

ATTACHMENT B



FAS

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	FAS Vendor Code CITYOFV918	SC	Dept. TRA	A	Contract Number 16-797
ePro Vendor Number					ePro Contract Number
County Department Public Works - Transportation			Dept. TRA	Orgn. TRA	Contractor's License No.
County Department Contract Representative Sri Srirajan, P.E., Chief			Telephone (909)387-8166		Total Contract Amount \$1,042,359
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:					
If not encumbered or revenue contract type, provide reason:					
Commodity Code 91200		Contract Start Date	Contract End Date	Original Amount \$	Amendment Amount
Fund SAA	Dept. TRA	Organization TRA	Appr. 200	Obj/Rev Source 2445	GRC/PROJ/JOB No 14H14783
Fund SHX	Dept. TRA	Organization TRA	Appr. 200	Obj/Rev Source 2445	GRC/PROJ/JOB No 14M00013
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No
Project Name			Estimated Payment Total by Fiscal Year		
Green Tree Boulevard			FY 16/17	Amount \$0	I/D
Extension Project			17/18	\$325,458	I
			18/19	\$716,901	I

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the COUNTY, and

Name

City of Victorville

Address

14343 Civic Drive

hereinafter called CITY

Victorville, CA 92395

Telephone

(760) 955 - 5000

Federal ID No. or Social Security No.

Name

Town of Apple Valley

Address

14955 Dale Evans Parkway

hereinafter called TOWN

Apple Valley, CA 92307

Telephone

(760) 403 - 8502

Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, COUNTY, CITY and TOWN (COUNTY, CITY and TOWN are also each referred to herein as "Party" and collectively referred to herein as "Parties") have previously entered into agreements pertaining to the planning and construction of the Yucca Loma Corridor project, which is more fully described in said agreements; and

Auditor-Controller/Treasurer/Tax Collector Use Only	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

WHEREAS, Parties entered into County Contract No. 07-1076 for the environmental and design phases, and a Memorandum of Understanding (MOU), County Contract No. 11-569, for project delivery and funding strategy regarding the Yucca Loma Corridor project; and

WHEREAS, in accordance with the terms of the MOU, COUNTY and TOWN have agreed that, in lieu of contributing to the funding of the La Mesa/Nisqualli Interchange project (hereinafter referred to as the "La Mesa project"), they would contribute funds otherwise earmarked for the La Mesa project to fund a portion of what would otherwise be the CITY's Development Impact Fees ("DIF") share for the Green Tree Boulevard Extension project; and

WHEREAS, the Green Tree Boulevard Extension project is a component of the Yucca Loma Corridor project; and

WHEREAS, COUNTY and TOWN's financial obligations for the La Mesa project will be satisfied upon CITY's receipt of payment from COUNTY and TOWN, pursuant to this Agreement; and

WHEREAS, the CITY and San Bernardino Associated Governments (SANBAG) also entered into Funding Agreement No. 15-100115 and a Term Loan Agreement No. 16-1001481 regarding the Yucca Loma Corridor project; and

WHEREAS, Parties desire to cooperate and jointly participate in the Green Tree Boulevard Extension project; and

WHEREAS, the Green Tree Boulevard Extension project will widen, realign, as well as construct a new connecting roadway and a new bridge over the Burlington Northern Santa Fe Railway on Yates Road and Green Tree Boulevard, from Park Boulevard, continuing west and ending at the intersection of Green Tree Boulevard and Hesperia Road (hereinafter referred to as "PROJECT"); and

WHEREAS, SANBAG prepared a study (hereinafter referred to as the "Nexus Study") in 2009, in which identifies Major Local Highway Program projects eligible for partial funding through the Measure I 2010-2040 revenues; and

WHEREAS, the PROJECT is identified in the Victor Valley Subarea Major Local Highway Program Project List and the Nexus Study; and

WHEREAS, the PROJECT will be in accordance with the policies of the Measure I 2010-2040 Strategic Plan ("STRATEGIC PLAN"), including the use of DIF by COUNTY, CITY and TOWN; and

WHEREAS, it is anticipated that COUNTY's share of costs will be from DIF collected for the Victor Valley sphere of influence funds and the CITY's and TOWN's share of costs will be from DIF collected for the local jurisdiction; and

WHEREAS, pursuant to the MOU, CITY shall be reimbursed by the COUNTY and TOWN through this Agreement for costs associated with the La Mesa project; and

WHEREAS, the La Mesa project is complete; and

WHEREAS, COUNTY's share of cost for the La Mesa project is \$325,458, the CITY's share is \$16,028,802 and the TOWN's share is \$3,986,859; and

WHEREAS, California Streets and Highways Code section 1710 provides that a city and county may agree that the city shall construct designated county highways or portions thereof within the unincorporated territory, the cost thereof to be paid by the county to the city; and

WHEREAS, CITY will serve as lead agency of the PROJECT, excluding acquisition of right-of-way in the COUNTY's unincorporated region; and

WHEREAS, COUNTY will serve as lead agency for the acquisition of right-of-way in the COUNTY's unincorporated region; and

WHEREAS, the total PROJECT cost is estimated to be \$45,083,625; and

WHEREAS, COUNTY's portion of PROJECT cost is \$4,027,533, and based on the Nexus Study, COUNTY's DIF share is \$716,901 (17.8%) with the remaining PROJECT share of \$3,310,632 (82.2%) being funded by SANBAG as the public share; and

WHEREAS, CITY's portion of PROJECT cost is \$41,056,092, and based on the Nexus Study, CITY's DIF share is \$18,050,079 (49%) with the remaining PROJECT share of \$18,786,817 (51%) plus \$4,219,196 being funded by SANBAG as the public share and through other funding sources administered through SANBAG, respectively; and

WHEREAS, CITY and SANBAG shall enter into a separate funding agreement which details SANBAG's obligations pertaining to the public share of PROJECT costs; and

WHEREAS, except for TOWN's payment of a portion of CITY's PROJECT share as described in this Agreement, TOWN has no financial obligations toward the PROJECT; and

WHEREAS, COUNTY and CITY desire to set forth the responsibilities and obligations of each as they pertain to such participation, and to the design, right-of-way, construction, and funding of the proposed PROJECT.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1.0 CITY AGREES TO:

- 1.1 Act as the Lead Agency in the PROJECT design, California Environmental Quality Act (CEQA) compliance (Public Resources Code section 21000 et seq.), construction management/construction engineering, inspection, material engineering, and all right-of-way except the actual acquisition of right-of-way inside COUNTY's unincorporated region.
- 1.2 Provide PROJECT plans and specifications to COUNTY, for COUNTY's prior review and approval.
- 1.3 Provide right-of-way document (legal description and plat) and appraisal for potential retaining wall right-of-way inside COUNTY's unincorporated region and submit to COUNTY for review and approval.
- 1.4 Provide 49% (\$18,050,079) of the 91.1% development mitigation funding contribution for the PROJECT, which will come from DIF or other source of development contribution as required by the Development Mitigation Nexus Study (Appendix K of the SANBAG Congestion Management Program – CMP) and Appendix J of the CMP or from a loan of funds to the CITY's development impact fee.
- 1.5 To advertise, award, and administer the PROJECT, in accordance with the provisions of the California Public Contract Code applicable to cities, such as CITY, and require, as well as enforce, compliance by CITY's contractors with all applicable laws and regulations, including Labor Code sections 1720 et seq. and 1770 et seq. that concern the payment of prevailing wages in the same manner as CITY's own public works projects. CITY shall indemnify, defend (with counsel reasonably approved by COUNTY), and hold harmless COUNTY and TOWN and their officers,

- employees, volunteers, and agents from any and all claims, actions, losses, damages, and/or liability as provided in Section 4.
- 1.6 To require all contractors and vendors working on the PROJECT to have appropriate and adequate insurance coverage for the mutual protection and benefit of the Parties. Except for Workers' Compensation, Errors and Omissions and Professional Liability policies, CITY shall require and ensure that all CITY contractors/subcontractors for the PROJECT shall have insurance policies that contain endorsements naming the COUNTY and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. Such additional insured coverage shall be in the form of ISO additional insured endorsements 20 10 10 01 and 20 37 10 01, which all parties acknowledge to be sufficient.
 - 1.7 Obtain a no-cost permit from the COUNTY for work performed within the COUNTY's right-of-way.
 - 1.8 Abide by all SANBAG, State and if applicable, Federal policies, procedures, and regulations pertaining to the PROJECT, including policies pertaining to the PROJECT in the Measure I 2010-2040 Strategic Plan.
 - 1.9 Acquire necessary right-of-way within the CITY's jurisdiction which shall be a PROJECT cost and will be paid entirely by CITY as noted in Exhibit A.
 - 1.10 After CITY's selection of the construction manager for the PROJECT and prior to award of the construction management contract, submit to COUNTY and TOWN an invoice for each agency's shares of cost for the La Mesa project, which are \$325,458 and \$3,986,859, respectively.
 - 1.11 After PROJECT bid opening and prior to award of the construction contract, submit to COUNTY an invoice of COUNTY's DIF share of the PROJECT cost, which is estimated to be \$716,901.
 - 1.12 Submit to COUNTY after PROJECT completion an itemized accounting of actual PROJECT costs incurred by CITY, and in the event the amount paid in advance by COUNTY exceeds COUNTY's share of PROJECT cost, CITY shall refund said difference to COUNTY. In no event shall COUNTY share of PROJECT costs exceed \$716,901, absent a written amendment to this Agreement approved by the Parties pursuant to Paragraph 4.9.
 - 1.13 To accept all payments from COUNTY via electronic funds transfer (EFT) directly deposited into the CITY's designated checking or other bank account. CITY shall promptly comply with directions and accurately complete forms provided by COUNTY required to process EFT payments.
 - 1.14 Maintain all source documents, books, and records connected with its performance under this Agreement for a minimum of five (5) years from the date of the Final Report of Expenditures submittal to SANBAG or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of COUNTY and/or TOWN.
 - 1.15 Have a PROJECT-specific audit completed by COUNTY, at COUNTY's option and expense, upon completion of the PROJECT. The audit must state that all funds expended on the PROJECT were used in conformance with this Agreement.
 - 1.16 To reimburse COUNTY any costs that are determined by subsequent audit to be unallowable within ninety (90) calendar days of CITY receiving notice of audit findings, which time shall include an opportunity for CITY to respond to and/or resolve the finding. Should the finding not be otherwise resolved and CITY fails to reimburse monies due to COUNTY within ninety (90) calendar days of audit finding, or within such other period as may be agreed between all Parties hereto, COUNTY reserves the right to exercise any of its legal rights. COUNTY also has the right to withhold future payments due to CITY from any source under COUNTY's control.
 - 1.17 Establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support accounting activities associated with the delivery of PROJECT by the COUNTY and produce monthly reports, which clearly identify invoice payments for the PROJECT, including funding information.

2.0 COUNTY AGREES TO:

- 2.1 Review and approve the plans and specifications of the PROJECT.
- 2.2 Review and approve right of way document and appraisal provided by CITY pursuant to Paragraph 1.3.

- 2.3 Provide a no-cost permit to the CITY for its work in the COUNTY's right-of-way.
- 2.4 Acquire necessary right-of-way within the COUNTY's jurisdiction (unincorporated region) and pay the related costs. This shall not be included as a PROJECT cost.
- 2.5 Provide 17.8% (\$716,901) of the development mitigation funding contribution for the PROJECT, which will come from DIF or other source of development contribution as required by the Development Mitigation Nexus Study (Appendix K of the SANBAG Congestion Management Program – CMP) and Appendix J of the CMP or from a loan of funds to the COUNTY's development impact fee.
- 2.6 COUNTY's DIF share of PROJECT cost, currently estimated to be \$716,901, shall include the cost of final design, CEQA compliance (Public Resources Code section 21000 et seq.), construction management/construction engineering, inspection, material engineering.
- 2.7 Pursuant to Paragraph 1.11 above, to advance \$716,901 to CITY after bid opening and prior to the award of the construction contract. COUNTY's DIF share of PROJECT cost shall not exceed \$716,901 absent a written amendment to this Agreement approved by the Parties pursuant to Paragraph 4.9 below.
- 2.8 In lieu of paying the COUNTY's DIF share for the La Mesa project in the amount of \$325,458 pursuant to the MOU, contribute the equal amount of \$325,458 to fund a portion of what would otherwise be the CITY's DIF share of the PROJECT. The cost of the La Mesa project shall include the cost of construction, construction engineering and inspection.
- 2.9 Reimburse CITY the amount identified in Paragraph 2.8 upon receipt of an invoice from the CITY after the selection of the PROJECT construction manager and prior to the award of the construction management contract. COUNTY's financial obligations of the La Mesa project will be considered satisfied upon receipt of said reimbursement by CITY.

3.0 TOWN AGREES TO:

- 3.1 In lieu of paying the TOWN's DIF share for the La Mesa project in the amount of \$3,986,859 pursuant to the MOU, contribute the equal amount of \$3,986,859 to fund a portion of what would otherwise be the CITY's DIF share for the PROJECT. The cost of the La Mesa project shall include the cost of construction, construction engineering and inspection.
- 3.2 Reimburse CITY the amount identified in Paragraph 3.1 upon receipt of an invoice from the CITY after the selection of the PROJECT construction manager and prior to the award of the construction management contract. TOWN's financial obligations of the La Mesa project will be considered satisfied upon receipt of said reimbursement by CITY.

4.0 IT IS MUTUALLY AGREED:

- 4.1 COUNTY's financial responsibility shall not exceed 17.8% of actual PROJECT costs for expenditures of scope work listed in Exhibit "A", unless the fair-share percentage is amended in the SANBAG Nexus Study as a result of annexations or other changes to growth figures that affect development mitigation fair-share contributions to the PROJECT. Any change in fair-share percentages shall affect only development mitigation contributions subsequent to the amendment to the Nexus Study and shall not be retroactive. In no event shall COUNTY's DIF share of PROJECT cost exceed \$716,901 absent a written amendment to this Agreement approved by the Parties pursuant to Paragraph 4.9 below.
- 4.2 Eligible PROJECT expenditures shall be limited to the PROJECT-specific work activities described in Exhibit "A" to this Agreement and shall not include escalation, interest, or other fees.
- 4.3 After CITY's and COUNTY's acceptance of completed PROJECT, the COUNTY shall be responsible for performing any and all work (including, but not limited to maintenance) for the COUNTY maintained highways in the PROJECT limits that are within the COUNTY unincorporated area and the CITY shall be responsible for performing any and all work (including, but not limited to maintenance) for CITY maintained streets in the PROJECT limits that are in the CITY incorporated area.

4.4 Indemnity

CITY agrees to indemnify, defend (with counsel approved by COUNTY) and hold harmless COUNTY and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of its obligations under this Agreement.

CITY agrees to indemnify, defend (with counsel approved by TOWN) and hold harmless TOWN and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of its obligations under this Agreement.

COUNTY agrees to indemnify, defend (with counsel approved by TOWN) and hold harmless TOWN and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of its obligations under this Agreement.

COUNTY agrees to indemnify, defend (with counsel approved by CITY) and hold harmless CITY and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of its obligations under this Agreement.

- 4.5 In the event the COUNTY and/or CITY are found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the COUNTY and/or CITY shall indemnify the other to the extent of its comparative fault.
- 4.6 In the event of litigation arising from this Agreement, each Party to the Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs 4.4 and 4.5.
- 4.7 COUNTY, TOWN and CITY are wholly or partially self-insured public entities for purposes of Professional Liability, Automobile Liability, General Liability and Worker's Compensation, and warrant that through their respective programs of self-insurance they have adequate coverage or resources to protect against liabilities arising out of COUNTY, TOWN and CITY's performance of the terms, conditions or obligations of this Agreement.
- 4.8 Except with respect to Paragraphs 1.12, 1.14, 1.15, 1.16, 4.3, 4.4, 4.5 and 4.6, herein which shall survive termination of this Agreement, this Agreement shall terminate upon completion of the PROJECT and satisfaction of Paragraph 1.12.
- 4.9 Except for the MOU and the agreements identified in Paragraph 22 of the MOU, this Agreement contains the entire agreement of the Parties with respect to subject matter hereof, and supersedes all prior negotiations, understandings or agreements. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by all Parties. The Parties agree that any supplement, modification or amendment to the COUNTY's share of the PROJECT costs identified in Paragraphs 1.12, 2.7 and 4.1, does not require TOWN's approval, but instead only requires the approval of the authorized representatives of both COUNTY and CITY in order for such supplement, modification or amendments to take effect.
- 4.10 This Agreement shall be governed by the laws of the State of California. Any action or proceeding between CITY, TOWN and COUNTY concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement or the PROJECT, shall be instituted and tried in the appropriate state court, located in the County of San Bernardino, California.
- 4.11 Time is of the essence for each and every provision of this Agreement.
- 4.12 Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed COUNTY work days. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

- 4.13 No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 4.14 If a court of competent jurisdiction declares any portion of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this Agreement is frustrated.
- 4.15 This Agreement may be signed in counterparts, each of which shall constitute an original.
- 4.16 This Agreement will be effective on the date it is signed and approved by all Parties and shall terminate upon completion of PROJECT or June 30, 2021, whichever occurs first.
- 4.17 The Recitals are incorporated into the body of this Agreement.

THIS AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of the Parties

COUNTY OF SAN BERNARDINO

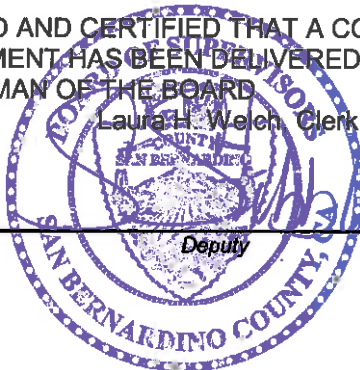
► 
James Ramos, Board Chairman

Dated: OCT 18 2016

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Laura H. Welch, Clerk of the Board

By 
Deputy



CITY OF VICTORVILLE

By ► 
Gloria Garcia, Mayor

Dated: 11-2-16

By ► 
Carolee Bates, City Clerk

Dated: 11-2-16

By ► 
Chuck Buquet, Risk Manager

Dated: 11/1/16

APPROVED AS TO FORM

By ► 
Andre DeBortnowsky, City Attorney

Dated: 11/1/16

Address 14343 Civic Drive
Victorville, CA 92392

TOWN OF APPLE VALLEY

By 
(Authorized signature - sign in blue ink)

Name: Barb Stanton
(Print or type name of person signing contract)

Title: Mayor
(Print or Type)

Dated: October 25, 2016

Address 14955 Dale Evans Pkwy
Apple Valley, CA 92307

Approved as to Legal Form


Scott M. Runyan, Deputy County Counsel

Date 9-30-16

Reviewed by Contract Compliance


Grant C. Mann, P.E., Chief

Date 9/28/16

Presented to BOS for Signature


Gerry Newcombe, Department Head

Date 10/5/16

EXHIBIT A

ESTIMATE OF PROJECT CONSTRUCTION COSTS FOR COUNTY OF SAN BERNARDINO/CITY OF VICTORVILLE/TOWN OF APPLE VALLEY PAVEMENT REALIGNMENT AND RECONSTRUCTION IN THE VICTORVILLE AREA

GREEN TREE BOULEVARD EXTENSION

PROJECT SCOPE:

This is the third phase of the Yucca Loma Corridor. The corridor project will provide connectivity between the Yucca Loma bridge and Yates Road and the existing Green Tree Boulevard and Hesperia Road in the City of Victorville. The PROJECT consist of widening, realignment, construction of new connecting roadway and a new bridge over the Burlington Northern Santa Fe Railway on Yates Road and Green Tree Boulevard, from Park Boulevard continuing west ending at the intersection of Green Tree Boulevard and Hesperia Road.

PROJECT COSTS:

Total cost	PS&E	ROW	Construction
\$45,083,625	\$3,188,000	\$2,000,000	\$39,895,625

Note: City pays 100% of ROW costs.

COUNTY Share (8.9%)		CITY Share (91.1%)	
Development Fair Share (DIF) 17.8%	SANBAG Public Share 82.2%	Development Fair Share (DIF) 49%	SANBAG Public Share 51% ¹
\$716,901	\$3,310,632	\$18,050,079	\$18,786,817

¹ In addition SANBAG shall contribute \$4,219,196 of federal earmark funds towards the PROJECT cost.

Project Milestone	Proposed
Project Study Report Approved	1/07/11
End Environmental Phase (PA&ED)	6/10/13
Begin Design (PS&E) Phase	2/04/14
End Design Phase (Ready to List for Advertisement)	3/01/17
Begin Right of Way Phase	10/01/16
End Right of Way Phase	2/01/19
Begin Construction Phase (Contract Award)	6/30/19
End Construction Phase (Construction Contract Acceptance)	2/01/20
Begin Closeout Phase	2/01/20
End Closeout Phase (Closeout Report)	2/01/21

LA MESA/NISQUALLI INTERCHANGE PROJECT COSTS:

Total Cost	SANBAG Public Share (50%)	Nexus Study Developer share (DIF) (50%)		
		CITY (78.8%)	COUNTY (1.6%)	TOWN (19.6%)
\$40,501,002	\$20,159,883	\$16,028,802	\$325,458	\$3,986,859