

**SUBMITTAL TO THE BOARD OF DIRECTORS OF THE  
REDEVELOPMENT AGENCY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

115



**FROM:** Redevelopment Agency

**SUBMITTAL DATE:**  
June 16, 2011

**SUBJECT:** Street Improvement Projects in Thousand Palms and Thermal

**RECOMMENDED MOTION:** That the Board of Directors approve the Reimbursement Agreements between the Redevelopment Agency for the County of Riverside (Agency) and the Coachella Valley Association of Governments (CVAG) for three projects:

- 1) Varner Road Improvement Project from Ramon Road to Monterey Avenue in Thousand Palms;
- 2) Intersection Improvements at Ramon Road and Varner Road in Thousand Palms; and
- 3) Airport Boulevard Improvement Project (Avenue 56) from Harrison Street to Grapefruit Boulevard, in Thermal.

(Continued)

Robert Field  
Executive Director

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

**COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA:** No

<b>SOURCE OF FUNDS:</b> Desert Communities Project Area(DCPA) and Coachella Valley Associates of Governments (CVAG)	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE  
BY:   
Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL BY: ANITA C. WILLIS DATE: 6-17-11 Departmental Concurrence

Policy  
 Policy  
 Consent  
 Consent  
 Dept't Recomm.:  
 Per Exec. Ofc.:

**RECOMMENDED MOTION:** (Continued)

- 4) Authorize the Chairman of the Board of Directors to execute the agreements.
- 5) Authorize the Assistant CEO/EDA or his designee to take subsequent actions, as necessary to implement the agreements.

**BACKGROUND:**

The agency's completed street improvements in Thousand Palms and planned improvements for Thermal are also identified in the Coachella Valley Association of Governments (CVAG) Transportation Project Prioritization Study.

CVAG used this study to identify and prioritize critical street improvement projects for the Coachella Valley and allocate transportation funds for these projects.

The Executive Committee of CVAG at their December 3, 2007 meeting approved the following agency projects as eligible for funding reimbursements:

- Varner Road Improvement Project (Ramon Road to Monterey Avenue) in Thousand Palms
  - improvements completed September 2009
  - maximum reimbursement to Agency is \$1,870,757.25 (75% of project cost \$2,494,343)
  - reimbursement to be paid in fiscal year 2021/2022
- Intersection Improvement Project at Ramon Road and Varner Road in Thousand Palms
  - improvements completed September 2009
  - maximum reimbursement to Agency is 75% of project cost which is not yet determined
  - reimbursement to be paid in fiscal year 2012/2013
- Airport Boulevard Improvement Project (Harrison Street to Grapefruit Boulevard) in Thermal
  - Design scheduled for completion March 2012; construction period June 2012 through March 2013
  - Maximum reimbursement to Agency is \$7,898,603 (75% of project cost \$10,531,470)
  - Reimbursement to be paid in fiscal year 2027/2028

The agency has completed the projects in Thousand Palms and continues with final design approval of the Airport Boulevard Improvement Project. CVAG provides up to 75% reimbursement of eligible right-of-way, construction and design costs and based upon an estimated project cost.

Staff recommends approval of the respective CVAG Reimbursement Agreements for the projects identified above.

**CVAG – REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE**

**FUTURE (FISCAL YEAR 2021/2022) REIMBURSEMENT AGREEMENT**

**“VARNER ROAD IMPROVEMENT PROJECT (RAMON ROAD TO MONTEREY AVENUE)”**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the **Redevelopment Agency for the County of Riverside, (“Agency”)**, and the **Coachella Valley Association of Governments (“CVAG”)**, a California joint powers agency, and is made with reference to the following background facts and circumstances:

The “Coachella Valley Area Transportation Study,” a valley-wide study prepared under the auspices of CVAG, has identified various transportation and highway projects throughout the Coachella Valley as projects of regional importance. These projects are listed in the 2005 Update *Transportation Project Prioritization Study* document; and

Approval of a highway financing measure by the voters of Riverside County in November, 1988, (“Measure A,”) as well as the approval of an extension by the voters in November, 2000, has created a source of funds with which to construct such projects; and

CVAG by agreement with its member agencies and with the Riverside County Transportation Commission (“RCTC”), has been designated as the agency through which such funds are to be conveyed and disbursed for the purpose of completing said regional transportation projects; and

The CVAG Executive Committee, on July 31, 2006, approved the implementation of the amended Transportation Uniform Mitigation Fee (“TUMF”) Ordinance to increase the collected TUMF, effective January 1, 2007; and

Under CVAG’s policy of funding eligible projects by member jurisdictions, effective January 1, 2007, a jurisdiction pays one-quarter of the eligible costs (the “Jurisdiction One-Quarter”) and CVAG pays the other three-quarters (the “CVAG Three-Quarters”). Historically, the CVAG Three-Quarters has been paid as a reimbursement to the jurisdiction, as invoices are submitted and approved; and

CVAG has determined that as to member jurisdictions that do not participate in the TUMF program, projects will continue to go forward under the existing Reimbursement Policy; and

Agency desires to proceed with a project known as **“Varner Road Improvement Project from Ramon Road to Monterey Avenue” (the “Project”)**. The estimated cost of the Project is \$2,494,343. CVAG’s share of Project City’s costs is **75% of qualified project costs**.

**NOW, THEREFORE,** in consideration of the mutual covenants and subject to the conditions contained herein, the parties do agree as follows:

1. The program embodied in this Agreement for the reimbursement of funds by CVAG shall apply only to those regional arterial projects that have heretofore been identified in the CVAG 2005 updated list of projects. The Project is one of those projects and is therefore eligible. **This project will receive future funding in Fiscal Year 2021/2022 contingent upon the availability of funds.**

2. The Project is generally described and referred to as "**Varner Road Improvement Project from Ramon Road to Monterey Avenue**", hereinafter the "Project."

3. Any excess property purchased to secure the necessary right-of-way for the Project will be shared between the Agency and the Regional Arterial Program proportionately according to the funding of the purchase by each jurisdiction participating in the project. Excess property will be disposed of in the best interests of the Regional Arterial Program, in order to recapture funds expended. Any recaptured funds will reduce the overall cost of the project".

4. The scope of work for the Project is more particularly described in Exhibit "A," entitled "Scope of Services," attached hereto and made a part hereof. The cost estimate for the Project will be more particularly described in Exhibit "B," entitled "Estimate of Cost." The cost estimate will include a calculation intended to allow Agency to recover an amount representing the time of its employed staff in working on the Project, as well as the amount Agency shall pay to outside contractors in connection with the Project. Subject to the terms herein and all applicable rules regarding allowed costs, the amount of the Jurisdiction One-Quarter and the CVAG Three-Quarters shall be calculated by reference to the cost estimates as shown on Exhibit "B." Exhibit "C," will be attached by amendment at such time as the "Project Schedule" is finalized.

5. It is the agreement between CVAG and Agency that, of the total Agency share for the cost of the Project, CVAG shall pay not-to-exceed \$1,870,758 in FY 2021/2022, and Agency shall pay its remaining Jurisdiction One-Quarter of covered costs, as well as one hundred percent (100%) of all costs not eligible for reimbursement by CVAG.

6. Agency agrees to seek reimbursement of seventy-five percent of only those costs, up to the not-to-exceed limit, which are eligible for reimbursement by CVAG, as outlined in Section IV, "Cost Determination/Expense Eligibility," of the CVAG Policy and Procedures Manual, as amended and in effect at the time of reimbursement.

6.1 Agency shall be responsible for initial payment of all covered costs as they are incurred. Following payment of such costs, Agency shall submit invoices to CVAG requesting reimbursement of seventy-five percent of those eligible costs associated with the Project. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to Agency, and documents evidencing Agency's payment of the invoices or demands for payment. Agency shall also submit a Project Completion Report, in a form acceptable to CVAG, with each statement. Agency shall submit invoices not more often than monthly and not less often than quarterly.

6.2 Agency shall, at the design stage of the Project, identify a project specific ratio ("Project Ratio") for the construction phase of the project that distinguishes between Capacity Enhancement items, Rehabilitation items or other items.

Agency shall apply that "Project Ratio" to the project construction cost and provide CVAG with supporting documents that will clearly identify "Capacity Enhancement" costs eligible for payment with TUMF, "Rehabilitation" costs eligible for payment with Measure "A", and other costs that are not eligible for reimbursement by CVAG.

All Invoices submitted to CVAG for reimbursement, shall include a table identifying "Capacity Enhancement" costs eligible for payment with TUMF, "Rehabilitation" costs eligible for payment with Measure "A", and other costs that are not eligible for reimbursement by CVAG.

6.3 Upon receipt of an invoice from Agency, CVAG may request additional documentation or explanation of the Project costs. Undisputed reimbursement amounts shall be paid by CVAG to Agency in Fiscal Year 2021/2022.

6.4 If a post-payment audit or review indicates that CVAG has provided reimbursement to Agency in an amount in excess of seventy-five percent of eligible costs, or has provided reimbursement of ineligible Project costs, Agency shall reimburse CVAG for the excess or ineligible payments within thirty (30) days of notification by CVAG.

7. Prior to any final payment to Agency by CVAG, a final report shall be submitted to CVAG by Agency containing a record of all payments made for said Project and the source of funds of all such payments, together with a record of all change orders, cost over-runs, and other expenses incurred. Final payment will thereafter be paid by CVAG in Fiscal Year 2022/2023 in accordance with its rules, regulations and policies concerning project cost determination and expense eligibility.

8. The format used for all bids solicited by Agency for the Project shall require itemization sufficient to allow quantities of each bid item to be easily discernible. It shall be the responsibility of Agency to determine what quantity is for Capacity Enhancement and/or Rehabilitation, and to provide CVAG staff with that information.

9. The parties agree that should unforeseen circumstances arise which result in new work not covered in Exhibit "A," an increase of any costs over those shown in Exhibit "B," when this Agreement is amended to incorporate Exhibit "B or other changes in the Scope of Work are proposed, CVAG will in good faith consider an amendment to this Agreement to provide for further appropriate reimbursement if the proposed amendment is in accordance with the policies, procedures, and cost determination/expense eligibility criteria adopted by CVAG. Non-substantive changes may be made to this agreement subject to CVAG's General Counsel's approval.

10. The term of this Agreement shall run from the date first set out above through June 30, 2022, unless sooner terminated by the parties pursuant to section 12 below.

11. Agency shall maintain an accounting of all funds received from CVAG pursuant to this Agreement in accordance with generally accepted accounting principles. Agency agrees to keep all Project contracts and records for a period of not less than three years from the date a notice of completion is filed by the Agency on such Project; or, if the Project is not one as to which a notice of completion would normally be recorded, for three years from the date of completion. Agency shall permit CVAG, at any reasonable time, upon reasonable notice, to inspect any records maintained in connection with the Project. CVAG shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of making or not making any such inspection.

12. The occurrence of any one or more of the following events shall, at CVAG's option, constitute an event of default and Agency shall provide CVAG with immediate notice thereof.

12.1 Any warranty, representation, statement, report or certificate made or delivered to one party by the other party, or by one of the other party's officers, employees or agents now or hereafter which is incorrect, false, untrue or misleading in any material respect;

12.2 A party shall fail to pay, perform or comply with, or otherwise shall breach, any obligation, warranty, term or condition in this Agreement or any amendment to this Agreement, or any agreement delivered in connection with the Project; or

12.3 There shall occur any of the following: dissolution, termination of existence or insolvency of Agency; the commencement of any proceeding under any bankruptcy or insolvency law by or against Agency; entry of a court order which enjoins, restrains or in any way prevents Agency from paying sums owed to creditors.

13. No waiver of any Event of Default or breach by one party hereunder shall be implied from any omission by the other party to take action on account of such default, and no express waiver shall affect any default other than the default specified in the waiver and the waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by one party to or of any act by the other party shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent or similar act.

14. This Agreement is made and entered into for the sole protection and benefit of CVAG and Agency and no third person shall have any right of action under this Agreement.

15. It is the intent of the Agency and CVAG that the Project be represented as being funded by Measure "A"/TUMF funds. All public notices, news releases, and documents shall indicate that the Project is being cooperatively developed by the Agency, RCTC, and CVAG using Measure "A"/TUMF funds. Prior to initiation of on-site construction, Agency agrees to provide at least one "Project Sign" to be placed in a safe and visible location near the site of construction so that all travelers passing the location have the opportunity to observe who the agencies are that are providing funds for the construction of the Project. Exhibit "D," "Project Sign," provides a guide for Project Sign format.

16. This Agreement is for funding purposes only and nothing herein shall be construed so as to constitute CVAG as a party to the construction or in ownership or a partner or joint venturer with Agency as to the Project. The Agency shall assume the defense of, indemnify and hold harmless CVAG, its member agencies, and their respective officers, directors, agents, employees, servants, attorneys, and volunteers, and each and every one of them, from and against all actions, damages, claims, losses and expenses of every type and description to which they may be subjected or put by reason of or resulting from the actions or inactions of the Agency related to the Project or taken in the performance of this Agreement or any agreement entered into by Agency with reference to the Project. CVAG shall assume the defense of, indemnify and hold harmless the Agency, its officers, directors, agents, employees, servants, attorneys, and volunteers, and each of them, from and against all actions, damages, claims, losses, and expenses of every type and description to which they may be subjected or put by reason of or resulting from the actions of CVAG taken in the performance of this Agreement.

17. Agency agrees to include in its contract specifications and bid documents a requirement that all prime contractors shall name CVAG and its member agencies as "also insured" on all liability insurance coverage required by Agency on each contract. Agency will provide a copy of the Insurance Certificate to CVAG, depicting CVAG and its member agencies as "also insureds," within 30 days of signing a contract with the prime contractor.

18. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by voluntary negotiations between the parties shall first be decided by the CVAG Executive Director or designee, who may consider any written or verbal evidence submitted by Agency. This decision shall be issued in writing. However, no action in accordance with this Section shall in any way limit either party's rights and remedies through actions in a court of law with appropriate jurisdiction. Neither the pendency of dispute nor its consideration by CVAG will excuse Agency from full and timely performance in accordance with the terms of this Agreement.

19. Any agency receiving federal funds must have an approved Disadvantaged Business Enterprise program. All recipients of Federal Highway Administration (FHWA) funds must carry out the provisions of Part 26, Title 49 of the Code of Federal Regulations (CFR) which established the Federal Department of Transportation's policy supporting the fullest possible participation of firms owned and controlled by minorities and women in the Department of Transportation programs. Except to the extent that such or other contrary federal regulations may apply, Agency covenants that, by and for itself and all persons claiming under or through it, there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the performance of this Agreement.

20. Agency warrants that all aspects of the Project shall be undertaken in compliance with all applicable local, state and federal rules, regulations and laws. Agency will execute and deliver to CVAG such further documents and do other acts and things as CVAG may reasonably request in order to comply fully with all applicable requirements and to effect fully the purposes of this Agreement.

21. This Agreement may not be assigned without the express written consent of CVAG first being obtained.

22. Agency, its successors in interest and assigns shall be bound by all the provisions contained in this Agreement.

23. No officer or employee of CVAG shall be personally liable to Agency, or any successor in interest, in the event of any default or breach by CVAG or for any amount which may become due to Agency or to its successor, or for breach of any obligation of the terms of this Agreement.

24. Notwithstanding any other provision herein, CVAG shall not be liable for payment or reimbursement of any sums for which CVAG has not first obtained the necessary and appropriate funding from TUMF and/or Measure "A" monies.

25. No officer or employee of CVAG shall have any personal interest, direct or indirect, in this Agreement; nor shall any such officer or employee participate in any decision relating to this Agreement which effects his or her personal interest or the interest of any

corporation, partnership or association in which she or he is, directly or indirectly, interested, in violation of any state, federal or local law.

26. Agency warrants that the funds received by CVAG pursuant to this Agreement shall only be used in a manner consistent with CVAG's reimbursement policy and all applicable regulations and laws. Any provision required to be included in this type of agreement by federal or state law shall be deemed to be incorporated into this Agreement.

27. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing, such as Federal Express or UPS); sent by telecopier or facsimile machine capable of confirming transmission and receipt; or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

**If to Agency:**                      Redevelopment Agency for the County of Riverside  
44-199 Monroe Street, Suite B  
Indio, California 92201  
Attn: 4<sup>th</sup> District Regional Manager  
Telephone: (760) 863-2552  
FAX No.: (760) 863-2551

**If to CVAG:**                              CVAG  
73-710 Fred Waring Drive  
Palm Desert, CA 92260  
Attn: Deputy Executive Director  
Telephone: (760) 346-1127  
FAX No.: (760) 340-5949

Notices sent in accordance with this paragraph shall be deemed delivered upon the next business day following the: (i) date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); (ii) the date of actual receipt (if personally delivered by other means); (iii) date of transmission (if sent by telecopier or facsimile machine); or (iv) the date of delivery as indicated on the return receipt if sent by certified or registered mail, return receipt requested. Notice of change of address shall be given by written notice in the manner detailed in this paragraph.

28. This Agreement and the exhibits herein contain the entire agreement between the parties, and is intended by the parties to completely state the agreement in full. Any agreement or representation respecting the matter dealt with herein or the duties of any party in relation thereto, not expressly set forth in this Agreement, is null and void.

29. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.



30. In the event either party hereto brings an action or proceeding for a declaration of the rights of the parties, for injunctive relief, for an alleged breach or default, or any other action arising out of this Agreement, or the transactions contemplated hereby, the prevailing party in any such action shall be entitled to an award of reasonable attorneys' fees and costs incurred in such action or proceeding, in addition to any other damages or relief awarded, regardless of whether such action proceeds to final judgment.

31. Time is of the essence in this Agreement, and each and every provision hereof in which time is an element.

32. This Agreement and all documents provided for herein shall be governed by and construed in accordance with the laws of the State of California. Any litigation arising from this Agreement shall be adjudicated in the courts of Riverside County, Desert Judicial District, State of California.

33. Upon approval of the Board of Directors, Agency warrants that the execution, delivery and performance of this Agreement and any and all related documents are duly authorized and do not require the further consent or approval of any body, board or commission or other authority.

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

[Signatures on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized representatives on this date:

**ATTEST**

**REDEVELOPMENT AGENCY  
FOR THE COUNTY OF RIVERSIDE**

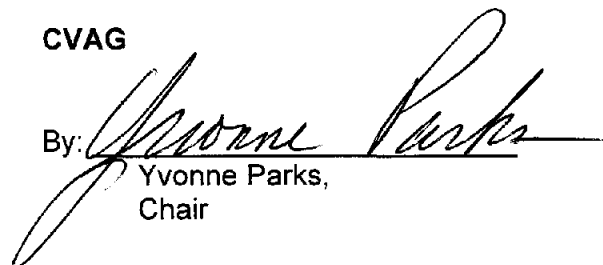
By: \_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Chairman,  
Board of Directors

**ATTEST:**

**CVAG**

By: \_\_\_\_\_  
Tom Kirk,  
Executive Director

By:  \_\_\_\_\_  
Yvonne Parks,  
Chair

FORM APPROVED COUNTY COUNSEL  
BY:  ANITA C. WILLIS  
DATE: 6-16-11

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**FUTURE (FISCAL YEAR 2021/2022) REIMBURSEMENT AGREEMENT**

**"VARNER ROAD IMPROVEMENT PROJECT (RAMON ROAD TO MONTEREY AVENUE)"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

CVAG will only pay for improvements eligible for reimbursement as outlined in the most recent adoption of the CVAG Policies and Procedures Manual, as amended and in effect at the time of reimbursement.

**EXHIBIT "B"**

**ESTIMATE OF COST**

**FUTURE (FISCAL YEAR 2021/2022) REIMBURSEMENT AGREEMENT**

**"VARNER ROAD IMPROVEMENT PROJECT (RAMON ROAD TO MONTEREY AVENUE)"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

**Funding agreed upon as follows:**

1. CVAG Share (75%) - \$1,870,758
2. Agency Share (25%) - \$623,585

**CVAG will not provide reimbursement of qualified costs before Fiscal Year 2021/2022**

**EXHIBIT "C"**

**PROJECT SCHEDULE**

**FUTURE (FISCAL YEAR 2021/2022) REIMBURSEMENT AGREEMENT**

**"VARNER ROAD IMPROVEMENT PROJECT (RAMON ROAD TO MONTEREY AVENUE)"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

Design is complete

Construction

January 12, 2008 - July 2008

**EXHIBIT "D"**

**"PROJECT SIGN"**

**FUTURE (FISCAL YEAR 2021/2022) REIMBURSEMENT AGREEMENT**

**"VARNER ROAD IMPROVEMENT PROJECT (RAMON ROAD TO MONTEREY AVENUE)"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

The Project Sign shall consist of the following information:

**MEASURE "A"  
PROJECT**

**YOUR TAX DOLLARS  
AT WORK**

**"PROJECT NAME"**

**FUNDED BY:**

- RIVERSIDE COUNTY TRANSPORTATION COMMISSION/  
COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS
  
- LEAD AGENCY/AGENCY

**TOTAL**

**\$ x,xxx.xxx**

Other information, such as the CVAG Logo, City Logos and/or Measure "A" Funds Logo, is encouraged.

**CVAG – REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE  
FUTURE (FISCAL YEAR 2012/2013) REIMBURSEMENT AGREEMENT**

**“INTERSECTION IMPROVEMENTS AT RAMON ROAD AND VARNER ROAD PROJECT”**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

**THIS AGREEMENT** is made and entered into this \_\_\_ day of \_\_\_\_\_, 2011, by and between the Redevelopment Agency for the **County of Riverside**, (“**Agency**”), and the **Coachella Valley Association of Governments (“CVAG”)**, a California joint powers agency, and is made with reference to the following background facts and circumstances:

The “Coachella Valley Area Transportation Study,” a valley-wide study prepared under the auspices of CVAG, has identified various transportation and highway projects throughout the Coachella Valley as projects of regional importance. These projects are listed in the 2005 Update of the Transportation Project Prioritization Study document; and

Approval of a highway financing measure by the voters of Riverside County in November, 1988, (“Measure A,”) as well as the approval of an extension by the voters in November, 2000, has created a source of funds with which to construct such projects; and

CVAG by agreement with its member agencies and with the Riverside County Transportation Commission (“RCTC”), has been designated as the agency through which such funds are to be conveyed and disbursed for the purpose of completing said regional transportation projects; and

The CVAG Executive Committee, on July 31, 2006, approved the implementation of the amended Transportation Uniform Mitigation Fee (“TUMF”) Ordinance to increase the collected TUMF, effective January 1, 2007; and

Under CVAG’s policy of funding eligible projects by member jurisdictions, effective January 1, 2007, a jurisdiction pays one-quarter of the eligible costs (the “Jurisdiction One-Quarter”) and CVAG pays the other three-quarters (the “CVAG Three-Quarters”). Historically, the CVAG Three-Quarters has been paid as a reimbursement to the jurisdiction, as invoices are submitted and approved; and

CVAG has determined that as to member jurisdictions that do not participate in the TUMF program, projects will continue to go forward under the existing Reimbursement Policy; and

Agency desires to proceed with a project known as “**Intersection Improvements at Ramon Road and Varner Road**” (the “**Project**”). The estimated cost of the Project is not determined at this time. CVAG’s share of Project City’s costs is not determined at this time.

**NOW, THEREFORE**, in consideration of the mutual covenants and subject to the conditions contained herein, the parties do agree as follows:

1. The program embodied in this Agreement for the reimbursement of funds by CVAG shall apply only to those regional arterial projects that have heretofore been identified in the CVAG 2005 updated list of projects. The Project is one of those projects and is therefore eligible. **This project will receive future funding in Fiscal Year 2012/2013 contingent upon the availability of funds.**

2. The Project is generally described and referred to as **"Intersection Improvements at Ramon Road and Varner Road"**, hereinafter the "Project."

3. Any excess property purchased to secure the necessary right-of-way for the Project will be shared between the Agency and the Regional Arterial Program proportionately according to the funding of the purchase by each jurisdiction participating in the project. Excess property will be disposed of in the best interests of the Regional Arterial Program, in order to recapture funds expended. Any recaptured funds will reduce the overall cost of the project.

4. The scope of work for the Project is more particularly described in Exhibit "A," entitled "Scope of Services," attached hereto and made a part hereof. The cost estimate for the Project will be more particularly described in Exhibit "B," entitled "Estimate of Cost," which will be made a part of this Agreement by amendment hereto at such time as the costs are determined. The cost estimate will include a calculation intended to allow Agency to recover an amount representing the time of its employed staff in working on the Project, as well as the amount Agency shall pay to outside contractors in connection with the Project. Subject to the terms herein and all applicable rules regarding allowed costs, the amount of the Jurisdiction One-Quarter and the CVAG Three-Quarters shall be calculated by reference to the cost estimates as shown on Exhibit "B" when it is made a part of this Agreement. Exhibit "C," will be attached by amendment at such time as the "Project Schedule" is finalized.

5. It is the agreement between CVAG and Agency that, of the total Agency share for the cost of the Project (not determined at this time), CVAG shall pay not-to-exceed (not determined at this time) in FY 2012/2013, and Agency shall pay its remaining Jurisdiction One-Quarter of covered costs, as well as one hundred percent (100%) of all costs not eligible for reimbursement by CVAG.

6. Agency agrees to seek reimbursement of seventy-five percent of only those costs, up to the not-to-exceed limit, which are eligible for reimbursement by CVAG, as outlined in Section IV, "Cost Determination/Expense Eligibility," in the CVAG Policies and Procedures Manual, as amended and in effect at the time of reimbursement.

6.1 Agency shall be responsible for initial payment of all covered costs as they are incurred. Following payment of such costs, Agency shall submit invoices to CVAG requesting reimbursement of seventy-five percent of those eligible costs associated with the Project. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to Agency, and documents evidencing Agency's payment of the invoices or demands for payment. Agency shall also submit a Project Completion



Report, in a form acceptable to CVAG, with each statement. Agency shall submit invoices not more often than monthly and not less often than quarterly.

6.2 Agency shall, at the design stage of the Project, identify a project specific ratio "Project Ratio" for the construction phase of the project that distinguish between Capacity Enhancement items, Rehabilitation items or other items.

Agency shall apply that "Project Ratio" to the project construction cost and provide CVAG with supporting documents that will clearly identify "Capacity Enhancement" costs eligible for payment with TUMF, "Rehabilitation" costs eligible for payment with Measure "A", and other costs that are not eligible for reimbursement by CVAG.

All Invoices submitted to CVAG for reimbursement, shall include a table identifying "Capacity Enhancement" costs eligible for payment with TUMF, "Rehabilitation" costs eligible for payment with Measure "A", and other costs that are not eligible for reimbursement by CVAG.

6.3 Upon receipt of an invoice from Agency, CVAG may request additional documentation or explanation of the Project costs. For purposes of this Future Agreement, Agency shall submit written instructions to CVAG with each reimbursement invoice to pay the requested reimbursement amount to the Redevelopment Agency for the County of Riverside, and CVAG shall comply with such instructions. Undisputed reimbursement amounts shall be paid by CVAG to Agency within thirty (30) days.

6.4 If a post-payment audit or review indicates that CVAG has provided reimbursement to Agency in an amount in excess of seventy-five percent of eligible costs, or has provided reimbursement of ineligible Project costs, Agency shall reimburse CVAG for the excess or ineligible payments within thirty (30) days of notification by CVAG.

7. Prior to any final payment to Agency by CVAG, a final report shall be submitted to CVAG by Agency containing a record of all payments made for said Project and the source of funds of all such payments, together with a record of all change orders, cost over-runs, and other expenses incurred. Final payment will thereafter be paid by CVAG in accordance with its rules, regulations and policies concerning project cost determination and expense eligibility.

8. The format used for all bids solicited by Agency for the Project shall require itemization sufficient to allow quantities of each bid item to be easily discernible. It shall be the responsibility of Agency to determine what quantity is for Capacity Enhancement and/or Rehabilitation, and to provide CVAG staff with that information.

9. The parties agree that should unforeseen circumstances arise which result in new work not covered in Exhibit "A," an increase of any costs over those shown in Exhibit "B," when this Agreement is amended to incorporate Exhibit "B or other changes in the Scope of Work are proposed, CVAG will in good faith consider an amendment to this Agreement to provide for further appropriate reimbursement if the proposed amendment is in accordance with the policies, procedures, and cost determination/expense eligibility criteria adopted by CVAG. Non-substantive changes may be made to this agreement subject to CVAG's General Counsel's approval.

10. Agency shall maintain an accounting of all funds received from CVAG pursuant to this Agreement in accordance with generally accepted accounting principles. Agency agrees to keep all Project contracts and records for a period of not less than three years from the date a notice of completion is filed by the Agency on such Project; or, if the Project is not one as to which a notice of completion would normally be recorded, for three years from the date of completion. Agency shall permit CVAG, at any reasonable time, upon reasonable notice, to inspect any records maintained in connection with the Project. CVAG shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of making or not making any such inspection.

11. The occurrence of any one or more of the following events shall, at CVAG's option, constitute an event of default and Agency shall provide CVAG with immediate notice thereof.

11.1 Any warranty, representation, statement, report or certificate made or delivered to CVAG by Agency or any of Agency's officers, employees or agents now or hereafter which is incorrect, false, untrue or misleading in any material respect;

11.2 Agency shall fail to pay, perform or comply with, or otherwise shall breach, any obligation, warranty, term or condition in this Agreement or any amendment to this Agreement, or any agreement delivered in connection with the Project; or

11.3 There shall occur any of the following: dissolution, termination of existence or insolvency of Agency; the commencement of any proceeding under any bankruptcy or insolvency law by or against Agency; entry of a court order which enjoins, restrains or in any way prevents Agency from paying sums owed to creditors.

12. No waiver of any Event of Default or breach by one party hereunder shall be implied from any omission by the other party to take action on account of such default, and no express waiver shall affect any default other than the default specified in the waiver and the waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by one party to or of any act by the other party shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent or similar act.

13. This Agreement is made and entered into for the sole protection and benefit of CVAG and Agency and no third person shall have any right of action under this Agreement.

14. It is the intent of the Agency and CVAG that the Project be represented as being funded by Measure "A"/TUMF funds. All public notices, news releases, and documents shall indicate that the Project is being cooperatively developed by the Agency, RCTC, and CVAG using Measure "A"/TUMF funds. Prior to initiation of on-site construction, Agency agrees to provide at least one "Project Sign" to be placed in a safe and visible location near the site of construction so that all travelers passing the location have the opportunity to observe who the agencies are that are providing funds for the construction of the Project. Exhibit "D," "Project Sign," provides a guide for Project Sign format.

15. This Agreement is for funding purposes only and nothing herein shall be construed so as to constitute CVAG as a party to the construction or in ownership or a partner or joint venturer with Agency as to the Project. The Agency shall assume the

defense of, indemnify and hold harmless CVAG, its member agencies, and their respective officers, directors, agents, employees, servants, attorneys, and volunteers, and each and every one of them, from and against all actions, damages, claims, losses and expenses of every type and description to which they may be subjected or put by reason of or resulting from the actions or inactions of the Agency related to the Project or taken in the performance of this Agreement or any agreement entered into by Agency with reference to the Project. CVAG shall assume the defense of, indemnify and hold harmless the Agency, its officers, directors, agents, employees, servants, attorneys, and volunteers, and each of them, from and against all actions, damages, claims, losses, and expenses of every type and description to which they may be subjected or put by reason of or resulting from the actions of CVAG taken in the performance of this Agreement.

16. Agency agrees to include in its contract specifications and bid documents a requirement that all prime contractors shall name CVAG and its member agencies as "also insured" on all liability insurance coverage required by Agency on each contract. Agency will provide a copy of the Insurance Certificate to CVAG, depicting CVAG and its member agencies as "also insureds," within 30 days of signing a contract with the prime contractor.

17. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by voluntary negotiations between the parties shall first be decided by the CVAG Executive Director or designee, who may consider any written or verbal evidence submitted by Agency. This decision shall be issued in writing. However, no action in accordance with this Section shall in any way limit either party's rights and remedies through actions in a court of law with appropriate jurisdiction. Neither the pendency of dispute nor its consideration by CVAG will excuse Agency from full and timely performance in accordance with the terms of this Agreement.

18. Any agency receiving federal funds must have an approved Disadvantaged Business Enterprise program. All recipients of Federal Highway Administration (FHWA) funds must carry out the provisions of Part 26, Title 49 of the Code of Federal Regulations (CFR) which established the Federal Department of Transportation's policy supporting the fullest possible participation of firms owned and controlled by minorities and women in the Department of Transportation programs. Except to the extent that such or other contrary federal regulations may apply, Agency covenants that, by and for itself and all persons claiming under or through it, there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the performance of this Agreement.

19. Agency warrants that all aspects of the Project shall be undertaken in compliance with all applicable local, state and federal rules, regulations and laws. Agency will execute and deliver to CVAG such further documents and do other acts and things as CVAG may reasonably request in order to comply fully with all applicable requirements and to effect fully the purposes of this Agreement.

20. This Agreement may not be assigned without the express written consent of CVAG first being obtained.

21. Agency, its successors in interest and assigns shall be bound by all the provisions contained in this Agreement.

22. No officer or employee of CVAG shall be personally liable to Agency, or any successor in interest, in the event of any default or breach by CVAG or for any amount which may become due to Agency or to its successor, or for breach of any obligation of the terms of this Agreement.

23. Notwithstanding any other provision herein, CVAG shall not be liable for payment or reimbursement of any sums for which CVAG has not first obtained the necessary and appropriate funding from TUMF and/or Measure "A" monies.

24. No officer or employee of CVAG shall have any personal interest, direct or indirect, in this Agreement; nor shall any such officer or employee participate in any decision relating to this Agreement which effects his or her personal interest or the interest of any corporation, partnership or association in which she or he is, directly or indirectly, interested, in violation of any state, federal or local law.

25. Agency warrants that the funds received by CVAG pursuant to this Agreement shall only be used in a manner consistent with CVAG's reimbursement policy and all applicable regulations and laws. Any provision required to be included in this type of agreement by federal or state law shall be deemed to be incorporated into this Agreement.

26. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing, such as Federal Express or UPS); sent by telecopier or facsimile machine capable of confirming transmission and receipt; or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

**If to Agency:**                      Redevelopment Agency for the County of Riverside  
44-199 Monroe Street, Suite B  
Indio, California 92201  
Attn: Fourth District Regional Manager  
Telephone: (760) 863-2552  
FAX No.: (760) 863-2551

**If to CVAG:**                              CVAG  
73-710 Fred Waring Drive  
Palm Desert, CA 92260  
Attn: Deputy Executive Director  
Telephone: (760) 346-1127  
FAX No.: (760) 340-5949

Notices sent in accordance with this paragraph shall be deemed delivered upon the next business day following the: (i) date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); (ii) the date of actual receipt (if personally delivered by other means); (iii) date of transmission (if sent by telecopier or facsimile machine); or (iv) the date of delivery as indicated on the return receipt if sent by certified or registered mail, return receipt requested. Notice of change of address shall be given by written notice in the manner detailed in this paragraph.

27. This Agreement and the exhibits herein contain the entire agreement between the parties, and is intended by the parties to completely state the agreement in full. Any agreement or representation respecting the matter dealt with herein or the duties of any party in relation thereto, not expressly set forth in this Agreement, is null and void.

28. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

29. In the event either party hereto brings an action or proceeding for a declaration of the rights of the parties, for injunctive relief, for an alleged breach or default, or any other action arising out of this Agreement, or the transactions contemplated hereby, the prevailing party in any such action shall be entitled to an award of reasonable attorneys' fees and costs incurred in such action or proceeding, in addition to any other damages or relief awarded, regardless of whether such action proceeds to final judgment.

30. Time is of the essence in this Agreement, and each and every provision hereof in which time is an element.

31. This Agreement and all documents provided for herein shall be governed by and construed in accordance with the laws of the State of California. Any litigation arising from this Agreement shall be adjudicated in the courts of Riverside County, Desert Judicial District, State of California.

32. Agency warrants that the execution, delivery and performance of this Agreement and any and all related documents are duly authorized and do not require the further consent or approval of any body, board or commission or other authority.

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

[Signatures on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized representatives on this date:

**ATTEST**

By: \_\_\_\_\_  
Clerk to the Board

**REDEVELOPMENT AGENCY  
FOR THE COUNTY OF RIVERSIDE**

By: \_\_\_\_\_  
Chairman,  
Board of Directors

**ATTEST:**

By: \_\_\_\_\_  
Tom Kirk,  
Executive Director

**CVAG**

By:   
Yvonne Parks,  
Chair

FORM APPROVED COUNTY COUNSEL

BY:  ANITA C. WILLIS  
DATE: 6-16-11

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**FUTURE (FISCAL YEAR 2012/2013) REIMBURSEMENT AGREEMENT**

**"INTERSECTION IMPROVEMENTS AT RAMON ROAD AND VARNER ROAD PROJECT"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

CVAG will only pay for improvements eligible for reimbursement as outlined in the adopted Policy and Procedures Manual, as amended and in effect at the time of reimbursement.

**EXHIBIT "B"**

**ESTIMATE OF COST**

**FUTURE (FISCAL YEAR 2012/2013) REIMBURSEMENT AGREEMENT**

**"INTERSECTION IMPROVEMENTS AT RAMON ROAD AND VARNER ROAD PROJECT"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

**Funding agreed upon as follows:**

Not determined at this time



**EXHIBIT "C"**

**PROJECT SCHEDULE**

**FUTURE (FISCAL YEAR 2012/2013) REIMBURSEMENT AGREEMENT**

**"INTERSECTION IMPROVEMENTS AT RAMON ROAD AND VARNER ROAD PROJECT"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

Design is complete

Construction

Summer, 2011

**EXHIBIT "D"**

**"PROJECT SIGN"**

**FUTURE (FISCAL YEAR 2012/2013) REIMBURSEMENT AGREEMENT**

**"INTERSECTION IMPROVEMENTS AT RAMON ROAD AND VARNER ROAD PROJECT"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

The Project Sign shall consist of the following information:

**MEASURE "A"  
PROJECT**

**YOUR TAX DOLLARS  
AT WORK**

**"PROJECT NAME"**

**FUNDED BY:**

- RIVERSIDE COUNTY TRANSPORTATION COMMISSION/  
COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS
- LEAD AGENCY/AGENCY

**TOTAL**

**\$ x,xxx,xxx**

Other information, such as the CVAG Logo, City Logos and/or Measure "A" Funds Logo, is encouraged.

**CVAG – REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE**

**FUTURE (FISCAL YEAR 2027/2028) REIMBURSEMENT AGREEMENT**

**“AIRPORT BOULEVARD IMPROVEMENT PROJECT (AVENUE 56)  
FROM HARISON STREET TO HIGHWAY 111”**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

**THIS AGREEMENT** is made and entered into this \_\_\_ day of \_\_\_\_\_, 2011, by and between the **Redevelopment Agency for the County of Riverside**, (“Agency”), and the **Coachella Valley Association of Governments (“CVAG”)**, a California joint powers agency, and is made with reference to the following background facts and circumstances:

The “Coachella Valley Area Transportation Study,” a valley-wide study prepared under the auspices of CVAG, has identified various transportation and highway projects throughout the Coachella Valley as projects of regional importance. These projects are listed in the 2005 Update Transportation Project Prioritization Study document; and

Approval of a highway financing measure by the voters of Riverside County in November, 1988, (“Measure A,”) as well as the approval of an extension by the voters in November, 2000, has created a source of funds with which to construct such projects; and

CVAG by agreement with its member agencies and with the Riverside County Transportation Commission (“RCTC”), has been designated as the agency through which such funds are to be conveyed and disbursed for the purpose of completing said regional transportation projects; and

The CVAG Executive Committee, on July 31, 2006, approved the implementation of the amended Transportation Uniform Mitigation Fee (“TUMF”) Ordinance to increase the collected TUMF, effective January 1, 2007; and

Under CVAG’s policy of funding eligible projects by member jurisdictions, effective January 1, 2007, a jurisdiction pays one-quarter of the eligible costs (the “Jurisdiction One-Quarter”) and CVAG pays the other three-quarters (the “CVAG Three-Quarters”). Historically, the CVAG Three-Quarters has been paid as a reimbursement to the jurisdiction, as invoices are submitted and approved; and

CVAG has determined that as to member jurisdictions that do not participate in the TUMF program, projects will continue to go forward under the existing Reimbursement Policy; and

Agency desires to proceed with a project known as **“Airport Boulevard Improvement Project (Avenue 56) from Harrison Street to Highway 111”** (the “Project”). The estimated cost of the Project is \$10,531,470. CVAG’s share of Project costs is 75% of **qualified project costs**.

**NOW, THEREFORE**, in consideration of the mutual covenants and subject to the conditions contained herein, the parties do agree as follows:

1. The program embodied in this Agreement for the reimbursement of funds by CVAG shall apply only to those regional arterial projects that have heretofore been identified in the CVAG 2005 updated list of projects. The Project is one of those projects and is therefore eligible. **This project will receive future funding in Fiscal Year 2027/2028 contingent upon the availability of funds.**

2. The Project is generally described and referred to as **"Airport Boulevard Improvement Project (Avenue 56) from Harrison Street to Highway 111"**, hereinafter the "Project."

3. Any excess property purchased to secure the necessary right-of-way for the Project will be shared between the Agency and the Regional Arterial Program proportionately according to the funding of the purchase by each jurisdiction participating in the project. Excess property will be disposed of in the best interests of the Regional Arterial Program, in order to recapture funds expended. Any recaptured funds will reduce the overall cost of the project".

4. The scope of work for the Project is more particularly described in Exhibit "A," entitled "Scope of Services," attached hereto and made a part hereof. The cost estimate for the Project will be more particularly described in Exhibit "B," entitled "Estimate of Cost." The cost estimate will include a calculation intended to allow Agency to recover an amount representing the time of its employed staff in working on the Project, as well as the amount Agency shall pay to outside contractors in connection with the Project. Subject to the terms herein and all applicable rules regarding allowed costs, the amount of the Jurisdiction One-Quarter and the CVAG Three-Quarters shall be calculated by reference to the cost estimates as shown on Exhibit "B." Exhibit "C," will be attached by amendment at such time as the "Project Schedule" is finalized.

5. It is the agreement between CVAG and Agency that, of the total Agency share for the cost of the Project as set out in the Regional Arterial Cost Estimate, as adjusted for Fiscal Year 2027/2028, CVAG shall pay not-to-exceed seventy five percent (75%) of the eligible costs in FY 2027/2028, and Agency shall pay its remaining Jurisdiction One-Quarter of covered costs, as well as one hundred percent (100%) of all costs not eligible for reimbursement by CVAG.

6. Agency agrees to seek reimbursement of seventy-five percent of only those costs, up to the not-to-exceed limit, which are eligible for reimbursement by CVAG, as outlined in Section IV, "Cost Determination/Expense Eligibility," of the CVAG Policy and Procedures Manual, as amended and in effect at the time of reimbursement.

6.1 Agency shall be responsible for initial payment of all covered costs as they are incurred. Following payment of such costs, Agency shall submit invoices to CVAG requesting reimbursement of seventy-five percent of those eligible costs associated with the Project. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to Agency, and documents evidencing Agency's payment of the invoices or demands for payment. Agency shall also submit a Project Completion Report, in a form acceptable to CVAG,

6.2 Agency shall, at the design stage of the Project, identify a project specific ratio ("Project Ratio") for the construction phase of the project that distinguishes between Capacity Enhancement items, Rehabilitation items or other items.

Agency shall apply that "Project Ratio" to the project construction cost and provide CVAG with supporting documents that will clearly identify "Capacity Enhancement" costs eligible for payment with TUMF, "Rehabilitation" costs eligible for payment with Measure "A", and other costs that are not eligible for reimbursement by CVAG.

All Invoices submitted to CVAG for reimbursement, shall include a table identifying "Capacity Enhancement" costs eligible for payment with TUMF, "Rehabilitation" costs eligible for payment with Measure "A", and other costs that are not eligible for reimbursement by CVAG.

6.3 Upon receipt of an invoice from Agency, CVAG may request additional documentation or explanation of the Project costs. Undisputed reimbursement amounts shall be paid by CVAG to Agency in Fiscal Year 2027/2028.

6.4 If a post-payment audit or review indicates that CVAG has provided reimbursement to Agency in an amount in excess of seventy-five percent of eligible costs, or has provided reimbursement of ineligible Project costs, Agency shall reimburse CVAG for the excess or ineligible payments within thirty (30) days of notification by CVAG.

7. Prior to any final payment to Agency by CVAG, a final report shall be submitted to CVAG by Agency containing a record of all payments made for said Project and the source of funds of all such payments, together with a record of all change orders, cost over-runs, and other expenses incurred. Final payment will thereafter be paid by CVAG in Fiscal Year 2027/2028 in accordance with its rules, regulations and policies concerning project cost determination and expense eligibility.

8. The format used for all bids solicited by Agency for the Project shall require itemization sufficient to allow quantities of each bid item to be easily discernible. It shall be the responsibility of Agency to determine what quantity is for Capacity Enhancement and/or Rehabilitation, and to provide CVAG staff with that information.

9. The parties agree that should unforeseen circumstances arise which result in new work not covered in Exhibit "A," an increase of any costs over those shown in Exhibit "B," when this Agreement is amended to incorporate Exhibit "B" or other changes in the Scope of Work are proposed, CVAG will in good faith consider an amendment to this Agreement to provide for further appropriate reimbursement if the proposed amendment is in accordance with the policies, procedures, and cost determination/expense eligibility criteria adopted by CVAG. Non-substantive changes may be made to this agreement subject to CVAG's General Counsel's approval.

10. The term of this Agreement shall run from the date first set out above through June 30, 2028, unless sooner terminated by the parties pursuant to Section 12 below.

11. Agency shall maintain an accounting of all funds received from CVAG pursuant to this Agreement in accordance with generally accepted accounting principles. Agency agrees to keep all Project contracts and records for a period of not less than three years from the date a notice of completion is filed by the Agency on such Project; or, if the Project is not one as to

which a notice of completion would normally be recorded, for three years from the date of completion. Agency shall permit CVAG, at any reasonable time, upon reasonable notice, to inspect any records maintained in connection with the Project. CVAG shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of making or not making any such inspection.

12. The occurrence of any one or more of the following events shall, at option of the non-breaching party,, constitute an Event of Default providing grounds for termination of this Agreement, and the breaching party shall provide the immediate notice thereof.

12.1 Any warranty, representation, statement, report or certificate made or delivered to one party by the other party, or by any of the other party's officers, employees or agents now or hereafter which is incorrect, false, untrue or misleading in any material respect;

12.2 A party shall fail to pay, perform or comply with, or otherwise shall breach, any obligation, warranty, term or condition in this Agreement or any amendment to this Agreement, or any agreement delivered in connection with the Project; or

12.3 There shall occur any of the following: dissolution, termination of existence or insolvency of a party; the commencement of any proceeding under any bankruptcy or insolvency law by or against a party; entry of a court order which enjoins, restrains or in any way prevents a party from paying sums owed to creditors.

13. No waiver of any Event of Default or breach by one party hereunder shall be implied from any omission by the other party to take action on account of such default, and no express waiver shall affect any default other than the default specified in the waiver and the waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by one party to or of any act by the other party shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent or similar act.

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16. This Agreement is for funding purposes only and nothing herein shall be construed so as to constitute CVAG as a party to the construction or in ownership or a partner or joint venturer with Agency as to the Project. The Agency shall assume the defense of, indemnify and hold harmless CVAG, its member agencies, and their respective officers, directors, agents, employees, servants, attorneys, and volunteers, and each and every one of them, from and against all actions, damages, claims, losses and expenses of every type and description to which they may be subjected or put by reason of or resulting from the actions or inactions of the Agency related to the Project or taken in the performance of this Agreement or

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18. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by voluntary negotiations between the parties shall first be decided by the CVAG Executive Director or designee, who may consider any written or verbal evidence submitted by Agency. This decision shall be issued in writing. However, no action in accordance with this Section shall in any way limit either party's rights and remedies through actions in a court of law with appropriate jurisdiction. Neither the pendency of dispute nor its consideration by CVAG will excuse Agency from full and timely performance in accordance with the terms of this Agreement.

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25. No officer or employee of CVAG shall have any personal interest, direct or indirect, in this Agreement; nor shall any such officer or employee participate in any decision relating to this Agreement which effects his or her personal interest or the interest of any corporation, partnership or association in which she or he is, directly or indirectly, interested, in violation of any state, federal or local law.

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Attn: 4<sup>th</sup> District Regional Manager  
Telephone: (760) 863-2552  
FAX No.: (760) 863-2551

**If to CVAG:**                              CVAG  
73-710 Fred Waring Drive  
Palm Desert, CA 92260  
Attn: Deputy Executive Director  
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28. This Agreement and the exhibits herein contain the entire agreement between the parties, and is intended by the parties to completely state the agreement in full. Any agreement or representation respecting the matter dealt with herein or the duties of any party in relation thereto, not expressly set forth in this Agreement, is null and void.

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persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

30. In the event either party hereto brings an action or proceeding for a declaration of the rights of the parties, for injunctive relief, for an alleged breach or default, or any other action arising out of this Agreement, or the transactions contemplated hereby, the prevailing party in any such action shall be entitled to an award of reasonable attorneys' fees and costs incurred in such action or proceeding, in addition to any other damages or relief awarded, regardless of whether such action proceeds to final judgment.

31. Time is of the essence in this Agreement, and each and every provision hereof in which time is an element.

32. This Agreement and all documents provided for herein shall be governed by and construed in accordance with the laws of the State of California. Any litigation arising from this Agreement shall be adjudicated in the courts of Riverside County, Desert Judicial District, State of California.

33. Upon approval of the Board of Directors, Agency warrants that the execution, delivery and performance of this Agreement and any and all related documents are duly authorized and do not require the further consent or approval of any body, board or commission or other authority.

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

[Signatures on next page.]

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed by their duly authorized representatives on this date:

**ATTEST**

**REDEVELOPMENT AGENCY  
FOR THE COUNTY OF RIVERSIDE**

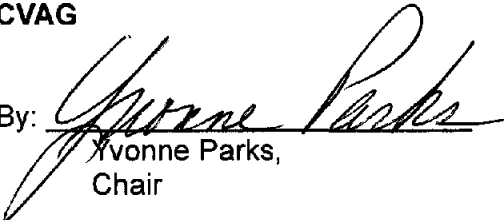
By: \_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Chairman,  
Board of Directors

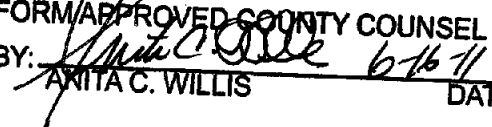
**ATTEST:**

**CVAG**

By: \_\_\_\_\_  
Tom Kirk,  
Executive Director

By:   
Yvonne Parks,  
Chair

**FORM APPROVED COUNTY COUNSEL**

BY:   
ANITA C. WILLIS DATE 6-16-11

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**FUTURE (FISCAL YEAR 2027/2028) REIMBURSEMENT AGREEMENT**

**"AIRPORT BOULEVARD IMPROVEMENT PROJECT (AVENUE 56)  
FROM HARISON STREET TO HIGHWAY 111"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

CVAG will only pay for improvements eligible for reimbursement as outlined in the adopted Project Cost Determination and Expense Eligibility manual, as amended and effect at the time of reimbursement.

**EXHIBIT "B"**

**ESTIMATE OF COST**

**FUTURE (FISCAL YEAR 2027/2028) REIMBURSEMENT AGREEMENT**

**"AIRPORT BOULEVARD IMPROVEMENT PROJECT (AVENUE 56)  
FROM HARISON STREET TO HIGHWAY 111"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

**Funding agreed upon as follows:**

CVAG Share (75%) -\$7,898,603

Agency Share (25%) - \$2,632,867

**CVAG will not provide reimbursement of qualified costs before Fiscal Year 2027/2028**

**EXHIBIT "C"**

**PROJECT SCHEDULE**

**FUTURE (FISCAL YEAR 2027/2028) REIMBURSEMENT AGREEMENT**

**"AIRPORT BOULEVARD IMPROVEMENT PROJECT (AVENUE 56)  
FROM HARISON STREET TO HIGHWAY 111"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

Design is complete

Construction            January 12, 2008 - July 2008

**EXHIBIT "D"**

**"PROJECT SIGN"**

**FUTURE (FISCAL YEAR 2027/2028) REIMBURSEMENT AGREEMENT**

**"AIRPORT BOULEVARD IMPROVEMENT PROJECT (AVENUE 56)  
FROM HARISON STREET TO HIGHWAY 111"**

**DESIGN, RIGHT-OF-WAY & CONSTRUCTION**

The Project Sign shall consist of the following information:

**MEASURE "A"  
PROJECT**

**YOUR TAX DOLLARS  
AT WORK**

**"PROJECT NAME"**

**FUNDED BY:**

- RIVERSIDE COUNTY TRANSPORTATION COMMISSION/  
COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS
- LEAD AGENCY/AGENCY

**TOTAL**

**\$ x,xxx,xxx**

Other information, such as the CVAG Logo, City Logos and/or Measure "A" Funds Logo, is encouraged.