acknowledges that a 12-inch pipeline being utilized as a fiber optic cable conduit is located adjacent to SFPP's 20-inch pipeline and any inquiries concerning this facility must be directed to the lessee of the pipeline, Level 3 Communications; and

WHEREAS, COUNTY and SFPP desire to enter into an agreement whereby COUNTY agrees to reimburse SFPP and SFPP agrees to provide, itself or through its consultants and contractors, engineering and inspection services (the "*Services*") to monitor and protect in place the Subject Facilities while COUNTY constructs its Project near the Subject Facilities;

AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions contained herein, along with other good and valuable consideration, the sufficiency of which is hereby acknowledged, SFPP and Riverside County hereby agree as follows:

1. COUNTY shall provide SFPP with at least 10 days written notice prior to performing any construction activities near the Subject Facilities. Upon receipt of notice from COUNTY, SFPP shall coordinate with COUNTY to provide the Services during the period of time when COUNTY is performing construction activities near the Subject Facilities. Notices shall be delivered by courier, overnight mail, certified mail or facsimile and shall be deemed submitted that same day attention to: Kinder Morgan Area Manager, Gary Koehn, Kinder Morgan, 345 W. Aten Road, Imperial, CA 92251, Facsimile (760) 352-4358.

2. COUNTY shall pay SFPP the actual cost incurred by SFPP in performance of the Services, plus SFPP's normal additives for reimbursable projects (the "*Actual Cost*"). SFPP estimates the cost of such Services, including normal additives as described herein this Section 2, shall be One Hundred Ten Thousand Dollars, (\$110,000.00), (the "*Estimated Cost*") for 6 months of inspection and engineering support, which includes but is not limited to: (i) consultant and contractor charges, (ii) equipment and materials, (iii) SFPP labor, (iv) engineering (including 42% for labor additives), (v) inspection (including coordination and supervision) and (vi) 16.2% for administrative overhead costs provided such normal additives are reasonable.

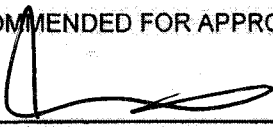
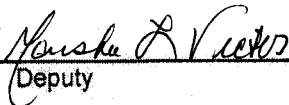

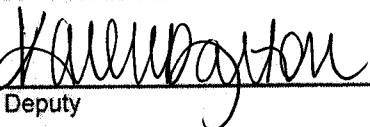
3. Within 60 calendar days of the Effective Date, COUNTY shall deliver payment to SFPP in the amount of the Estimated Cost. Such payment must be received by SFPP prior to the performance of any Services under this Agreement. When the final accounting of the Actual Cost of the Services performed by SFPP is completed, SFPP will submit an itemized billing to COUNTY for review, together with either: (i) an invoice, to the extent the Actual Cost exceeds the Estimated Cost; (ii) a check from SFPP, to the extent the Estimated Cost exceeds the Actual Cost. If the Actual Cost exceeds the Estimated Cost and the difference between the Actual Cost and Estimated Cost ("Excess Amount") is less than or equal to twenty five percent (25%) of the \$110,000 Estimated Cost paid by County, COUNTY shall pay SFPP the excess amount within 60 days after receiving such invoice from SFPP. An Excess Amount greater than Twenty Seven Thousand Five Hundred Dollars (\$27,500) (25% of \$110,000) shall require a written amendment approved by the parties. SFPP shall maintain records for 3 years of the actual costs incurred and charged or allocated in the performance of the Services in accordance with generally accepted accounting principles.

4. To the extent permitted by applicable law, COUNTY agrees to release, defend, and to protect, indemnify and hold harmless SFPP, its parent, affiliates, and subsidiaries, and its and their respective directors, officers, agents and employees, from every kind or character of damages, losses, liabilities, expenses, demands or claims, including any and all costs and fees arising out of litigation or settlement of any claims (collectively, "*Losses*"), to the extent the Losses are caused by, arise from or relate to, directly, the acts or omissions of COUNTY, its agents, employees in connection with this Agreement or work performed near the Subject Facilities in furtherance of the Project. COUNTY further agrees that it shall pay, in proportion to its obligation pursuant to this Section 4, all damages, reasonable costs and expenses (including reasonable attorneys' fees) in connection therewith or any matter resulting therefrom. COUNTY shall not settle any such action or suit without SFPP'S prior written consent. This indemnification obligation shall survive expiration or termination of this Agreement until such time all statute of limitations shall run.

5. SFPP agrees to release, defend, and to protect, indemnify and hold harmless COUNTY, its respective officers, employees, agents and elected officials, from every kind or character of damages, losses, liabilities, expenses, demands or claims, including any and all costs and fees arising out of litigation or settlement of any claims (collectively, "*COUNTY Losses*"), to the extent the COUNTY Losses are caused by, arise from or relate to, directly, the acts or omissions of SFPP, its parent, affiliates, and subsidiaries, and its and their respective directors, officers, agents and employees, consultants and contractors, in connection with this Agreement or Services performed and direction given to COUNTY regarding the Subject Facilities. SFPP further agrees that it shall pay, in proportion to its obligation pursuant to this Section 5, all damages, reasonable costs and expenses (including reasonable attorneys' fees) in connection therewith or any matter resulting therefrom. SFPP shall not settle any such action or suit without COUNTY'S prior written consent. This indemnification obligation shall survive expiration or termination of this Agreement until such time all statute of limitations shall run.

6. This Agreement contains the entire agreement between COUNTY and SFPP with respect to the subject matter hereto. Any modifications to the terms of this Agreement must be in writing and signed by the parties herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

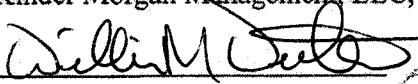
COUNTY APPROVALS	COUNTY OF RIVERSIDE
<p>RECOMMENDED FOR APPROVAL:</p> <p></p> <hr/> <p>Juan C. Perez Director of Transportation, Land Management Agency</p> <p>Dated: <u>7/3/13</u></p> <p>APPROVED AS TO FORM: Pamela J. Walls County Counsel</p> <p>By: <u> 7/10/13</u> Deputy</p>	<p>By: <u></u> Chairman, JOHN J. BENOIT Board of Supervisors</p> <p>Dated: <u>JUL 30 2013</u></p> <p>ATTEST:</p> <p>Kecia Harper-Ihem Clerk of the Board</p> <p>By: <u></u> Deputy</p>

SFPP, L.P.,

By: Kinder Morgan Operating L.P. "D", its general partner

By: Kinder Morgan G.P., Inc., its general partner

By: Kinder Morgan Management, LLC, the delegate of Kinder Morgan G.P., Inc.

By: 

Name: William M. Ottens

Title: VP Engineering

