

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**APPROVE AND AUTHORIZE AN AMENDMENT TO THE AGREEMENT WITH  
SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS FOR  
RIGHT-OF-WAY ACQUISITION WITHIN TOWN JURISDICTIONAL AREA.**

**Summary Statement:**

On April 26, 2011, the Apple Valley Town Council approved the Agreement with the San Bernardino County Department of Public Works for the acquisition of road right-of-way along Yates Road and within the Mojave River. The Agreement sets forth the responsibilities and obligations of the Town and the County regarding the final design, right-of-way engineering, appraisal, right-of-way acquisition services, right-of-way costs, and construction support services associated with the Project. The Agreement authorized the Town to make offers to properties within County jurisdiction, and process right-of-way acquisition, unless such acquisition required imminent domain action. At this time several State owned parcels are requiring imminent domain action in order to proceed with acquisition. This item will amend the Agreement to allow for the County to be lead agency in the acquisition of right-of-way from the State of California for the proposed Yucca Loma Bridge located both within the Town and in the unincorporated region of the County.

Continued

**Recommended Action:**

- 1) That The Town Council Approve The Agreement Amendment With San Bernardino County Department Of Public Works For Right-Of-Way Acquisition Within Town Jurisdictional Area, Subject To Approval As To Form By The Town Attorney And As To Content By The Town Manager.
- 2) That The Town Council Adopt Resolution 2011-40, "Declaring The Proposed Yucca Loma Bridge As A County Highway For That Portion Of The Yucca Loma Bridge That Lies Within The Town Of Apple Valley For The Purpose Of Acquiring Right-Of-Way From The State".

**Proposed by:**            Engineering Division            **Item Number** \_\_\_\_\_

**T. M. Approval:**        \_\_\_\_\_ **Budgeted Item**  **Yes**     **No**     **N/A**

Summary Statement  
Page 2

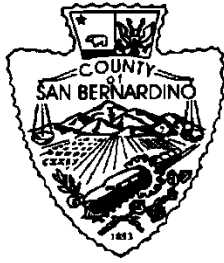
The Yucca Loma Bridge/ Yates Road/ Green Tree Blvd. Project construction will commence with the Yucca Loma Bridge, to connect Yucca Loma Road in the Town to Yates Road in the unincorporated area of the County. In order to expedite the right-of-way process, the County has agreed to serve as the lead agency to acquire right-of-way along four affected State owned parcels--three are in the unincorporated area and one is in the jurisdiction of the Town. Approval of this action is needed to facilitate the right-of-way actions necessary for submittal to the State Department of Transportation, (Caltrans), of the Request For Authorization ("RFA") for \$15,000,000 of federal Surface Transportation Program – Local ("STP-L") funds. Failure to submit to the State a complete RFA package by August 19, 2011, may jeopardize the STP-L funds.

In order for the County to secure the right-of-way and potentially use its powers of eminent domain, a Resolution pursuant to Streets and Highways Code section 1700 must be adopted that declares the proposed Yucca Loma Bridge located in the Town as a County highway for the purpose of acquiring right-of-way from the State. After passage of said Resolution, by the County Board of Supervisors, the Town must consent to the declaration of the proposed Yucca Loma Bridge located in the Town as a County highway for the purpose of acquiring right-of-way from the State by also approving and adopting said Resolution.

According to the Resolution, once all the State properties have been acquired for the proposed Yucca Loma Bridge, the County shall adopt a subsequent Resolution, pursuant to Streets and Highways Code section 1704, declaring that the proposed Yucca Loma Bridge located in the Town is no longer a County highway and will return to Town's jurisdiction. This Agreement Amendment is intended to simplify and expedite the acquisition process, and enable the project to move forward as quickly as possible.

Attachments

1. Agreement Amendment With San Bernardino County Department Of Public Works For Right-Of-Way Acquisition Within Town Jurisdictional Area.
2. Resolution 2011-40 "Declaring The Proposed Yucca Loma Bridge As A Countyhighway For That Portion Of The Yucca Loma Bridge That Lies Within The Town Of Apple Valley For The Purpose Of Aquiring Right-Of-Way From The State".
3. Exhibit "A"- Sub Project Location Exhibit Map.



COUNTY OF SAN BERNARDINO  
**FAS**  
**STANDARD CONTRACT**  
**FIRST AMENDMENT**

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	Dept. <b>SC TRA A</b>	Contract Number <b>11-238 A-1</b>		
County Department <b>Public Works – Transportation</b>		Dept. Orgn. <b>TRA TRA</b>	Contractor's License No.		
County Department Contract Representative <b>Carrie L. Schindler, P.E., Chief</b>		Telephone <b>387-8166</b>	Total Contract Amount <b>\$415,000</b>		
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input checked="" type="checkbox"/> Unencumbered <input type="checkbox"/> Other:					
If not encumbered or revenue contract type, provide reason: <b>Lead Agency</b>					
Commodity Code		Contract Start Date	Contract End Date	Original Amount <b>\$415,000</b>	This Amendment <b>\$0</b>
Fund <b>SAA</b>	Dept. <b>TRA</b>	Organization <b>TRA</b>	Appr. <b>200</b>	Obj/Rev Source <b>2445</b>	GRC/PROJ/JOB No. <b>14H14218</b>
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.
Project Name <b><u>Yucca Loma Road / Yates Road Final Design</u></b>			Estimated Payment Total by Fiscal Year		
Contract Type - Special (Risk Management Approved)			FY	Amount	I/D

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

Name TOWN OF APPLE VALLEY hereinafter called: TOWN

Address 14955 DALE EVANS PARKWAY

APPLE VALLEY, CA 92307

Telephone (760) 240-7000 Federal ID No. or Social Security No. \_\_\_\_\_

**IT IS HEREBY AGREED AS FOLLOWS:**

**AMENDMENT NO. 1**

WHEREAS, the COUNTY and CITY have previously entered into an Agreement, Contract No. 11-238; and

WHEREAS, the COUNTY and the TOWN now desire to amend this Agreement.

NOW, THEREFORE, it is hereby agreed to amend County Contract No. 11-238 between the COUNTY and the TOWN as follows:

1. DELETE paragraph 1.1 and REPLACE with a revised paragraph 1.1, which shall read as follows:

"1.1 Act as the Lead Agency in the final design, including 100% plans, specifications and engineer's estimate, for the four lane road along Yates Road, from the west terminus of the Yucca Loma Bridge structure near Fortuna Lane to Ridgcrest Road, with intersection improvements, soundwalls and the restoration area. Except as provided in the recitals and paragraph 2.7,

<b>Auditor / Controller – Recorder Use Only</b>	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

APPLE VALLEY shall also act as Lead Agency in right-of-way engineering, appraisal and acquisition services, and right-of-way capital costs (actual cost of right-of-way)."

2. ADD paragraph 1.14, which shall read as follows:

"1.14 Upon receipt of the COUNTY Board approved resolution adopted pursuant to Paragraph 2.7, APPLE VALLEY shall consent, by resolution, to the acceptance of the proposed Yucca Loma Bridge located within APPLE VALLEY as no longer an APPLE VALLEY road for the purpose of allowing COUNTY to serve as the lead agency for the acquisition of right-of-way from the State of California (State) related to the SUB-PROJECT's proposed Yucca Loma Bridge. APPLE VALLEY shall continue to be responsible for all maintenance activities required in the SUB-PROJECT area, including maintenance of the property declared to be a County highway, for the duration of the SUB-PROJECT work and after SUB-PROJECT completion. After right-of-way from the State is acquired by COUNTY for the proposed Yucca Loma Bridge located within APPLE VALLEY, APPLE VALLEY agrees to: (a) have its Clerk file a resolution adopted by COUNTY pursuant to Streets and Highways Code section 1704, declaring this property no longer a County highway, and (b) accept from COUNTY the transfer of any right-of-way acquired by COUNTY for the proposed Yucca Loma Bridge. Pursuant to Streets and Highways Code section 1704, ten (10) days after the filing of such resolution with APPLE VALLEY's Clerk, PROPERTY shall cease to be a County highway."

3. ADD paragraph 2.7, which shall read as follows:

"2.7 Upon adoption of a resolution by COUNTY pursuant to Streets and Highways Code section 1700, and upon the effective date of a resolution adopted by APPLE VALLEY pursuant to Streets and Highways Code section 1701, that consents to the proposed Yucca Loma Bridge located within APPLE VALLEY becoming a County highway, COUNTY shall act as the lead agency for the acquisition of right-of-way from the State for the proposed Yucca Loma Bridge. APPLE VALLEY shall pay COUNTY all costs described in Paragraphs 1.7 and 1.8 and incurred by COUNTY within thirty (30) days after receipt of an itemized statement setting forth all actual costs incurred by COUNTY to date and which have not already been paid by APPLE VALLEY, together with adequate documentation of said expenditures. After right-of-way from the State is acquired by COUNTY, COUNTY will adopt, and forward to APPLE VALLEY's Clerk for filing, a resolution pursuant to Streets and Highways Code section 1704, declaring the proposed Yucca Loma Bridge located in Town is no longer a County highway and then deed any right-of-way acquired under its name to APPLE VALLEY."

4. ADD paragraph 2.8, which shall read as follows:

"2.8 In the event COUNTY initially acquires right-of-way for the Yucca Loma Road that crosses the Mojave River, from the jurisdictional limits of APPLE VALLEY to the west terminus of the Yucca Loma Bridge structure near Fortuna Lane (Yucca Loma Road Bridge) that is located within the unincorporated region of the COUNTY, APPLE VALLEY shall accept the transfer of said right-of-way from COUNTY pursuant to Streets and Highways Code section 1810. APPLE VALLEY shall pay COUNTY all costs described in Paragraphs 1.7 and 1.8 and incurred by COUNTY within thirty (30) days after receipt of an itemized statement setting forth all actual costs incurred by COUNTY to date and which have not already been paid by APPLE VALLEY, together with adequate documentation of said expenditures. Thereafter said right-of-way will become an APPLE VALLEY street.

5. All other terms and conditions of the Agreement shall remain the same.

6. The recitals of this Amendment are incorporated into the Agreement by reference.

7. This Amendment No. 1 shall take effect on the date it is signed by all Parties.

SIGNATURES ARE ON THE FOLLOWING PAGE:

Page 2 of 3

IN WITNESS WHEREOF, the Parties to these presents have hereunto set their hands.

COUNTY OF SAN BERNARDINO

▶ \_\_\_\_\_  
Josie Gonzales, Chair, Board of Supervisors

Dated: \_\_\_\_\_

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 of Supervisors  
of the County of San Bernardino.

By \_\_\_\_\_  
*Deputy*

\_\_\_\_\_  
*(Print or type name of corporation, company, contractor, etc.)*

By ▶ \_\_\_\_\_  
*(Authorized signature - sign in blue ink)*

Name \_\_\_\_\_  
*(Print or type name of person signing contract)*

Title \_\_\_\_\_  
*(Print or Type)*

Dated: \_\_\_\_\_

Address \_\_\_\_\_

Approved as to Legal Form

▶ \_\_\_\_\_  
County Counsel

Date \_\_\_\_\_

Reviewed by Contract Compliance

▶ \_\_\_\_\_

Date \_\_\_\_\_

Presented to BOS for Signature

▶ \_\_\_\_\_  
Department Head

Date \_\_\_\_\_

**RESOLUTION NO. 2011-40**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DECLARING THE PROPOSED YUCCA LOMA BRIDGE AS A COUNTY HIGHWAY FOR THAT PORTION OF THE YUCCA LOMA BRIDGE THAT LIES WITHIN THE TOWN OF APPLE VALLEY FOR THE PURPOSE OF ACQUIRING RIGHT-OF-WAY FROM THE STATE**

WHEREAS, the Town of Apple Valley ("Town") and the County of San Bernardino ("County") entered into an Agreement, Contract No. 11-238, that addresses the responsibilities of both the Town and the County with respect to certain right-of-way services for the proposed Yucca Loma Road from Apple Valley Road to the Mojave River, the Yucca Loma Bridge, and Yates Road from the Mojave River to Ridgecrest Road (hereinafter referred to as "Project"); and

WHEREAS, the Project includes right-of-way acquisition and construction of a new bridge (to be known as the "Yucca Loma Bridge") that will cross the Mojave River and will connect Yucca Loma Road and Yates Road; and

WHEREAS, the Yucca Loma Bridge will therefore connect existing Town streets to a County road, which will provide a transportation corridor between Town and the City of Victorville; and

WHEREAS, the alignment of the proposed Yucca Loma Bridge is defined in the environmental documents approved by the Town on December 14, 2010; and

WHEREAS, the County has agreed to serve as the lead agency for the acquisition of right-of-way from the State of California (State) for the proposed Yucca Loma Bridge; and

WHEREAS, a portion of Yucca Loma Bridge lies within the boundaries of the Town; and

WHEREAS, the County, pursuant to Streets and Highways Code section 1700, hereby intends, by this resolution, to declare the portion of the proposed Yucca Loma Bridge within the Town, between the County/Town boundary to the eastern boundary of State parcel 0444-011-24 and as identified in Exhibit "A", attached and incorporated herein by this reference, as a County highway for the purpose of acquiring right-of-way from the State, and that the County may therefore use its powers of eminent domain to acquire any necessary rights-of-way inside the boundaries of the Town along the reach of the proposed Yucca Loma Bridge at a public hearing noticed and conducted in accordance with California Code of Civil Procedure, section 1245.235; and

WHEREAS, the Town shall adopt this resolution, pursuant to Streets and Highways Code section 1701, indicating consent by the Town to the establishment of the proposed Yucca Loma Bridge as a County highway for the limited purpose of acquiring right-of-way from the State; and

WHEREAS, upon consent of the Town to the County's declaration of the proposed Yucca Loma Bridge as a County highway, the County will secure the necessary rights-of-way, and after securing such rights-of-way by the County, or its agents thereon, the County shall adopt a resolution pursuant to Streets and Highways Code section 1704 declaring the proposed Yucca Loma Bridge located in the Town is no longer a County highway and from the effective date of said future resolution that portion of the County highway shall cease to be a County highway and all right, title and interest of the County in and to such portion of the County highway shall vest in the Town, and such highway shall constitute a Town street; and

WHEREAS, following the County's acquisition of such rights-of-way for the Project, the County will then deed the rights-of-way acquired under its name to the Town after execution of the resolution pursuant to Streets and Highways Code section 1704.

NOW, THEREFORE, BE IT RESOLVED, that the Town, pursuant to Streets and Highways Code section 1700, hereby declares that the portion of the proposed Yucca Loma Bridge in the Town, between the County/Town boundary to the eastern boundary of State parcel 0444-011-24, as identified in Exhibit "A", is a County highway for the purposes of acquiring right-of-way from the State for the proposed Yucca Loma Bridge construction project.

The Town Clerk shall certify the adoption of this Resolution.

APPROVED and ADOPTED this 2<sup>nd</sup> day of August, 2011.

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MAYOR

ATTEST:

(SEAL)

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TOWN CLERK

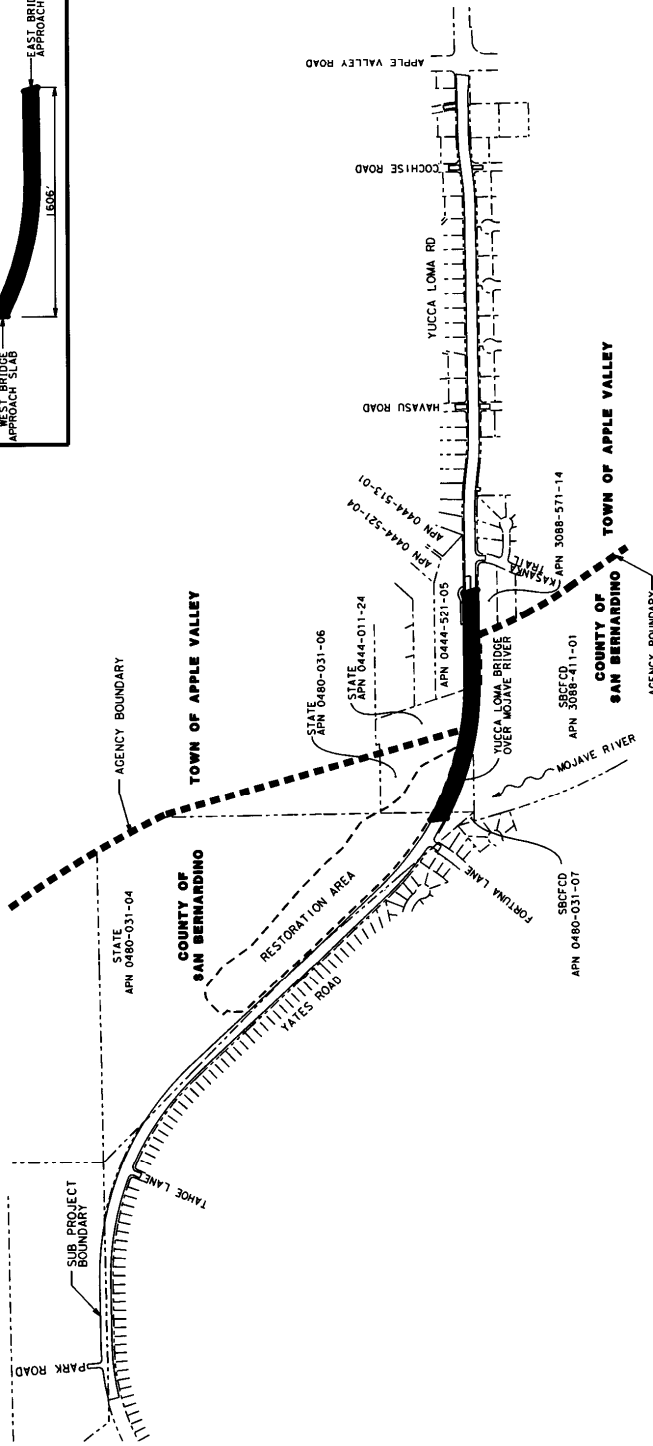
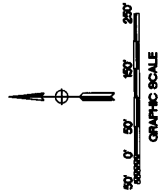
**YUCCA LOMA RD/YATES RD/GREEN TREE BLVD  
TRANSPORTATION IMPROVEMENT PROJECT**

**EXHIBIT A - SUB PROJECT LOCATION EXHIBIT MAP** APRIL 2011

**LEGEND**

- PARCEL LINES
- AGENCY BOUNDARY
- - - - - RESTORATION AREA BOUNDARY

**BRIDGE LIMITS**



... \1688-Exhibit A.dgn