



City Council Staff Report

Date: April 21, 2010

CONSENT CALENDAR

Subject: APPROVAL OF CONSTRUCTION COOPERATIVE AGREEMENT WITH RIVERSIDE COUNTY FOR THE INDIAN CANYON DRIVE AT INTERSTATE 10 INTERCHANGE PROJECT; CITY PROJECT 00-14

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

A Cooperative Agreement between Riverside County and the City of Palm Springs has been prepared that will allow the County to administer the construction phase of the Indian Canyon Drive at Interstate 10 Interchange Project ("I-10 Project").

RECOMMENDATION:

- 1) Approve Agreement No. _____, a Construction Cooperative Agreement by and between Riverside County and the City of Palm Springs for the Indian Canyon Drive at Interstate 10 Interchange Project; and
- 2) Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

The City (as Lead Agency), and Riverside County (as a partnering agency), are parties to two Cooperative Agreements related to this I-10 Project: one agreement is a funding reimbursement agreement with the Coachella Valley Association of Governments ("CVAG"), and a second agreement is a construction cooperative agreement with the California Department of Transportation ("Caltrans").

A third and final agreement between the City and County is necessary to address the logistical issues of having the County coordinate, process and pay construction phase costs, and in turn invoice the City for reimbursement of those costs as the Lead Agency. A cooperative agreement has been prepared which will ensure that the County, as the partnering agency for this project, recovers its costs related to administering the construction phase of this I-10 Project on behalf of the City.

ITEM NO. 2.F.

Riverside County has been diligently coordinating construction phase activities on behalf of the City for this I-10 Project, and is currently advertising for construction bids. The bid opening date has been scheduled for April 28, and the County is prepared to award a construction contract by June 8. Therefore, it is important to have this final cooperative agreement in place to facilitate the internal financial relationship between the City and County for the construction phase of this I-10 Project, which ultimately is funded by Measure A, state and federal funds.

FISCAL IMPACT:


The Cooperative Agreement estimates the construction phase of the Indian Canyon Drive I-10 Project at \$31,100,000. This I-10 Project has multiple state and federal funding sources, which include:

State STIP/RIP: \$13,656,000 (construction)
ARRA: \$5,517,500 (construction)
DEMO TEA 21: \$1,120,885 (construction)
DEMO SAFETEA-LU: \$1,979,780 (construction)
Total state/federal funds: \$22,274,165

CVAG Regional Measure A funds will cover 75% of all project costs not covered by these state or federal grants. The City's individual local agency share for this I-10 Project is 50.50% of the 25% local share (or 12.625%). In the worst case, if all estimated construction phase costs hold true at \$31,100,000 (i.e. competitively low bids do not materialize), approximately \$8.8 Million would be funded by Measure A funds: 75% (\$6.6 Million) funded by CVAG, and 12.625% (\$1.1 Million) funded by the City. Staff reasonably expects low bids, which will greatly reduce the City's funding share.

SUBMITTED:

Prepared by:




Marcus L. Fuller
Assistant Director of Public Works

Recommended by:

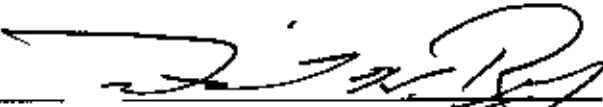


David J. Barakian
Director of Public Works/City Engineer

Approved by:



Thomas J. Wilson, Asst. City Manager



David H. Ready, City Manager

Attachments:

1. Construction Cooperative Agreement

CONSTRUCTION COOPERATIVE AGREEMENT

BY AND BETWEEN

RIVERSIDE COUNTY AND THE CITY OF PALM SPRINGS

FOR

INDIAN CANYON DRIVE AT INTERSTATE 10 INTERCHANGE PROJECT

This Agreement entered into this _____ day of _____, 2010, by and between the County of Riverside, (hereinafter "COUNTY"), and the City of Palm Springs, (hereinafter "CITY") related to the construction of certain improvements on Indian Canyon Drive, Garnet Avenue, 20th Avenue, and Interstate 10 located within the jurisdictional boundaries of the COUNTY and CITY is made with reference to the following background facts and circumstances:

RECITALS

- A. CITY is the original Lead Agency for the design and construction of planned improvements to the Indian Canyon Drive at Interstate 10 Interchange Project (hereinafter "PROJECT"), which includes improvements to Indian Canyon Drive, Garnet Avenue and 20th Avenue located in the CITY and COUNTY, generally shown in Exhibit A (Vicinity Map).
- B. CITY and COUNTY are parties to a separate agreement with the Coachella Valley Association of Governments (hereinafter "CVAG") entitled "Indian Avenue Interstate 10 Interchange, Design Engineering and Environmental", originally executed December 6, 2000, (hereinafter "CVAG AGREEMENT"). The CVAG AGREEMENT, and its subsequently approved amendments, obligates and authorizes for expenditure Regional Measure A funds from CVAG for the PROJECT.
- C. The PROJECT is subject to formal oversight by the state of California, Department of Transportation, (hereinafter "CALTRANS").
- D. CITY previously requested, by letter dated August 26, 2008, that COUNTY advertise, award and administer (hereinafter "AAA") the PROJECT pursuant and subject to CALTRANS rules and regulations; a copy of CITY's letter is included as Exhibit B.
- E. COUNTY previously approved CITY's request to AAA the PROJECT for the CITY, and subsequently requested, by letter dated October 3, 2008, CALTRANS approval to AAA the PROJECT for the CITY; a copy

1 of COUNTY's letter is included as Exhibit C.

2 F. CALTRANS, by letter dated December 22, 2008, previously approved COUNTY's request to AAA the
3 PROJECT for the CITY; a copy of CALTRANS' letter is included as Exhibit D.

4 G. CITY and COUNTY are parties to a separate agreement with CALTRANS entitled "Construction Cooperative
5 Agreement, District Agreement No. 8-1433 and District Agreement No. 8-1433 A/1," (hereinafter "CALTRANS
6 AGREEMENT"), which formally authorizes COUNTY to AAA the PROJECT for the CITY; a copy of the
7 CALTRANS AGREEMENT is included as Exhibit E.

8 H. CITY and COUNTY desire to define herein the terms and conditions under which the PROJECT is to be
9 administered, environmentally cleared, engineered, coordinated, constructed, managed, maintained and
10 financed, in accordance with the terms of the CALTRANS AGREEMENT referenced herein.

11 **AGREEMENT**

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

14 **SECTION 1 - CITY AGREES:**

- 15 1. As the original Lead Agency of the PROJECT, to fund one hundred percent (100%) of the cost of the
16 preparation of plans, specifications and estimates (PS&E), preparation of an environmental document (ED)
17 and obtaining environmental clearance, providing utility coordination and relocation of impacted utilities, and
18 advertising, awarding and administering a public works construction contract necessary to construct
19 PROJECT improvements that are located within the jurisdictional boundaries of the CITY and COUNTY,
20 subject to the terms of the CVAG AGREEMENT and CALTRANS AGREEMENT referenced herein. The final
21 estimated cost to AAA the PROJECT is shown on Exhibit F attached hereto and incorporated herein, said
22 final estimated cost to AAA the PROJECT being slightly higher than the \$30,762,000 cost estimate identified
23 in the CALTRANS AGREEMENT referenced herein. Any costs in excess of 10% of those set forth on Exhibit
24 F shall be approved in writing by the CITY prior to the COUNTY incurring said costs.
- 25 2. To prepare, or cause to be prepared, detailed PS&E documents for the PROJECT approved by CALTRANS
26 for bidding. COUNTY shall not solicit construction bids until CITY has CALTRANS approved PS&E
27 documents for the PROJECT, and CALTRANS has authorized CITY to proceed with construction of the
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1 PROJECT.

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- 3 3. To identify and locate all utility facilities within the PROJECT area as part of its PROJECT design
- 4 responsibility. If any existing public and/or private utility facilities conflict with PROJECT construction, CITY
- 5 shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or
- 6 removal. All utility facilities shall be identified on the PROJECT plans and specifications, and conflicting
- 7 utilities shall be denoted. CITY shall require the utility owner and/or its contractors performing the relocation
- 8 work within CITY's right of way to obtain a CITY encroachment permit prior to the performance of said
- 9 relocation work.
- 10 4. To prepare an ED and to obtain necessary environmental clearances in accordance with the California
- 11 Environmental Quality ACT (CEQA) and National Environmental Policy Act (NEPA).
- 12 5. To provide, at no cost to COUNTY, oversight of PROJECT and to provide prompt reviews and approvals, as
- 13 appropriate, of submittals by COUNTY, and to cooperate in timely processing of PROJECT.
- 14 6. To issue, at no cost to COUNTY or its contractors, upon proper application by COUNTY or COUNTY's
- 15 contractor, an encroachment permit authorizing entry onto CITY's right of way to perform survey and other
- 16 investigative activities required by the ED, PS&E documents, or construction of PROJECT.
- 17 7. To provide a representative to coordinate through the COUNTY's Resident Engineer during the construction
- 18 of PROJECT and to verify that facilities are constructed in accordance with the approved PS&E documents as
- 19 required by this agreement. It is mutually understood that CITY personnel may observe and inspect all work
- 20 being done on PROJECT, but shall provide any comments to COUNTY personnel who shall be solely
- 21 responsible for all communications with COUNTY's contractor.
- 22 8. To deposit with COUNTY, prior to award of the construction contract for the PROJECT, the sum of
- 23 \$3,110,000 equivalent to ten percent (10%) of the final estimated cost to AAA the PROJECT as shown on
- 24 Exhibit F, costs for which CITY is initially responsible as the original Lead Agency of PROJECT pursuant to
- 25 the CVAG AGREEMENT and CALTRANS AGREEMENT referenced herein.
- 26 9. Upon depletion of CITY's initial deposit, to pay COUNTY within 30 days of COUNTY's continuous billing, for
- 27 the actual expenditures for that month, and to continue making such payments on a monthly basis until
- 28 completion of construction, capital and support activities for the PROJECT.
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10. Upon PROJECT completion and acceptance, subject to approval by CALTRANS, CITY will fund the operation and maintenance of all PROEJCT facilities until a Maintenance Agreement with Caltrans is executed or an existing agreement, if any, is amended to incorporate the maintenance of these new PROJECT facilities located on the State Highway System.

11. To comply with CITY's obligations set forth in Section I of the CALTRANS AGREEMENT referenced herein.

SECTION 2 - COUNTY AGREES:

1. To AAA the PROJECT in accordance with all applicable laws, including but not limited to the Local Agency Public Construction Act, the California Labor Code, the CALTRANS AGREEMENT referenced herein, and in accordance with the permit issued by the Riverside County Transportation Department.
2. To make written application to CITY for an encroachment permit authorizing entry into CITY's right of way for the purposes of constructing PROJECT.
3. To issue, at no cost to CITY, upon proper application by COUNTY's contractor, an encroachment permit authorizing entry onto COUNTY's right of way to perform survey and other investigative activities required by the ED, PS&E documents, or construction of PROJECT.
4. To furnish a representative to perform the function of Resident Engineer during construction of PROJECT subject to CALTRANS approval. The Resident Engineer shall be a Licensed Civil Engineer. If the PROJECT PS&E documents are prepared by a private engineering company, the Resident Engineer shall not be an employee of that company. The Resident Engineer shall also be independent of the construction contractor.
5. To furnish qualified support staff, subject to CALTRANS approval, to assist the Resident Engineer with construction support services including, but not limited to, construction surveys, soils and foundation tests, measurement and computation of quantities, testing of construction materials, checking shop drawings, preparation of estimates and reports, preparation of as-built drawings, and other inspection and staff services necessary to assure that the construction is performed in accordance with the CALTRANS approved PS&E documents.
6. To construct PROJECT in accordance with the CALTRANS approved PS&E documents.
7. To provide material testing and quality control conforming to the CALTRANS Construction Manual, Construction Manual Supplement for Local Agency Resident Engineer, Local Agency Structure

1 Representative Guideline, and CALTRANS' California Test Methods, and to have this testing performed by a
2 material tester certified by CALTRANS.

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- 4 8. To submit any contract change order that causes the construction contract to exceed 10% of the contract bid
5 amount to CITY for review and approval prior to final authorization by COUNTY.
- 6 9. To furnish CITY a complete set of full-sized film positive reproducible as-built plans and all contract records,
7 including survey documents, within sixty (60) days following the completion and acceptance of the PROJECT
8 construction contract, and electronic copies of as-built plans on CD-R media.
- 9 10. To furnish CITY a final reconciliation of all expenses within ninety (90) days following the completion and
10 acceptance of the PROJECT construction contract.
- 11 11. To comply with COUNTY's obligations set forth in Section II of the CALTRANS AGREEMENT referenced
12 herein.

13 **SECTION 3 - IT IS MUTUALLY AGREED AS FOLLOWS:**

- 14 1. The final estimated cost to AAA the PROJECT is \$31,100,000 as shown on Exhibit F, said final estimated
15 cost to AAA the PROJECT being slightly higher than the \$30,762,000 cost estimate identified in the
16 CALTRANS AGREEMENT referenced herein
- 17 2. COUNTY shall not be obligated to award a contract to construct PROJECT until after receipt of CITY's
18 deposit as required in Section 1.
- 19 3. COUNTY shall award a contract to construct PROJECT in accordance with the CALTRANS Construction
20 Manual, and the CALTRANS Plans, Specifications and Estimates Guide, or as otherwise required by
21 COUNTY in a manner consistent with the cited CALTRANS documents. Generally, in accordance with the
22 cited CALTRANS documents, following review and confirmation of all submitted bids, COUNTY shall
23 immediately process award documents to the lowest responsive, responsible bidder if the lowest responsive
24 bid received is not more than 10% over the Engineer's Estimate of construction of PROJECT of \$26,600,000
25 as shown on Exhibit F. In the event the lowest responsive bid received is more than 10% over the Engineer's
26 Estimate of construction of PROJECT of \$26,600,000 as shown on Exhibit F, COUNTY shall make an
27 appropriate recommendation for award in consultation with CALTRANS and CITY. Following COUNTY's
28 determination of a recommendation for award, COUNTY shall immediately process the appropriate action at
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1 the next available COUNTY Board of Supervisor's meeting.

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- 3 4. It is expressly understood by CITY and COUNTY that construction of PROJECT is a high priority for CITY,
- 4 COUNTY and CVAG. In the event the lowest responsive bid received is more than 10% over the Engineer's
- 5 Estimate of construction of PROJECT of \$26,600,000 as shown on Exhibit F, CITY and COUNTY shall
- 6 endeavor to facilitate award of a contract for construction of PROJECT in consultation with CVAG, including, if
- 7 necessary, further amendment of the CVAG AGREEMENT to increase the total amount obligated and
- 8 authorized for expenditure of Regional Measure A funds from CVAG for the PROJECT.
- 9
- 10 5. Construction by COUNTY of improvements referred to herein which lie within CITY rights of way shall not be
- 11 commenced until an Encroachment Permit to COUNTY, or COUNTY's contractor, authorizing such work has
- 12 been issued by CITY.
- 13
- 14 6. COUNTY shall cause COUNTY's contractor to maintain in force, until completion and acceptance of the
- 15 PROJECT construction contract, a policy of General Liability Insurance, including coverage of Bodily Injury
- 16 Liability and Property Damage Liability, that complies with all coverage requirements with Section 7-1.12 of
- 17 CALTRANS' then effective Standard Specifications. Such policy shall contain an additional insured
- 18 endorsement naming CALTRANS and CITY, and their officers, agents, and employees as additional insureds.
- 19 This insurance coverage shall be evidenced by a Certificate of Insurance in a form satisfactory to CALTRANS
- 20 which shall be delivered to CALTRANS before the issuance of an encroachment permit to COUNTY's
- 21 construction contractor.
- 22
- 23 7. Ownership and title to all materials, equipment, and appurtenances installed as part of this agreement will
- 24 automatically be vested with the jurisdiction for which the improvements reside and no further agreement will
- 25 be necessary to transfer ownership.
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- 27 8. Neither COUNTY nor CITY shall be responsible for any maintenance of the improvements provided by
- 28 PROJECT that are located outside of their respective right of way boundaries.
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9. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by
- both parties and no oral understanding or agreement not incorporated herein shall be binding on either party
- hereto.
10. COUNTY and CITY shall retain or cause to be retained for audit for a period of three (3) years from the date

1 of final payment, all records and accounts relating to PROJECT.

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

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

16 13. 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 14. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third
21 parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing
22 any standard of care with respect to the maintenance of roads different from the standard of care imposed by
23 law.

24 15. This agreement may be executed in one or more counterparts and when a counterpart shall have been
25 signed by each party hereto, each shall be deemed an original, but all of which constitute one and the same
26 instrument.

27 16. This Agreement shall terminate upon completion of the PROJECT or upon mutual agreements of the parties.
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APPROVALS

COUNTY Approvals

APPROVED AS TO FORM:

_____ Dated: _____

PAMELA J. WALLS

County Counsel

APPROVAL BY THE BOARD OF SUPERVISORS

_____ Dated: _____

MARION ASHLEY

PRINTED NAME

Chairman, Riverside County Board of Supervisors

ATTEST:

_____ Dated: _____

Kecia Harper-Ihem

Clerk of the Board (SEAL)

CITY OF PALM SPRINGS Approvals

APPROVED AS TO FORM:

_____ Dated: _____

DOUGLAS C. HOLLAND

City Attorney

APPROVED BY:

_____ Dated: _____

DAVID H. READY

City Manager

ATTEST:

_____ Dated: _____

James Thompson

City Clerk (SEAL)

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EXHIBIT B

(Follows on next page.)



City of Palm Springs

Department of Public Works and Engineering

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262

Tel: (760) 323-8253 • Fax: (760) 322-8360 • Web: www.ci.palm-springs.ca.us

August 26, 2008

Mr. Scott Staley
Engineering Division Manager
Project Development
Riverside County Transportation Department
3525 14th Street
Riverside, CA 92501

Re: **Indian Avenue Interchange; EA 08-45570**

Dear Mr. Staley:

Although the City of Palm Springs was previously recommended for approval by Caltrans District 8 to advertise, award and administer ("AAA") the construction of the Indian Avenue Interchange, upon review by FHWA, FHWA questioned the City's experience on prior Interchange projects. We subsequently resubmitted a letter to Caltrans District 8 requesting approval to AAA the Indian Avenue Interchange despite our apparent lack of experience administering construction projects. We have recently received formal denial by Caltrans District 8 to AAA this project.

Therefore, by this letter, we respectfully request that the Riverside County Transportation Department take responsibility for the AAA of the Indian Avenue Interchange. In retrospect, given that your agency will be coordinating the AAA of the Palm Drive/Gene Autry Trail Interchange and the Date Palm Drive interchange, it is likely best that construction of all three adjacent I-10 Interchanges be coordinated by one agency.

Please pursue necessary approvals by Caltrans District 8 and FHWA to AAA the Indian Avenue Interchange on behalf of the City of Palm Springs as soon as possible, or otherwise advise me of the County's decision to not AAA this project at your earliest opportunity so we can pursue other options.

If you have any questions, please feel free to contact me at (760) 323-8253, extension 8744, or by e-mail at Marcus.Fuller@palmsprings-ca.gov.

Sincerely,

Marcus L. Fuller, P.E., P.L.S.
Assistant Director of Public Works/
Assistant City Engineer

cc: David Zecker, CVAG
David Baraffan, Director of Public Works / City Engineer
js

EXHIBIT C

(Follows on next page.)

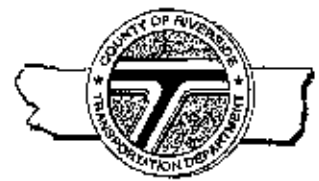
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COUNTY OF RIVERSIDE

TRANSPORTATION AND LAND MANAGEMENT AGENCY

Transportation Department



Juan C. Perez, P.E., T.E.
Director of Transportation

October 3, 2008

OCT 14 2008

Raymond Wolfe, District Director
California Department of Transportation
District 8
464 W. Fourth Street, 8th Floor
San Bernardino, CA 92401

RE: Indian Avenue/Interstate 10 Interchange (EA 45570)
Advertisement, Award and Administration of Construction

Dear Mr. Wolfe:

The City of Palm Springs is the lead agency on the Interstate 10 at Indian Avenue Interchange Project, Caltrans Project No. EA45570. The City of Palm Springs has requested that the County of Riverside Advertise, Award and Administer (AAA) the construction contract for this project, attached is a copy of their request.

Therefore, I am writing you in effort to secure your support and approval for the County of Riverside to AAA the construction contract for the Interstate 10 at Indian Avenue Interchange Project, Caltrans Project No. EA45570.

The County of Riverside assures Caltrans and the Federal Highway Administration that the County possesses both the experience and qualifications to provide the AAA for construction on projects requiring state or federal oversight. In fact, the County effectively performed the AAA for the construction of many similar interchange improvement projects. These projects include the Monterey Avenue (EA 463801), Cook Street (EA 157421) and Washington Street (EA 427411 and EA 427421) Interchanges on Interstate 10 in Coachella Valley and the Newport Road and Interstate 215 interchange project (EA 924477) in Menifee. Most recently we have effectively performed the AAA for construction on Cantu Galleano Ranch Road (formerly Galena Street) Interchange (EA 820421) on Interstate 15 in Mira Loma.

The relatively large size of the Riverside County Transportation Department staff allows for a department structure that is more consistent with the organization used by Caltrans. Project tasks are completed by separate functional groups that

October 3, 2008

RE: Indian Avenue/Interstate 10 Interchange (EA 045570)

Page 2 of 3

are staffed with experienced personnel that are knowledgeable in both State and Federal requirements.

If authorized to perform the AAA services, the County will take the following measures, as have occurred on previous projects, to assure compliance with the State and Federal laws, policies, regulations, and guidelines governing the AAA projects:

1. Ensure that only a well qualified consulting construction management firm is selected to provide construction management services and with demonstrated experience on similar projects. Caltrans will be invited to participate in the selection process and can therefore certify the capabilities of the consultant team.
2. The consultant services will be managed by the County's Construction Division Manager who has worked on similar types of interchange projects while working at both the County and Caltrans such as the Newport Road and Interstate 215 interchange and the recently constructed Cantu Galleano Ranch Road Interchange on Interstate 15. The County's Construction Division Manager and his staff's responsibility is to insure that the consulting construction management firm will provide the appropriate level of service, conduct inspections of the consultant's construction contract administration records to assure that all correspondences and other required information are being routed and filed accordingly per Caltrans Construction Manual, and provide prompt corrective action when needed to avoid or minimize delays and/or disputes.
3. Coordinate timely inspections with Caltrans.
4. Comply with FHWA requirements & CFR's related sections of non exempt projects.
5. Comply with the labor compliance laws and regulations.
6. Comply with materials acceptance policies and testing.
7. Implement all TMP and construction safety requirements according to Construction Manual and Safety Manual.
8. Coordinate all public awareness activities with Caltrans' Public Information office.
9. Resolve Claims as necessary.

October 3, 2008

RE: Indian Avenue/Interstate 10 Interchange (EA 045570)

Page 3 of 3

10. Provide as built material and follow project close out process.

We have successfully worked with oversight personnel on the past projects and will continue to fully cooperate with Caltrans' staff.

The County of Riverside is confident that our staff is fully capable of delivering this project to the satisfaction of Caltrans and FHWA and appreciates Caltrans' consideration of this request to provide AAA services for the Indian Avenue/Interstate 10 Interchange Improvements.

If you have any questions or would like any additional information, please do not hesitate to contact me at 951-955-6740.

Sincerely,



Juan C. Perez
Director of Transportation

Attachment

cc: Emad Makar, Caltrans
Allyn Waggle, CVAG
~~Marouf Elci, Elmer Palm Springs~~
Scott Staley
Cindi Wachi

EXHIBIT D

(Follows on next page.)

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DEPARTMENT OF TRANSPORTATION

OFFICE OF THE DISTRICT DIRECTOR
 464 WEST FOURTH STREET, MS 1200
 SAN BERNARDINO, CA 92401-1400
 PHONE (909) 327-4055
 FAX (909) 327-6150
 TTY 311



*"To serve people
 by serving California"*

December 22, 2008

Mr. Juan Perez
 Director of Transportation
 County of Riverside
 3525 14th Street
 Riverside, CA 92501

Dear Mr. Perez:

This is in response to your letter requesting the California Department of Transportation (Department) to delegate authority to the County of Riverside (County) to Advertise, Award, and Administer (AAA) the construction phase of the Interstate 10 (I-10), Indian Avenue Interchange Improvement project, FA: 08-15570.

This project proposes the demolition of the existing Indian Avenue bridge and construct a new six-lane bridge. Improvements include a westbound (W/B) I-10 partial cloverleaf on-ramp and a W/B I-10 hook off-ramp with terminus at 20th Avenue. A W/B I-10 hook on-ramp is proposed to merge with the partial cloverleaf on-ramp to eliminate the isolated W/B off-ramp and the left-turn movement for heavy trucks negotiating the grade on Indian Avenue. The project also includes roadway widening, vertical profile improvements, storm drain enhancements, and traffic signal improvements.

Construction is scheduled to begin in late summer 2009. The estimated construction cost of the project is \$ 24 million, which is being funded by Local funds, State Regional Improvement Program (RIP) funds Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA LU) funds, and Demonstration Federal Funds (DEMO).

In accordance with the current Federal Highway Administration (FHWA) and the Department's Stewardship Agreement dated September 2007, this project is classified as a Delegated Project. Approval authority has been delegated to the Department. Your request has been reviewed and based on the County's track record to AAA federal-aid projects on the interstate system, the Department agrees to delegate authority to the County to AAA the construction phase of this project.

A construction cooperative agreement will be executed prior to advertising the project. The agreement will define the roles and responsibilities for both agencies during project construction.

The County's responsibilities under this cooperative agreement shall include the following measures to assure compliance with state and federal laws, policies, regulations and guidelines governing the AAA of projects:

1. As an implementing agency, the County shall develop a quality management plan in accordance with the Construction Manual Supplement for Local Agency Resident Engineers and the Local Agency Structure Representative Guidelines. The District construction Division, with input from structures construction for projects involving structures, must approve the quality management plan before the encroachment permit for construction is issued. A recommended outline for a quality management plan can be found on the Division of Construction website:
http://www.dot.ca.gov/hq/construc/CPDirectives/LA_QMP_for_Construction_Planes.pdf
2. The County shall ensure that only well qualified consulting construction management firms are selected to provide Engineering and Inspection services sufficient to the tasks of the project. The County shall confer with the Department and other agencies, both prior to and during the selection process.
3. Provide continuous oversight by qualified County personnel, to assure that selected consulting construction management firms provide the appropriate level of service.
4. Use qualified County staff to perform random inspections of consultant's construction contract administration records, to assure that correspondences and other required information are being routed and filed accordingly, per the Department's latest updated Project Development Procedures Manual and the Construction Manual.
5. Provide prompt corrective action when needed to avoid or minimize delays, disputes, and non-compliance of any contractual requirement.
6. Coordinate timely inspections with the Department to ensure agency cooperation.
7. Comply with any additional requirements applied by the Department and FHWA.

The Department is committed to fulfill its full oversight responsibilities for the construction of the project. Accordingly, it will assume the following duties:

1. The Department shall exercise full oversight engineering responsibilities. The full extent of these responsibilities will be further defined in the cooperative agreement between the County and the Department.

Code of Federal Regulations (CFR) 23 CFR 1.116(e) clearly states that the Department is not relieved of its responsibilities under Federal law and the regulations in 23 CFR, if it chooses to use the services of other governmental engineering organizations. Therefore,

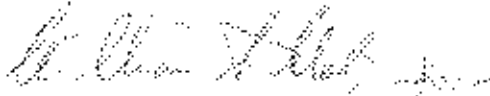
Juan Perez
December 22, 2008
Page 3

the Department shall provide adequate oversight on the I-10/ Indian Avenue Interchange project, to insure compliance.

2. To assure compliance with Federal requirements, the Department shall assign an oversight engineer to the project. The duties of the oversight engineer will be further defined in the cooperative agreement between the County and the Department.

If you have any questions or require additional information, please call me at (909) 383-4055 or Emad Makar, Project Manager at (909) 383-4978.

Sincerely,



RAYMOND W. WOLFE, PhD
District Director

cc: Tay Dam, FHWA, Operations Engineer
Rector Davila, Deputy District Director, Construction
Chasty Connors, Deputy District Director, Design
Basem Muallim, Deputy District Director, Project Management
Emad Makar, Project Manager
File

EXHIBIT E

(Follows on next page.)

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08-Riv-10-PM 32.6/33.6
Reconstruct Existing Interchange at
I-10/Indian Avenue
EA 455701
District Agreement No. 8-1433

Agreement No. 09-09-004
Riverside Co. Transportation

**CONSTRUCTION
COOPERATIVE AGREEMENT**

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON October 27, 2009 is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

CITY OF PALM SPRINGS, a body politic and municipal corporation of the State of California, referred to herein as "CITY"

and

COUNTY OF RIVERSIDE, a political subdivision of the State of California, referred to herein as "COUNTY."

RECITALS

1. STATE, COUNTY, and CITY, 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 CITY's and COUNTY's jurisdiction.
2. STATE, COUNTY, and CITY intend to reconstruct existing interchange at Interstate 10 (I-10)/Indian Avenue, located within the City of Palm Springs, in Riverside County, referred to herein as "PROJECT."
3. CITY is willing to fund one hundred percent (100%) of all capital outlay and support costs, except that the cost of STATE's Independent Quality Assurance (IQA) and Independent Assurance Testing of PROJECT will be borne by STATE.
4. CITY for the purpose of funding PROJECT cost for capital outlay will be using STATE's Transportation Improvement Program/Regional Improvement Program (STIP/RIP) funding source in the amount of \$13,656,000, Federal Demonstration Transportation Equity Act for the 21st Century (DEMO TEA 21) funds in the amount of \$1,260,000 and CITY's matching funds in the amount of \$315,000; and Safe, Accountable, Flexible, Efficient, Transportation Act Equity - A legacy for Users (DEMO SAFETEA-LU) funds in the amount of \$2,200,000 and CITY's matching funds in the amount of \$550,000. The PROJECT cost estimate is \$30,762,000 as

shown on Exhibit A, attached hereto and made a part of this Agreement. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by CITY.

5. Riverside County Transportation Commission (RCTC) requests that the STIP/RIP construction funds be paid directly from STATE to CITY, as the CITY is the lead agency for construction. RCTC understands the payments to the CITY will be on a monthly basis, in a reimbursed manner, as identified in this cooperative agreement as Exhibit B.
6. The STATE's STIP/RIP funds were programmed by the California Transportation Commission (CTC) at the July 26, 2007, meeting, for the PROJECT's construction capital.
7. The parties agree that COUNTY will prepare the contract documents and advertise, award, and administer the construction contract for PROJECT.
8. Between the parties, COUNTY will provide Construction Management, Construction Surveying, and Materials Testing services for PROJECT. CITY will pay COUNTY for one hundred percent (100%) of such costs.
9. Project Approval and Environmental Documents; Plans, Specifications and Estimates (PS&E); and Right of Way for PROJECT were covered in a prior Cooperative Agreement executed by STATE and CITY on May 5, 1998 (District Agreement No. 8-1165). STATE and CITY also entered into amendment 1165 A/1 on December 28, 2006 and amendment 1165 A/2 on December 3, 2007.
10. The terms of this Agreement shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or agreement relating to PROJECT.
11. The parties now define herein below the terms and conditions under which PROJECT is to be constructed, financed, owned, operated, and maintained.

SECTION I

CITY AGREES:

1. To be responsible for one hundred (100%) percent of total PROJECT construction cost (of which a portion will be funded out of STATE's STIP/RIP, DEMO and SAFETEA-LU with the balance to be funded using local agency funding sources, as shown in Exhibit A) required for satisfactory completion of PROJECT, including, but not limited to Construction Zone Enhancement Enforcement Program (COZEPP), "State-furnished material," and source inspection costs of STATE's IQA. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by CITY.
2. To pay COUNTY, within thirty (30) days of receipt of COUNTY's continuous billing, for a portion of the actual expenditures for that month, and to continue making such payments on a monthly basis until completion of construction capital and support activities for PROJECT.

3. To pay STATE, within thirty (30) days of receipt of STATE's billing, the actual cost invoiced for the requested "State-furnished material."
4. CITY shall reimburse STATE for all direct and indirect costs incurred for any source inspection performed by STATE.
5. To pay STATE within thirty (30) days of receipt of STATE's detailed billing thereof the amount of said bill, which amount represents the actual cost of source inspection.
6. To pay STATE upon completion of all work on PROJECT and within thirty (30) days of receipt of a detailed statement made upon final accounting of costs therefore, any amount, over and above the aforesaid payments for State-furnished materials and source inspection, required to complete CITY's financial obligations assumed pursuant to this Agreement.
7. To submit a billing to STATE for reimbursement of a portion of the expenditures incurred to complete PROJECT work and funded from STATE's STIP/RIP funding source and thereafter to submit continuous billings until PROJECT is completed.
8. Upon completion of the construction capital activities for PROJECT, to furnish STATE with a detailed statement of the total actual costs funded from STATE's STIP/RIP funding source, which were reimbursed to CITY on a continuous basis.
9. Upon completion of PROJECT construction, CITY will operate and maintain, at CITY's cost, any part of PROJECT located outside of the existing SHS right of way (including CITY underpasses and overcrossings of then existing SHS right of way) until any subsequent acceptance of any part of PROJECT into the SHS by STATE, approval by Federal Highway Administration, if required, and conveyance of acceptable title to STATE.

SECTION II

COUNTY AGREES:

1. 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, and concurrence at appropriate stages of development.
2. To permit STATE to monitor, participate, and oversee the selection of personnel who will provide construction support services for PROJECT. COUNTY agrees to consider any request by STATE to avoid a contract award or discontinue the contracted 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.
3. To submit a written request for any "State-furnished material" identified in the PROJECT plans, specifications, and estimates (PS&E) a minimum of forty-five (45) days in advance of the need

for such materials. COUNTY may take delivery of the "State-furnished material" after STATE's receipt of CITY's payment and at the location directed by STATE.

4. STATE shall perform source inspection as outlined in STATE's Construction Manual, Construction Manual Supplement for Local Agency Resident Engineer, and Local Agency Structure Representative Guideline.
5. To advertise, award, and administer the construction contract for PROJECT in accordance with requirements of the Local Agency Public Construction Act and the California Labor Code, including its prevailing wage provisions. Workers employed in the performance of work contracted for by COUNTY, and/or performed under encroachment permit, are covered by provisions of the California Labor Code in the same manner as are workers employed by STATE's contractors. The use of any Federal funds towards PROJECT construction will mandate the inclusion and enforcement of all applicable Federal labor mandates.
6. To process payments of one hundred percent (100%) of the actual costs of construction required for satisfactory completion of PROJECT, including changes pursuant to contract change orders concurred with by STATE's representative and any material furnished by STATE.
7. Construction by COUNTY of those portions of PROJECT which lie within the SHS right of way shall not commence until COUNTY's contract plans involving such work, the utility relocation plans, and the right of way certification have been reviewed and accepted by STATE and encroachment permits have been issued to COUNTY and COUNTY's contractor.
8. COUNTY's construction contractor shall maintain in force, until completion and acceptance of the PROJECT construction contract, a policy of General Liability Insurance, including coverage of Bodily Injury Liability and Property Damage Liability, that complies with all coverage requirements with Section 7-1.12 of STATE's then effective Standard Specifications. Such policy shall contain an additional insured endorsement naming STATE and its officers, agents, and employees, and the CITY and its officers, agents, and employees as additional insureds. This insurance coverage shall be evidenced by a Certificate of Insurance in a form satisfactory to STATE which shall be delivered to STATE before the issuance of an encroachment permit to COUNTY's construction contractor.
9. To require the construction contractor to furnish both a payment and a performance bond, naming COUNTY with both bonds complying with the requirements set forth in Section 3-1.02 of STATE's current Standard Specifications prior to performing any PROJECT construction work. COUNTY shall defend, indemnify, and hold harmless STATE and its officers, agents, and employees from all claims and suits by stop notice claimants related to the construction of PROJECT.
10. To have PROJECT constructed by contract to the satisfaction of and subject to STATE's acceptance in accordance with the STATE accepted PROJECT PS&E.
11. Contract administration procedures shall conform to STATE's Construction Manual, Local Assistance Procedures Manual (if Federal funds are used), and the PROJECT encroachment permits.

12. Construction within the existing or ultimate SHS right of way shall comply with STATE's Standard Specifications, the PROJECT Special Provisions, and STATE's Construction Manual.
13. 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 STATE's right of way shall be determined in accordance with Federal and California laws and regulations, and STATE's policies, procedures, standards, practices, and applicable agreements including, but not limited to, Freeway Master Contracts.

14. All survey work shall conform to the methods, procedures, and requirements of STATE's Surveys Manual and STATE's Staking Information Booklet.
15. PROJECT material testing and Quality Control/Assurance shall conform to STATE's Construction Manual, Construction Manual Supplement for Local Agency Resident Engineer, Local Agency Structure Representative Guideline and STATE's California Test Methods, and shall be performed by a material-tester certified by STATE, at CITY's expense.
16. 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 not set forth in this Agreement, CITY shall first agree to reimburse STATE for such work pursuant to an amendment to this Agreement or a separate executed agreement.
17. To furnish, at CITY's expense and subject to the approval of STATE, a field site representative who is a licensed civil engineer in the State of California to perform the functions of a Resident Engineer. The Resident Engineer shall not be an employee or subcontractor of the entity, if any, that prepared the PROJECT PS&E or an employee of the construction contractor.
18. If the Resident Engineer is not also a registered Landscape Architect, COUNTY will furnish, at CITY expense and subject to approval of STATE, a Landscape Architect to perform the function of an Assistant Resident Engineer/Inspector who is responsible for both daily on-site inspections and final decisions including, but not limited to, any highway planting and the irrigations systems that comprise a portion of the PROJECT work. Final decisions shall continue to be subject to the satisfaction and approval of STATE.
19. At PROJECT's expense, to furnish sufficient qualified support staff, subject to the approval of STATE, to assist the Resident Engineer in, but not limited to, structure representative, construction surveys, soils and foundation tests, measurement and computation of quantities, testing of construction materials, checking shop drawings, preparation of estimates and reports, preparation of the mandated "As-Built" drawings, and other inspection and staff services necessary to assure that the construction is being performed in accordance with the PROJECT PS&E. Said qualified support staff shall be independent of the design engineering company and construction contractor, except that the PROJECT designer may be retained to check shop

drawings, do soils foundation tests, test construction materials, and perform construction surveys.

20. Within one hundred eighty (180) days following the completion and acceptance of the PROJECT construction contract, to furnish STATE with a complete set of "As-Built" plans (hard copy and electronic formats) in accordance with STATE's then current CADD Users Manual, Plans Preparation Manual, and STATE practice. The submittal must also include all STATE requested contract records, including survey documents and Records of Surveys (to include monument perpetuation per the Land Surveyor Act, section 8771). COUNTY shall also submit corrected full-sized hardcopy structure plans.
21. To retain or cause to be retained for audit by STATE or other government auditors for a period of four (4) years from the date of final payment under the PROJECT contract, or four (4) years from STATE payment of the final voucher, whichever is longer, all records and accounts relating to PROJECT construction. COUNTY shall retain said records and accounts longer for such periods as are required in writing by STATE.
22. If COUNTY cannot complete PROJECT as originally scoped, scheduled, and estimated, COUNTY will, only with STATE's and CITY's prior written consent, amend the PROJECT PS&E for a suitable resolution to ensure an alternate form of modified PROJECT that will, at all times, provide a safe and operable SHS.
23. If cultural, unanticipated archaeological, paleontological or other protected materials are encountered during PROJECT construction, COUNTY shall stop work in that area until a qualified professional can evaluate the nature and significance of the find and a plan is approved for the removal or protection of that material. The costs for any removal or protection of that material shall be covered as a PROJECT cost contemplated by this Agreement.
24. To provide, at PROJECT capital expense, a Construction Zone Enhancement Enforcement Program (COZEEP) by contracting directly with the California Highway Patrol (CHP) for all traffic restrictions as outlined in STATE's Construction Manual.
25. Upon completion of PROJECT and all work incidental thereto, to furnish CITY with a detailed statement of the construction support and construction capital costs to be borne by CITY. To thereafter refund to CITY, promptly after completion of COUNTY's final accounting of said PROJECT costs, any amount of CITY's funds remaining after actual construction support and construction capital costs to be borne by CITY have been deducted or to bill CITY for any additional amount required to complete CITY's financial obligations assumed pursuant to this Agreement.
26. To make written application to STATE for necessary encroachment permits authorizing entry of COUNTY, or COUNTY's contractor onto the SHS right of way to perform construction activities for PROJECT.

SECTION III

STATE AGREES:

1. At no cost to CITY or COUNTY, to provide IQA to assure that COUNTY and COUNTY's PROJECT work is performed in full compliance with the approved PROJECT PS&E and in accordance with STATE's then effective policies, procedures, standards, and practices. This IQA function includes both the obligation and the COUNTY to reject noncompliant PROJECT work and materials accepted by COUNTY, to order any actions needed for public safety or the preservation of property on the SHS, and to assure compliance with all provisions of the encroachment permit(s) issued by STATE to COUNTY and COUNTY's contractor.
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.
3. To provide, at CITY's cost, any "State-furnished material" as shown on the PROJECT PS&E. Upon receipt of COUNTY's request for any such "State-furnished materials," STATE will order those materials and STATE's Project Manager will have an invoice submitted to COUNTY for the costs of those materials. Upon receipt of those materials and CITY's payment, STATE will make those "State-furnished materials" available to COUNTY at a STATE designated site.
4. Independent assurance testing, specialty testing, and approval of the type of asphalt and concrete plants shall be by STATE, at STATE's expense.
5. To submit an invoice to CITY for the estimated direct and indirect cost of source inspection, pursuant to Section I of this Agreement, prior to start of PROJECT construction and upon receipt of said estimate from STATE's representative.
6. Upon completion of PROJECT and all work incidental thereto, to furnish CITY with a detailed statement of the construction support and construction capital costs to be borne by CITY. To thereafter refund to CITY, promptly after completion of CITY's final accounting of said PROJECT costs, any amount of CITY's funds remaining after actual construction support and construction capital costs to be borne by CITY have been deducted or to bill CITY for any additional amount required to complete CITY's financial obligations assumed pursuant to this Agreement.
7. To allocate \$13,656,000 from STATE's STIP/RIP funding source to PROJECT. These funds were programmed by the CTC at the July 26, 2007, meeting for construction capital services for PROJECT.
8. To pay CITY not later than thirty (30) days upon receipt of CITY's continuous billing, for a portion of the actual expenditures, to be paid from STATE's STIP/RIP funding source, for that month, and to continue making such payments on a monthly basis until completion of construction capital and support activities for PROJECT.

SECTION IV

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 construction phase 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 process payment or authorize STATE to reimburse itself from then available PROJECT funds.
3. 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 paid for by CITY, as a PROJECT cost.
4. COUNTY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permit(s), agreement(s), and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.
5. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permit(s), agreement(s), and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
6. If, during performance of PROJECT construction, new information is obtained which requires additional environmental documentation to comply with the California Environmental Quality Act (CEQA) and if applicable, the National Environmental Policy Act (NEPA), this Agreement will be amended to include completion of those additional tasks.
7. 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 COUNTY to

authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.

8. During PROJECT construction, representatives of COUNTY and STATE will cooperate and consult with each other to assure that all PROJECT work is accomplished according to the PROJECT PS&E and STATE's then applicable policies, procedures, standards, and practices. Satisfaction of these requirements shall be verified by STATE's IQA representatives who are authorized to enter CITY's and COUNTY's property during construction for the purpose of monitoring and coordinating construction activities.
9. PROJECT PS&E changes shall only be implemented by contract change orders that have been reviewed and concurred with by STATE's representative(s). All changes affecting public safety or public convenience, all design and specification changes, and all major changes as defined in STATE's Construction Manual shall be approved by STATE in advance of performing that work. Unless otherwise directed by STATE's representative, change orders authorized as provided herein will not require an encroachment permit rider. All changes shall be shown on the "As-Built" plans.
10. COUNTY shall provide a construction contract claims process acceptable to STATE and shall process any and all claims through COUNTY's claims process. STATE's representative will be made available to COUNTY to provide advice and technical input in any claims process.
11. In the event that STATE proposes and/or requires a change in design standards, implementation of those new or revised design standards shall be done in accordance with STATE's 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 PROJECT changes.
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 CITY 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 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. STATE, in exercising its authority under section 591 of the Vehicle Code, has included all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code as applicable to the PROJECT areas open to public traffic. COUNTY shall take all necessary precautions for safe operation of COUNTY's vehicles, the construction contractor's equipment and vehicles and/or vehicles of personnel retained by COUNTY to assure the protection of the traveling public and STATE employees from injury and damage from such vehicles or equipment.
18. Upon PROJECT completion and acceptance, subject to the approval of STATE, COUNTY will operate and maintain all PROJECT facilities at its own cost until a Maintenance Agreement is executed or an existing agreement, if any, is amended to incorporate the maintenance of these new PROJECT facilities located on the SHS.
19. Operation and maintenance of traffic signals, signs, and safety lighting (collectively "Electrical Facilities") shall be shared in accordance with existing Electrical Agreement # RIV-33-7852, entered into between STATE and CITY effective on October 04, 1991. The Exhibit of said agreement was amended to include this signal as a part of said Electrical Agreement.
20. Upon satisfactory completion of all PROJECT work under this Agreement, as determined by STATE, actual ownership and title to materials, equipment, and appurtenances installed within the operating SHS right of way for SHS operations will be vested in STATE, and materials, equipment, and appurtenances installed for non-SHS operations both inside (overcrossings and underpasses for local traffic) and outside of the SHS right of way will automatically be deemed to be under the control of CITY or an appropriate third party as determined by CITY.
21. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not a party 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.
22. Neither CITY or 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 CITY and COUNTY and all of their 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.

23. Neither STATE or 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 CITY under or in connection with any work, authority, or jurisdiction conferred upon CITY under this Agreement. It is understood and agreed that, CITY will fully defend, indemnify, and save harmless STATE and COUNTY and all of their 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 CITY under this Agreement.
24. Neither STATE or CITY 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 CITY and all of their 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.
25. Prior to the commencement of any construction activity within the SHS right of way, STATE, CITY, or COUNTY may terminate this Agreement by written notice to the other party.
26. 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.
27. If CITY or COUNTY terminates the PROJECT prior to completion, STATE shall require COUNTY, at CITY's expense, to return the SHS right of way to its original condition or to a safe and operable condition acceptable to STATE. If COUNTY fails to do so, STATE reserves the right to finish PROJECT or place PROJECT in a safe and operable condition and STATE will bill CITY for all actual expenses incurred and CITY agrees to pay said bill within thirty (30) days of receipt.
28. This Agreement shall terminate upon the satisfactory completion of all post-PROJECT construction obligations of CITY and 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 claims are settled, dismissed or paid.

SIGNATURES ON FOLLOWING PAGE:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

WILL KEMPTON
Director

CITY OF PALM SPRINGS

By: [Signature]
DAVID H. READY
CITY Manager

By: [Signature]
RAYMOND W. WOLFE PhD
District Director

W.O.

By: [Signature]
JAMES THOMPSON
CITY Clerk

APPROVED AS TO FORM AND
PROCEDURE:

APPROVED AS TO FORM AND
PROCEDURE:

By: [Signature]
Attorney,
Department of Transportation

By: [Signature]
DOUGLAS HOLLAND
CITY Counsel

CERTIFIED AS TO FUNDS:

COUNTY OF RIVERSIDE

By: [Signature]
District Budget Manager

By: [Signature]
Supervisor Board of Supervisors
CHAIRMAN, BOARD OF SUPERVISORS
JEFF STONE

CERTIFIED AS TO FINANCIAL
TERMS AND POLICIES:

By: [Signature]
Clerk, Board of Supervisors
KECIA HARPER-IHEM
DEPUTY

By: [Signature]
Accounting Administrator

APPROVED AS TO FORM AND
PROCEDURE:

By: [Signature] 9-20-09
COUNTY Counsel
Marsha L. Victor

APPROVED BY CITY COUNCIL

[Signature] [Signature] [Signature]

Date: 1/6/2009

**EXHIBIT A
COST ESTIMATE**

Project/Phase	Phase	2008		2009		2010		2011	
		Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
SUPPORT	Phase								
Construction Support	3							\$1,000,000.00	\$1,000,000.00
CAPITAL	Phase								
Construction Capital	4	\$1,250,000.00	\$315,000.00	\$2,500,000.00	\$295,000.00	\$11,650,000.00	\$1,761,000.00	\$27,782,000.00	\$27,782,000.00
TOTAL		\$1,250,000.00	\$315,000.00	\$2,500,000.00	\$295,000.00	\$12,636,000.00	\$2,762,000.00	\$28,782,000.00	\$28,782,000.00

Exhibit B



4080 Lemon Street, 3rd Floor • Riverside, CA
Mailing Address: P. O. Box 12008 • Riverside, CA 92502-2208
(951) 787-7141 • Fax (951) 787-7920 • www.rctc.org

Riverside County Transportation Council

February 11, 2009

Emad Makar
Project Manager
Program Project Management
Caltrans District 8
464 W. Fourth Street, 6th Floor
San Bernardino, CA 92401-1400

PHO: 0007G
EA: 46670
Route 10
Indian Avenue IC
Riverside County
Assembly District: 80
Senate District: 37

Dear Mr. Makar:

The 1-10/Indian Avenue interchange project has State Regional Improvement Program (RIP) funds programmed in the amount of \$13.856 million for construction. RCTC requests these RIP construction funds be paid directly from Caltrans to the City of Palm Springs as the City is the lead agency for construction. RCTC understands the payments to the City will be on a monthly basis, in a reimbursed manner, as identified in the cooperative agreement.

If you have questions regarding this request, please contact me at (951) 787-7141.

Sincerely,

Shirley Medina
Shirley Medina
Programming and Planning Manager

cc: Patrick Hally, District Local Assistance Engineer
Marcus Fuller, City of Palm Springs

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

525A



FORM APPROVED COUNTY COUNSEL
BY: SP K. K. K. 9-30-09
MARSHAL VICTOR DATE

FROM: TLMA - Transportation Department

SUBMITTAL DATE:
September 17, 2009

SUBJECT: Construction Cooperative Agreement between the County of Riverside, City of Palm Springs and the State of California Department of Transportation (Caltrans) for I-10 at Indian Avenue.

RECOMMENDED MOTION: That the Board approve and authorize the Chairman of the Board to execute the Construction Cooperative Agreement between the County of Riverside, City of Palm Springs and Caltrans for the Indian Avenue Interchange project located on Interstate 10. (District Agreement No. 8-1433)

BACKGROUND: The Indian Avenue at Interstate 10 Interchange project is identified as a high priority facility in CVAG's Regional Arterial Program. In addition, it is a gateway into the Cities of Palm Springs and Desert Hot Springs and the unincorporated County. Significant growth in the area has increased traffic beyond the capacity of the interchange and it is now failing during the

Juan C. Perez
Director of Transportation

(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/10
SOURCE OF FUNDS: City of Palm Springs (100%)				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
BY:
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Buster, Tavaglione, and Ashley
Nays: None
Absent: Stone
Date: October 20, 2009
xc: Transportation

Kecia Harper-Ihem
Clerk of the Board
BY:
Deputy

Policy Policy
Consent Consent
Dept Recommendation Per Exec. Ofc.

Prev. Agn. Ref. District: 5 Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.71
38

The Honorable Board of Supervisors

RE: Construction Cooperative Agreement between the County of Riverside, City of Palm Springs and the State of California Department of Transportation (Caltrans) for I-10 at Indian Avenue.

September 17, 2009

Page 2 of 2

peak hours of operation. Improvements are proposed to the interchange that will increase capacity and improve the operation to a satisfactory condition for current and future traffic volumes.

The City of Palm Springs is the lead agency for the Indian Avenue interchange project. The City has requested that the County of Riverside perform the Advertisement, Award and Administration (AAA) for this project.

The attached State-Standard agreement specifies that the City will be responsible for 100% of the total project costs and that the County will be the lead agency for construction. Caltrans will provide Independent Quality Assurance (IQA) and Independent Assurance Testing at no cost to the County. A cooperative agreement between the City and County that further defines the City's financial commitment and overall funding plan will be executed by both parties prior to the advertisement of the project.

The construction of the interchange improvements are anticipated to start in Summer 2010.

Work Order No. A8-0372

08-Riv-10-PM 32.6/33.6
Reconstruct Existing Interchange at
I-10/Indian Avenue
EA 455701
District Agreement No. 8-1433 A/1

AMENDMENT NO. 1 TO AGREEMENT

THIS AMENDMENT NO. 1 TO AGREEMENT, ENTERED INTO EFFECTIVE ON December 23, 2009, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

CITY OF PALM SPRINGS, a body politic and municipal corporation of the State of California, referred to herein as "CITY"

and

COUNTY OF RIVERSIDE, a political subdivision of the State of California, referred to herein as "COUNTY."

RECITALS

1. The parties hereto entered into Agreement No. 8-1433, on October 27, 2009, to reconstruct existing interchange at Interstate 10 (I-10)/Indian Avenue, located within the City of Palm Springs, in Riverside County, referred to herein as "PROJECT."
2. It has been decided that the PROJECT will now be using Regional American Recovery and Reinvestment Act of 2009 (ARRA) funds in the amount of \$5,517,500 in place of some of the Local funds.

IT IS THEREFORE MUTUALLY AGREED:

1. Under RECITALS of Agreement No. 8-1433, Article 4 is hereby amended in its entirety to read as follows:

"CITY for the purpose of funding PROJECT cost for capital outlay will be using Regional ARRA funding source in the amount not to exceed \$5,517,500, STATE's Transportation Improvement Program/Regional Improvement Program (STIP/RIP) funding source in the amount of \$13,656,000, Federal Demonstration Transportation Equity Act for the 21st Century (DEMO TEA 21) funds in the amount of \$1,260,000 and CITY's matching funds in the amount of \$315,000; and Safe, Accountable, Flexible, Efficient, Transportation Act Equity - A legacy for Users (DEMO SAFETEA-LU) funds in the amount of \$2,200,000 and CITY's matching funds in the amount of \$550,000. The PROJECT cost estimate is \$30,762,000 as shown on Exhibit A-1, attached hereto and made a part of this Agreement."

2. Under RECITALS of Agreement No. 8-1433, the following new Article 12 is hereby added to read as follows:

"The CTC approved the allocation of Regional American Recovery and Reinvestment Act of 2009 (ARRA) funds for PROJECT at its April, 2009 meeting."

3. Under SECTION I of Agreement No. 8-1433, Article I is hereby amended in its entirety to read as follows:

"To be responsible for one hundred (100%) percent of total PROJECT construction cost (of which a portion will be funded out of STATE's STIP/RIP, Regional ARRA, DEMO and SAFETEA-LU with the balance to be funded using local agency funding sources, as shown in Exhibit A-1) required for satisfactory completion of PROJECT, including, but not limited to Construction Zone Enhancement Enforcement Program (COZEEP), "State-furnished material," and source inspection costs of STATE's IQA. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by CITY."

4. Under SECTION I of Agreement No. 8-1433, the following new Articles 10, 11, 12, and 13 are hereby added to read as follows:

10. "Any funding received and used by CITY that is determined by subsequent state or federal audit to be unallowable under state or federal law, regulations or administrative procedures, are subject to repayment by CITY within ninety (90) days of demand or within such other period as agreed to by the parties. CITY agrees that STATE is hereby authorized to intercept and withhold any future payments due CITY from STATE or any third party source, including but not limited to the State Treasurer, the State Controller or the California Transportation Commission."

11. "To submit continuous billing for reimbursement of a portion of the expenditures for PROJECT, to be paid out of Regional ARRA funds, up to the amounts shown against those funds in Exhibit A-1."

12. "Upon completion of the construction capital activities for PROJECT, to furnish STATE with a detailed statement of the total actual costs funded from Regional ARRA funding sources, which were reimbursed to CITY on a continuous basis."

13. "Upon completion of the construction activities for PROJECT and all work incidental thereto, to furnish STATE with a detailed statement of the total actual costs required to complete the aforementioned services and funded from Regional ARRA funding sources, which were reimbursed to CITY on a continuous basis. CITY thereafter shall refund to STATE, promptly after completion of CITY's final accounting of costs for the above mentioned work, any amount of STATE's deposits required in Section I of this Agreement."
5. Under SECTION III of Agreement No. 8-1433, the following new Articles 9 and 10 are hereby added to read as follows:
 9. "To pay CITY not later than twenty-five (25) working days upon receipt of CITY's continuous billing therefor, for a portion of the actual construction capital expenditures, to be paid from Regional ARRA funds required for PROJECT."
 10. "The total PROJECT costs, to be paid from out of Regional ARRA funding sources, should not exceed the amounts shown in Exhibit A-1."
6. Under SECTION IV of Agreement No. 8-1433, the following new Articles 29 and 30 are hereby added to read as follows:
 29. "PROJECT is subject to the intent, terms, conditions, requirements, and constraints of the Regional American Recovery and Reinvestment Act of 2009 and as directed by STATE with regard to the Regional ARRA."
 30. "The Parties agree to charge all PROJECT costs to Regional American Recovery and Reinvestment Act of 2009 (ARRA) funds prior to charging them to other non-Regional ARRA funds. All non-Regional ARRA funds will be spent proportionally."
7. The new Exhibit A-1, dated November 18, 2009, replaces the original Exhibit A of Agreement No. 1433 and is hereby attached to and made a part of that Agreement and any reference to Exhibit A in the original agreement is deemed to be a reference to the Exhibit A-1.
8. All other terms and conditions of said Agreement No. 8-1433 shall remain in full force and effect.
9. This Amendment No. 1 to Agreement is hereby deemed to be a part of Agreement No. 8-1433.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

RANDELL H. IWASAKI
Director of Transportation

By: [Signature]
RAYMOND W. WOLFE PhD
District Director

APPROVED AS TO FORM AND
PROCEDURE:

By: [Signature]
Attorney,
Department of Transportation

CERTIFIED AS TO FUNDS:

By: [Signature] Lisa Pucacco
District Budget Manager

CERTIFIED AS TO FINANCIAL
TERMS AND POLICIES:

By: [Signature] 12/22/09
Accounting Administrator

CITY OF PALM SPRINGS

By: [Signature]
DAVID H. READY
CITY Manager

By: [Signature]
JAMES THOMPSON
CITY Clerk

APPROVED AS TO FORM AND
PROCEDURE:

By: [Signature]
DOUGLAS HOLLAND
CITY Counsel

COUNTY OF RIVERSIDE

By: [Signature]
Supervisor, Board of Supervisors

By: [Signature] DEPUTY
Clerk, Board of Supervisors
KECIA HARPER-IHEM

APPROVED AS TO FORM AND
PROCEDURE:

By: [Signature] Deputy 12/15/09
COUNTY Counsel
Marsha L. Vicari

APPROVED BY CITY CLERK
12-2-09 23 P.6400

EXHIBIT "A-1"
COST ESTIMATE

Administered Phases of Road	Phase	Local Program Funds		Local Program Funds	Local Program Funds		State Funds	Other Funds	Totals
		Federal %: 80	State %: 20	Federal %: 100	Federal %: 80	State %: 20	100%	50%	
		Fund Type: DEMO TIA21	Fund Type: Local	Fund Type: Statewide Regional AREA	Fund Type: DEMO SAFETY-E-LU	Fund Type: Local	Fund Type: STP-PIP	Fund Type: Local	
SUPPORT	Phase								
PAVED	0								\$0.00
PS&E	1								\$0.00
RAV Support	2								\$0.00
Construction Support	3							\$3,000,000.00	\$3,000,000.00
CAPITAL	Phase								
R/W Capital	9								\$0.00
Construction Capital	4	\$1,260,000.00	\$315,000.00	\$5,517,500.00	\$2,200,000.00	\$550,000.00	\$13,656,000.00	\$4,263,500.00	\$27,762,000.00
TOTALS		\$1,260,000.00	\$315,000.00	\$5,517,500.00	\$2,200,000.00	\$550,000.00	\$13,656,000.00	\$4,263,500.00	\$39,762,000.00

EXHIBIT F • PROJECT COST ESTIMATE

	CITY	COUNTY	TOTAL
Plans, Specs & Estimate	\$100,000	\$0	\$100,000
Construction (Includes 5% Contingency)	\$26,600,000	\$0	\$26,600,000
Construction Engineering and Inspection	\$3,900,000	\$0	\$3,900,000
Construction Survey	\$500,000	\$0	\$500,000
TOTALS	\$31,100,000	\$0	\$31,100,000

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