



## City Council Staff Report

Date: September 16, 2009 CONSENT CALENDAR

Subject: APPROVAL OF CONSTRUCTION COOPERATIVE AGREEMENT  
RELATED TO 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

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### SUMMARY

Approval of the Construction Cooperative Agreement between the state of California Department of Transportation ("Caltrans"), the City of Palm Springs, and the County of Riverside will allow the City and County to proceed with construction of the Indian Canyon Drive at Interstate 10 Interchange Project ("I-10 Project").

### RECOMMENDATION:

- 1) Approve Agreement No. \_\_\_\_\_, a Construction Cooperative Agreement between the state of California Department of Transportation ("Caltrans"), the City of Palm Springs, and the County of Riverside related to the Indian Canyon Drive at Interstate 10 Interchange Project (City Project 00-14); and
- 2) Authorize the City Manager to execute all necessary documents.

### STAFF ANALYSIS:

The original Cooperative Agreement (Agreement No. 4429) between the City and Caltrans for the I-10 Project was approved by City Council on December 5, 2001. The original agreement outlined responsibilities of Caltrans and the City during the design phase of the project. Amendment No. 1 to the agreement was approved by City Council on December 6, 2006, to extend the term of the agreement to December 31, 2008. Amendment No. 2 to the agreement was approved by City Council on October 3, 2007, and restated the entire agreement to address new Caltrans responsibilities associated with the design and right-of-way phases.

The City is the Lead Agency for the I-10 Project, and has made significant progress in the last year, and has completed the final design and is currently waiting for Caltrans'

approval of the plans, and is nearing completion of all right-of-way acquisition. Consequently, it is now necessary to enter into a new cooperative agreement with Caltrans related to the construction phase of this project. Although the City is the Lead Agency for the I-10 Project, the City is unable to administer the construction phase itself, lacking prior experience with Caltrans on administering a freeway project. Therefore, the City requested that the County administer the I-10 Project on its behalf, and the County agreed to the City's request. Caltrans has subsequently authorized the County to administer the I-10 Project, which will allow the concurrent construction of the Indian Canyon Drive, Palm Drive/Gene Autry Trail, and Date Palm Drive I-10 Interchange Projects to be administered more efficiently by one single agency, Riverside County.

FISCAL IMPACT:

The Construction Cooperative Agreement estimates the construction phase of the Indian Canyon Drive I-10 Project at \$30,762,000. This amount is merely an estimate and does not include other related project costs, including environmental, design and right-of-way costs. This project is programmed to receive two federal earmark grants of \$1,260,000 and \$2,200,000 and state STIP/RIP funds of \$13,656,000. CVAG Regional Measure A funds will cover 75% of all project costs not covered by state or federal grants. The 25% local agency share is subsequently distributed to each individual city or the County based on a benefit assessment study approved by CVAG. The City's individual local agency share for the Indian Canyon Drive I-10 Project is 50.50% of the overall 25% local agency share. The City has submitted a request to CVAG to amend the existing CVAG Reimbursement Agreement to account for all final estimated costs. This amendment will be brought forward to City Council following its approval by the CVAG Executive Committee.

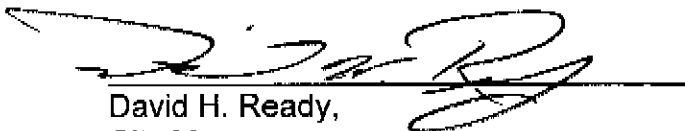
SUBMITTED:



David J. Barakian  
Director of Public Works/City Engineer



Thomas J. Wilson  
Assistant City Manager



David H. Ready,  
City Manager

Attachments:

1. Construction Cooperative Agreement

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

**CONSTRUCTION  
COOPERATIVE AGREEMENT**

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON \_\_\_\_\_, 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 21<sup>st</sup> 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

By: \_\_\_\_\_  
RAYMOND W. WOLFE PhD  
District Director

APPROVED AS TO FORM AND  
PROCEDURE:

By:  \_\_\_\_\_  
Attorney,  
Department of Transportation

CERTIFIED AS TO FUNDS:

By: \_\_\_\_\_  
District Budget Manager

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By:  \_\_\_\_\_  
Accounting Administrator

CITY OF PALM SPRINGS

By: \_\_\_\_\_  
DAVID H. READY  
CITY Manager

By: \_\_\_\_\_  
JAMES THOMPSON  
CITY Clerk

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
DOUGLAS HOLLAND  
CITY Counsel

COUNTY OF RIVERSIDE

By: \_\_\_\_\_  
Supervisor, Board of Supervisors

By: \_\_\_\_\_  
Clerk, Board of Supervisors

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
COUNTY Counsel

Date: 1/6/2009

**EXHIBIT A  
COST ESTIMATE**

Administrated Phases of Work		Local Program Funds		Local Program Funds		State Funds	Other Funds	Totals
		Federal %: 80	Match %: 20	Federal %: 80	Match %: 20	100%	100%	
		Fund Type: DEMO TEA 21	Fund Type: Local	Fund Type: DEMO SARETEA LU	Fund Type: Local	Fund Type: STP/RIP	Fund Type: Local	
<b>SUPPORT</b>	Phase							
<b>Construction Support</b>	3						\$3,000,000.00	\$3,000,000.00
<b>CAPITAL</b>	Phase							
<b>Construction Capital</b>	4	\$1,260,000.00	\$315,000.00	\$2,200,000.00	\$550,000.00	\$13,656,000.00	\$9,781,000.00	\$27,762,000.00
<b>TOTALS</b>		\$1,260,000.00	\$315,000.00	\$2,200,000.00	\$550,000.00	\$13,656,000.00	\$12,781,000.00	\$30,762,000.00



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 Commission

February 11, 2009

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

PPNG: 0007G  
EA: 45570  
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 \$13.656 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,

A handwritten signature in cursive script that reads "Shirley Medina".

Shirley Medina  
Programming and Planning Manager

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