

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

674



FROM: Regional Park and Open-Space District

SUBMITTAL DATE:
May 20, 2014

SUBJECT: Approve Funding Agreement between the Riverside County Regional Park and Open-Space District and the Riverside County Transportation Commission for planning and development of a Bicycle/Pedestrian Trail Corridor along the planned Perris Valley Line; Two (2) year Funding Agreement; District - 2/5, 1/2/5; [\$200,000] RCTC

RECOMMENDED MOTION: That the Board of Directors:

1. Approve the Funding Agreement between the Riverside County Regional Park and Open-Space District and the Riverside County Transportation Commission for planning and development of a Bicycle/Pedestrian Trail Corridor along RCTC's planned Perris Valley Line in the amount of \$200,000;
2. Authorize the Chairperson to execute four (4) copies of the Agreement;
3. Direct the Clerk of the Board to return three (3) copies of the executed Agreement to the Riverside County Regional Park and Open-Space District for processing and distribution; and
4. Approve and direct the Auditor-Controller to make the budget adjustments shown on Schedule A, attached.

BACKGROUND: (continued on page 2)


Scott Bangle
General Manager

2014-019D SB

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 10,000	\$ 190,000	\$ 200,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: Riverside County Transportation Commission				Budget Adjustment: Yes	
				For Fiscal Year: 13/14 14/15	

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

DISTRICT


Prev. Agn. Ref.:

District: 2/5, 1/2/5

Agenda Number:

13-2

FISCAL PROCEDURES APPROVED
PAUL ANGLIO, CPA, AUDITOR-CONTROLLER
BY: 
Esteban Hernandez

FORM APPROVED COUNTY COUNSEL
DATE: 
BY: NEAL R. KIPNIS

- A-30
- Positions Added
- 4/5 Vote
- Change Order

SUBMITTAL TO THE BOARD OF DIRECTORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Approve Funding Agreement between the Riverside County Regional Park and Open-Space District and the Riverside County Transportation Commission for planning and development of a Bicycle/Pedestrian Trail Corridor along the planned Perris Valley Line; Two (2) year Funding Agreement; District- 2/5, 1/2/5; [\$200,000] RCTC

DATE: May 20, 2014

PAGE: 2 of 2

BACKGROUND:

Summary

On July 9, 2013, Riverside County Transportation Commission (RCTC) and Friends of Riverside Hills (FORH) entered into a settlement agreement (Agreement) to establish the terms of a full and complete settlement of all claims and actions in connection with the Perris Valley Line Project. The Agreement requires RCTC to provide \$650,000 in funding to the Riverside County Regional Park and Open-Space District (District) and/or Riverside City Department of Parks and Recreation (City) for the design and development of bicycle/pedestrian trails located within specified areas of the Perris Valley Rail Line Alignment.

The District, in partnership with the City, determined that a comprehensive plan was needed to assist in trails planning, acquisition, construction and maintenance. FORH and RCTC support the direction and have agreed to fund the plan with a not-to-exceed amount of \$200,000.

Impact on Citizens and Businesses

The project, when completed, will provide the residents of the County of Riverside with a sustainable multipurpose recreation trails system through the Box Springs Mountain Reserve and connecting to the surrounding area. It will provide key trail links within the Box Springs Mountain Reserve to the trail systems within the cities of Moreno Valley and Riverside, the unincorporated area of Highgrove, the University of California, Riverside, and the County's currently adopted "Non Motorized Trails Element" in the General Plan, thus providing established alternate methods of transportation and an improved quality of life for residents.

SUPPLEMENTAL:

Additional Fiscal Information

Fiscal Year FY13-14 costs under this agreement will be \$10,000, with the remaining \$190,000 to be spent during FY14-15. No County Costs will be incurred, and a budget adjustment is required in the current fiscal year.

SCHEDULE A

Increase Estimated Revenues:

25400	931104	777520	Reimbursement for Services	200,000
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Increase Appropriations:

25400	931104	525440	Professional Services	200,000
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Agreement No. ___-___-___-___

FUNDING AGREEMENT FOR BICYCLE/PEDESTRIAN TRAILS LOCATED ALONG THE PERRIS VALLEY LINE ALIGNMENT PURSUANT TO THE PERRIS VALLEY PROJECT SETTLEMENT AGREEMENT DATED JULY 9, 2013, AS AMENDED

THIS FUNDING AGREEMENT (“Agreement”) is made and entered into as of _____, 2014, by and between the Riverside County Transportation Commission, ("RCTC") and Riverside County Regional Park & Open Space District (the “District”),

1. Recitals.

1.1 Paragraph 22 of Exhibit A of the Perris Valley Project Settlement Agreement dated July 9, 2013, as amended (the “Settlement Agreement”) attached hereto as Attachment A and incorporated herein by this reference, requires RCTC to provide \$650,000 to the District and/or Riverside City Department of Parks and Recreation (the “City”), for the funding of bicycle/pedestrian trails located in certain specified areas along the Perris Valley Line alignment.

1.2 The District, in partnership with the City, will be developing a Comprehensive General Plan for the Box Springs Reserve. This planning effort will work to inform future acquisition efforts, trail alignments, and staging areas for recreational activity for the bicycle/pedestrian trails in accordance with both the Riverside County General Plan and the City of Riverside General Plan (the “Project”). The not to exceed estimated cost for the Project is \$200,000.

1.3 By letter dated February 24, 2014, the District, requested that RCTC advance \$200,000 of the total \$650,000 required by paragraph 22 of Exhibit A of the Settlement Agreement, to enable the District to fund the Project.

1.4 By letter dated March 10, 2014, Friends of Riverside’s Hills (“FORH”) consented to RCTC advancing the funds requested by the District for the Project and agreed that payment of \$200,000 to the District partially satisfies paragraph 22 of Exhibit A of the Settlement Agreement in the amount of \$200,000.

1.5 By letter dated March 31, 2014, FORH consented to RCTC extending the date for expenditure of \$200,000 by the District to May 2016 in lieu of July 2015 as stated in paragraph 22 of Exhibit A of the Settlement Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings and covenants herein, and for such other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree and covenant as follows:

2. Grant Terms.

2.1 General Scope of Grant. Subject to the terms of this Agreement and in compliance with the obligations set forth in the Settlement Agreement, RCTC shall advance to the District under this Agreement a total funding amount equal to Two Hundred Thousand

Dollars (\$200,000) (“Grant Funds”). The District shall use the Grant Funds exclusively to implement, staff, manage, and operate the Project. Unless otherwise agreed by RCTC and the District, any portion of the Grant Funds not used by the District for the Project within 24 months shall be returned to RCTC to be placed into the Trail/Conservation Land Fund in accordance with paragraph 14 of Exhibit A of the Settlement Agreement.

2.2 Bi-Annual Accounting.

(a) RCTC’s payment of the Grant Funds is expressly conditioned on the District providing a bi-annual accounting of any and all use of the Grant Funds in accordance with the Settlement Agreement. The bi-annual accounting shall be transmitted jointly by the District to the FORH with copy to RCTC. RCTC understands that the FORH has already apprised and discussed this accounting requirement with the District, and that FORH has agreed that any obligation by RCTC as to the bi-annual accounting requirement will be fully satisfied if RCTC transmits a letter to the District concurrent with the funding stating that such funds are taken subject to the accounting condition. This Agreement constitutes such statement and the District’s agreement that the Grant Funds are taken subject to the aforementioned bi-annual accounting condition.

(b) If it is determined pursuant to an audit or bi-annual accounting that any funds granted hereunder have been improperly expended, the District shall reimburse RCTC for the full amount of such improperly expended funds within thirty (30) days of notification and request for repayment by RCTC. All such reimbursed funds shall be placed by RCTC into the Trail/Conservation Land Fund in accordance with paragraph 14 of Exhibit A of the Settlement Agreement.

2.3 Indemnification. The District shall defend, indemnify and hold RCTC, its directors, officials, officers, employees, agents and/or volunteers free and harmless from any and all liability from loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of the District or any of its agents, employees, volunteers, or service providers arising out of or in connection with the District’s receipt or use of the Grant Funds or performance of this Agreement, including without limitation the payment of consequential damages and attorneys' fees. The District shall reimburse RCTC and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

3. Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suits.

4. No Third Party Rights. Except as expressly set forth herein, nothing contained in this Agreement is intended to confer any right or benefit upon any person or entity other than the parties hereto and their successors.

5. Incorporation of Recitals. The Recitals set forth above are true and correct and are incorporated into this Agreement by reference as though fully set forth herein.

SIGNATURE PAGE TO

**FUNDING AGREEMENT FOR BICYCLE/PEDESTRIAN TRAILS LOCATED ALONG
THE PERRIS VALLEY LINE ALIGNMENT PURSUANT TO THE PERRIS VALLEY
PROJECT SETTLEMENT AGREEMENT DATED JULY 9, 2013, AS AMENDED**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.


**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

**RIVERSIDE COUNTY REGIONAL
PARK & OPEN SPACE DISTRICT**

By: 
Anne E. Mayer, Executive Director

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: 
Best Best & Krieger LLP
Counsel to the Riverside
County Transportation Commission

FORM APPROVED COUNTY COUNSEL
BY: 
NEAL R. KIPNIS DATE

ATTACHMENT "A"
SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") dated and made effective as of July 9th, 2013 is entered into by, between, and among the Riverside County Transportation Commission ("RCTC") and the Friends of Riverside's Hills ("FORH") (each of whom shall be referred to individually as a "Party" or collectively as the "Parties"). It is the intent of the Parties that this Agreement shall establish the terms of a full and complete settlement of all claims and actions raised in *Friends of Riverside's Hills v. Riverside County Transportation Commission et al.*, Riverside County Superior Court Case No. RIC1113896 or the associated appeal pending before the California Court of Appeal for the 4th Appellate District, Division 2 Case No. E058933 (jointly, the "Litigation"), or that could be raised in those cases or in connection with any other past or future approval of the Perris Valley Line Project (the "Project"), and/or the environmental review performed for the Project under the California Environmental Quality Act ("CEQA"), the National Environmental Policy Act ("NEPA"), or any other law so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013. The terms of this Agreement are intended to be the limit of the Parties' obligations.

I. RECITALS

- A. On August 23, 2011, FORH filed a Petition for Writ of Mandate against RCTC, the Southern California Regional Rail Authority ("SCRRA") and the BNSF Railway Company ("BNSF") asserting alleged violations of CEQA.
- B. On June 22, 2012, FORH filed a First Amended Petition for Writ of Mandate against RCTC, SCRRA, and BNSF asserting alleged violations of CEQA arising out of and related to RCTC's approval of the Project, including adoption of Resolution No. 11-013 certifying the Final Environmental Impact Report for the Perris Valley Line Project, adopting a Mitigation Monitoring and Reporting Plan, and otherwise approving the Perris Valley Line Project on July 25, 2011.
- C. As set forth more fully in RCTC's Resolution No. 11-103 and the Final Environmental Impact Report, the Project consists of the extension of Metrolink commuter rail service across a 24-mile route between the existing Riverside Downtown Station and the City of Perris. Metrolink service would be provided within the existing San Jacinto Branch Line (SJBL) corridor and would include one new curve, the "Citrus Connection." The Project also includes the installation and rehabilitation of track, construction of four passenger rail stations and a Layover Facility, improvements to existing grade crossings and culverts, and other activities necessary for the Project. RCTC's Project approvals also included the execution of a Memorandum of Understanding between RCTC and the Riverside Unified School District.
- D. On May 14, 2013, the Superior Court issued a Judgment and Peremptory Writ of Mandate directing RCTC to vacate and set aside its Project approvals, including its July 25, 2011 decisions adopting Resolution No. 11-013 approving the Perris Valley Line Project, certifying the Final EIR for the Project, and adopting the Mitigation Monitoring and Reporting Plan for the Project; and to take any steps necessary to proceed consistent

with the Judgment of the Superior Court and the requirements of CEQA in any reconsideration and approval of the Project.

- E. Specifically, the May 14, 2013 Superior Court Minute Order accompanying the Writ of Mandate stated that, “[i]n this situation the better course is to leave it to [RCTC] to determine the appropriate means for correcting the deficiencies” identified in the Judgment.
- F. On June 10, 2013, RCTC filed an appeal seeking review of the Superior Court’s decision, which is currently pending before the California Court of Appeal for the 4th Appellate District, Division 2.
- G. The Parties have agreed to use this Settlement Agreement to achieve a full and complete resolution of all claims that have been asserted or that could be asserted by FORH or RCTC in the Litigation, or in any future disputes, claims, or actions, in relation to the Project so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013. The Parties have further agreed that the Project, as modified, fully addresses and satisfies the Judgment and Writ issued by the Superior Court on May 14, 2013.
- H. The Parties agree that this Settlement Agreement is entered into with the goal of achieving global settlement of any and all present and future claims and/or litigation regarding the Project so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013.

II. TERMS

NOW THEREFORE, in consideration of the mutual covenants, agreements, representations, and warranties contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. RCTC’s Obligations.

1. RCTC shall implement the terms and actions set forth in Exhibit “A.”
2. Without admitting any liability, and in consideration of the terms of the Agreement, RCTC agrees to pay to FORH’s counsel Raymond Johnson of Johnson & Sedlack, in satisfaction of all attorney’s fees, costs, and other litigation expenses, the sum of \$250,000 as full and final settlement of all outstanding claims, including any claims for attorneys’ and consultants’ fees and costs relating to the Litigation (the “Settlement Payment”). The Settlement Payment will be in the form of a check made payable to “Johnson & Sedlack Client Trust Account” to be delivered to FORH’s counsel, Raymond Johnson, within five (5) business days after the Dismissal with Prejudice and the Dismissal of the Appeal described below. Except as set forth in this Paragraph, FORH and their legal counsel

specifically waive any right and/or claim to any additional attorneys' fees, costs, and/or consultant fees related to this Litigation and/or the Project.

B. FORH's Obligations.

1. FORH shall likewise implement and support RCTC's implementation of the terms and actions set forth in Exhibit "A."
2. Duty Not to Object or Disrupt Process for Project Approval. FORH has represented to all other Parties that it supports this Agreement and the Project with the conditions imposed by this Agreement. FORH on behalf of itself, its current and future members, agents, successors, assigns, designees, and officers, will not directly or indirectly object, oppose, delay, frustrate, or disrupt the full and complete design, approval, or implementation of the Project subject to the terms and conditions of this Agreement, nor will it directly or indirectly encourage or fund others to undertake those actions, so long as the project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013. FORH, on behalf of itself, its current and future members, agents, successors, assigns, designees, and officers, further agrees that it will not submit or provide verbal or written comments to any decision-making body or public agency, including the Federal Transit Administration ("FTA") or any other public agency that must issue a Project approval, that are critical of the Project or are intended to object to or oppose the full and complete design, approval, or implementation of the Project, subject to the terms and conditions of this Agreement, and so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013. Further, FORH, on behalf of itself, its current and future members, agents, successors, assigns, designees, and officers, further agrees that it will not directly or indirectly encourage or fund others to undertake the aforementioned actions.
3. Covenant not to Sue. FORH for itself and its current and future members, agents, successors, assigns, designees, and officers, agrees not to initiate, commence, or participate in any administrative appeal or lawsuit against RCTC, SCRRRA, BNSF, RUSD, FTA, the City of Riverside or any other public or private entity or the members or officers thereof relating to the Project's design, environmental review, approval, or implementation whether under CEQA, NEPA, or any other laws – except to enforce the terms of this Agreement, so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013. FORH for itself and its current and future members, agents, successors, assigns, designees, and officers shall not sue (i.e., initiate, commence, or participate in any administrative appeal or lawsuit) to invalidate the Project and the use or modification of the Project including, but not limited to, any approvals needed for the development of any phase of the Project, as long as the development or use is consistent with the terms of this Agreement, so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the

Project as approved by RCTC in Resolution No. 11-013. FORH for itself and its current and future members, agents, successors, assigns, designees, and officers further agrees not to directly or indirectly encourage or fund others to undertake any of the actions described in this paragraph. The FORH specifically retains, however, the right to assert a claim, demand or cause of action challenging any failure by RCTC to comply with this Agreement.

C. RCTC's and FORH's Joint Obligations.

1. **Stipulated Return on the Writ.** Immediately upon execution of this Settlement Agreement, RCTC shall prepare, and FORH shall review and execute, a stipulated "Return" to the Peremptory Writ of Mandate issued by the Riverside County Superior Court on May 14, 2013. Such Return shall include a copy of this Agreement.
2. **Dismissal with Prejudice.** FORH and RCTC shall file any papers and/or jointly support any efforts necessary to effectuate the discharge of the Peremptory Writ of Mandate, the satisfaction of the Judgment, and the dismissal with prejudice of any and all remaining Superior Court actions, including the setting aside of any pending or future motions for attorney's fees or costs.
3. **Dismissal of the Appeal.** Immediately following the discharge of the Peremptory Writ of Mandate issued by the Superior Court, RCTC shall dismiss its appeal pending before the California Court of Appeal for the 4th Appellate District, Division 2.

D. Enforcement of Agreement. No action for breach of this Agreement shall be brought or maintained until: (a) the non-breaching Party provides written notice to the breaching Party which explains with particularity the nature of the claimed breach, and (b) within thirty (30) days after receipt of said notice, the breaching Party fails to cure the claimed breach or, in the case of a claimed breach which cannot be reasonably remedied within a thirty (30) day period, the breaching Party fails to commence to cure the claimed breach within such thirty (30) day period, and thereafter diligently complete the activities reasonably necessary to remedy the claimed breach.

E. Limits. This Agreement shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity, by any Party against RCTC or any of its governmental agencies, departments, political subdivisions or any other public entities other than those set forth herein.

F. Notices. Any notice or request required to be given to either Party under this Agreement shall be given in writing and shall be personally delivered or mailed by prepaid registered or certified mail to the addresses below:

Riverside County Transportation Commission	Anne Mayer, Executive Director Riverside County Transportation Commission 4080 Lemon Street, 3rd Floor Riverside, CA 92502-2208
Friends of Riverside's Hills	Raymond W. Johnson Johnson & Sedlack 26785 Camino Seco Temecula, CA 92590

Any address may be changed by providing written notice to all of the other parties.

Communications required in Exhibit A shall be given in writing and shall be personally delivered or mailed to those same addresses detailed above; registered or certified mail is unnecessary.

G. Entire Agreement. The Parties acknowledge that this Agreement is signed and executed without reliance upon any actual or implied promises, warranties or representations made by any of the Parties or by any representative of any of the Parties, other than those which are expressly contained within this Agreement. This Agreement, including the true and correct Recitals above, inclusive of all definitions contained therein, that are incorporated by reference herein as operative covenants and specifically relied upon by the Parties in executing this Agreement, constitutes the entire agreement and understanding among and between the Parties and supersedes any and all other agreements whether oral or written between the Parties.

H. Mutual General Releases.

1. Except as set forth in this Agreement, FORH releases RCTC and their respective owners, affiliates, members, council members, commissioners, officers, employees, agents and attorneys from any and all claims, demands, liabilities, obligations, costs, expenses, fees, actions, and/or causes of action that FORH have had or have as of the effective date of this Agreement arising out of, or connected to, the Litigation and the Project, whether known, unknown or suspected.

2. Except as set forth in this Agreement, RCTC releases FORH and their respective owners, affiliates, members, council members, commissioners, officers, employees, agents and attorneys from any and all claims, demands, liabilities, obligations, costs, expenses, fees, actions, and/or causes of action that RCTC have had or have as of the effective date of this Agreement arising out of, or connected to, the Litigation and the Project, whether known, unknown or suspected.

- I. **California Civil Code Section 1542.** Upon the Effective Date, as that term is defined below, each of the Parties has read and has otherwise been informed of the meaning of Section 1542 of the California Civil Code, and has consulted with its respective counsel, to the extent that any was desired, and understands the provisions of Section 1542. Each of the Parties hereby expressly waives the rights and benefits conferred upon it by the provisions of Section 1542 of the California Civil Code, which provides:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”



RCTC's Initials



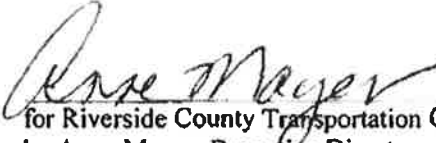
Friends of Riverside's Hills Initials

- J. **Amendments and Modifications.** This Agreement may only be amended or modified through writing executed by all the Parties.
- K. **Settlement, No Admissions by Parties.** Each of the Parties acknowledges that this Agreement relates to the avoidance of litigation and the preclusion of actions described above. The Parties, therefore, agree that this Agreement is not to be treated or construed, at any time or in any manner whatsoever, as an admission by any Party that any of the allegations in the Riverside Superior Court Case No. RIC1113896 or Fourth District Appellate Court Case No. E058933 has merit.
- L. **Choice of Law and Choice of Forum.** This Agreement shall be deemed to have been executed and delivered within the State of California; the rights and obligations of the Parties hereunder shall be governed, construed and enforced in accordance with the laws of the State of California. The venue for any dispute arising from or related to this Agreement, its performance, and its interpretation shall be the Superior Court of California, County of Riverside.
- M. **Damages.** The Parties agree (i) that the performance of the obligations of this Agreement are paramount, (ii) that, in the event of a breach, monetary damages will provide inadequate relief, and (iii) that each may seek equitable relief to enforce such obligations. In the event of litigation to enforce this Agreement, the prevailing party shall be entitled to reimbursement for costs and reasonable attorney's fees.
- N. **Authorized Signatory.** Each Party represents and warrants to each other Party that its signature to this Agreement has the authority to bind the Party, and this Agreement does in fact bind the Party.
- O. **Effective Date.** This Agreement is effective as of the effective date written in the first paragraph.

P. Counterparts. This Agreement may be executed in counterparts and when so executed by the Parties, shall become binding upon them and each such counterpart will be an original document.

[Signatures on Following Page]


7/9/2013
Date


for Riverside County Transportation Commission
by Anne Mayer, Executive Director

Approved as to form:
7/9/2013
Date


Michelle Ouellette, Legal Counsel
Best Best & Krieger LLP

July 9, 2013
Date


Friends of Riverside's Hills
by Gurumantra Khalsa, President

Approved as to form:
7/9/2013
Date

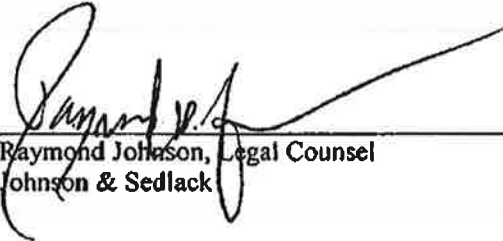

Raymond Johnson, Legal Counsel
Johnson & Sedlack

EXHIBIT A

1. Following the Execution of the Settlement Agreement, the Parties shall draft and issue a mutually acceptable press release announcing that the Parties' good faith negotiations have resulted in a successful settlement that is beneficial to both the parties and western Riverside County. The press release would also state that as a result of the Settlement, the Project will be able to proceed immediately and provide infrastructure that will serve future transportation needs which will benefit Riverside County. The press release would additionally state that FORH and RCTC worked together to achieve a settlement agreement that best serves the public and benefits the environment in the Riverside area.
2. RCTC shall provide a total of \$1,005,000 of funding for the installation of sound windows or other sound insulation at and/or the planting of trees or similar plants (e.g. tall shrubs) for sound insulation purposes outside of -- residences located adjacent to, and/or in the vicinity of, the Project alignment in the UCR Neighborhood. Funding for sound windows or other sound insulation shall be made available to property owners by RCTC at a cost of up to \$15,000 per residence. Funding for the planting and maintenance of trees -- which shall be the responsibility of the property owner -- shall be made available to property owners by RCTC at a cost of up to \$500 per residence. No property shall be required to grant any easement as a condition for receiving any of the above funding. FORH shall provide to RCTC a list of residences eligible for such funding and a manner for prioritization for the disposition of such funding which takes into account the noise levels expected to be experienced at each eligible residence, within 30 days of execution of this Agreement. RCTC shall notify the owners of qualified residential properties by mail, shall inform FORH quarterly of any disbursements of the funds, and shall make such funding available for a period of two years commencing upon Project construction. To the extent such funding is not exhausted during that two-year period, then within a reasonable period of time after that two year period has expired and at FORH's written request, RCTC shall put that remaining funding into the Trail/Conservation Land Fund described below, to be used according to the provisions of that Fund as described below.
3. The Environmental Impact Report states, as part of Mitigation Measures NV-3 and NV-4, that RCTC shall elect to utilize either ballast mats or resiliently supported ties between Sta. 263+00 and Sta. 275+00 in order to reduce rail-related noise affecting a total of 14 homes extending approximately 1,200 feet along the proposed Project alignment between the area just south of Spruce Street and north of Highland Elementary School. RCTC has chosen to use ballast mats rather than resiliently supported ties in this area. RCTC shall also provide additional ballast matting in connection with track work in additional segments along the track between Sta. 255+00 and Sta. 396+00 to reduce rail-related noise and vibration that could affect homes in this area. RCTC shall inform FORH of the locations of additional ballast matting prior to installation. If RCTC were to increase the total square footage of ballast matting by more than 25% beyond what the construction contract currently requires, RCTC would be required to renegotiate the installation bid with the construction contractor and potentially pay a higher

price per square foot of ballast matting. The current bid price for ballast matting in the area between Sta. 263+00 and Sta. 275+00 is \$14,400. RCTC shall expend a total of \$18,000 to provide 24,000 square feet of ballast matting between Sta. 255+00 and Sta. 396+00, which will be comprised of the \$14,400 already allocated for 19,200 square feet of ballast matting plus \$3,600 for additional ballast matting. Additionally, RCTC shall either (1) spend \$132,000 on additional ballast matting between Sta. 255+00 and Sta. 396+00, provided that such matting can be obtained at a price of not more than \$0.75 per square foot OR (2) add \$132,000 to the sound insulation fund described in Term 2 of Exhibit A, above.

4. In the event the City of Riverside or the County of Riverside incorporate a trail into their respective Master Trail Plans located adjacent to and/or within RCTC's Project right of way, RCTC shall agree to enter into a license or other agreement to allow access to RCTC's right of way for trail-related uses to the extent that such an agreement is permitted by applicable state and federal laws, SCRRA requirements, and any other regulatory provisions that may apply to such trails.
5. RCTC shall place signage (i) between approximately PVL Station 346+00 (the eastern end of the noise barrier east of Mt. Vernon Ave.) and Station 352+00; (ii) between Station 352+00 and Station 365+00 (the end of Big Springs Rd); and (iii) between approximately Station 407+00 and Station 422+00 (to the north of the Poarch/Gernert Rd crossing), warning pedestrians of the danger of crossing the tracks. RCTC has no plan to have fencing installed in any portion of the right-of-way described in this paragraph. If RCTC ever proposes to approve the installation of fencing along the PVL right-of-way between PVL Station 346+00 (the eastern end of the noise barrier east of Mt. Vernon Ave.) and Station 365+00 (the end of Big Springs Rd.), RCTC shall provide advance notification to FORH.
6. In the future, if a public agency or non-profit entity elects to fund and construct a pedestrian or wildlife undercrossing between Station 346+00 (the eastern end of the noise barrier east of Mt. Vernon Ave.) and Station 422+00 (to the north of the Poarch/Gernert Rd. crossing), then RCTC shall grant a license to said entity pursuant to and in compliance with its standard license agreement which shall allow for the use of the right of way beneath the rail line. Any such agreement shall be subject to all applicable state and federal laws, SCRRA requirements, and any other regulatory provisions that may apply to such undercrossing. In order to facilitate consideration of such action by a public agency or non-profit, within 90 days of execution of this Agreement, RCTC shall in good faith attempt to obtain cost estimates for construction and installation of prefabricated soft-bottomed reinforced concrete arched culverts at least 8 feet wide by 8 feet high; RCTC shall inform FORH of its attempts to obtain such estimates and the results of those estimates.
7. RCTC shall use wayside applicator lubricants that are biodegradable and water-soluble. Specifically, RCTC shall use TempFlex Lubricant (or equivalent), a soy-based, environmentally safe lubricant that is biodegradable and non-toxic. RCTC shall amend its construction contracts via change order to require the use of this product in all wayside applicators.

RCTC shall also use a sufficient number of wayside applicators – or equivalent technology that has equal or fewer environmental impacts – necessary to ensure that wheel squeal is indefinitely reduced along the PVL alignment in the vicinity of all tight-radius curves. This commitment may result in one wayside applicator being used to provide lubrication for more than one curve.

To the extent that information showing that there will be no environmental impacts from the use of the wayside applicator lubricants is unavailable, RCTC agrees to conduct quarterly water and soil quality tests for a period of three years from the start of wayside applicator usage. The locations for testing shall include those areas adjacent to the installation of the wayside applicator, and shall specifically include the Springbrook Wash. The results of said tests shall be made available to the public and FORH. If a test shows that a pollutant is reaching the water or soil in any substantial quantity, RCTC shall consult with the Regional Water Quality Control Board-Santa Ana Region and immediately take all necessary steps to remedy any contamination, including (but not limited to) cleanup of the pollution and switching to water-spray lubricants.

As part of ongoing operational evaluations, RCTC will work in conjunction with SCRRRA to evaluate the effectiveness of measures used to reduce wheel squeal and will adjust or move those measures, as necessary as determined by RCTC, to further reduce wheel squeal resulting from the PVL. RCTC shall inform FORH of the results and/or adjustments made.

8. RCTC has agreed to utilize a combination of boulders and non-chain link fencing at Gernert/Poarch Road where the Project proposes to close the existing rail crossing. RCTC has been informed that the CPUC may prevent RCTC from using any materials other than a solid fence in order to prohibit access to the closed crossings. RCTC shall work with FORH in order to achieve a mutually agreeable solution that still complies with the CPUC's standards. Specifically, RCTC agrees to provide FORH with any documentation from the CPUC restricting the type and length of fencing permitted at Gernert/Poarch Road where the Project proposes to close the existing grade crossing except for an emergency gate. RCTC shall limit the type and length of fencing at that location to what is required by the CPUC, and shall use only boulders, but not fencing, for any length of barrier beyond the length of fencing required by the CPUC. Ultimately, RCTC shall be required to comply with the CPUC's requirements for the closure.

RCTC agrees to inform FORH whether the trains would be required to sound their horns at the Gernert/Poarch Rd emergency-only grade crossing, and if so to work with Riverside County, state and federal agencies, SCRRRA, and BNSF to discuss whether the law allows for those horns to be sounded only when the emergency gate is open. RCTC further agrees that it shall not initiate the re-opening of the grade crossing at Gernert/Poarch Rd. at any time in the future.

9. RCTC shall – in consultation with the City of Riverside and the Federal Railroad Administration (“FRA”) – investigate and consider other options, such as the utilization of boulders, landscaping, or other measures instead of K-Rail – at the end of Manfield St., in order to reduce restriction to wildlife movement and aesthetic impacts, provided

that such options preclude pedestrian access and are consistent with the City of Riverside's and FRA's requirements. RCTC shall inform FORH of the options considered. RCTC shall implement measures to prevent construction, maintenance, and off-road vehicles from accessing or disturbing the two environmentally sensitive areas as identified within the right-of way between Sta. 403+50 and Sta. 407+00. The area that is adjacent to Sta. 406+00, shown in the Construction drawings as 80' long by 20' wide with setback from the track of 50', shall be enlarged to be 110' long by 45' wide, with setback from the track of 35', in accord with the attached FORH modified version of RCTC's Toad Protection Areas Exhibit. In order to provide such protection, RCTC shall ensure that the boundaries of the two areas are clearly marked prior to start of construction there and that construction activities do not transgress the said boundaries. Also, RCTC shall ensure permanent protection of the areas through the placement of boulders and/or large rocks surrounding, but not within, these areas.

10. RCTC shall work with Kinder-Morgan to obtain, to the extent feasible, documentation regarding the Kinder-Morgan pipeline monitoring process and how the existing pipeline in the Project area is shut off in the event of an emergency, including, but not limited to, reports regarding the pipeline from all authorities, including the Fire Marshall to the extent such documents are publicly disclosable. RCTC shall provide such information to FORH. Additionally, RCTC will request a tour or meeting among Kinder-Morgan, FORH, and RCTC to witness and discuss such monitoring and emergency action efforts.
11. Commencing after an initial two-year start up period, RCTC, working in conjunction with Metrolink and other regulatory agencies, shall monitor Project ridership numbers specifically including early morning ridership numbers – pursuant to existing protocol and legal requirements. Pursuant to this monitoring, routes shall be reevaluated and the timing of such commuter trips may be altered.
12. RCTC shall never propose a second track across the Citrus Connection property. Additionally, RCTC shall provide FORH with advance notice of any action taken by RCTC, whether discretionary or ministerial, to permit freight train use of the Citrus Connection portion of the PVL track, with the exception of any temporary, emergency use.
13. RCTC shall not fund the planning, approval, or construction of any new passenger rail station between Station 336+00 (Mt. Vernon Ave.) and Station 500+00 (past the I-215 Truck By-Pass). Additionally, RCTC shall not encourage any other agency or private party to plan, approve, or construct any such stations or publicly support such stations. Notwithstanding the foregoing, the Parties agree that RCTC does not have the authority to control the land use jurisdictions of other agencies nor to prevent other agencies from proposing the approval, planning, or construction of such stations.
14. Trail/Conservation Land Fund: RCTC shall provide \$900,000 to one or more public agencies (such as the Riverside County Parks and Open Space District) of the FORH's choice or, with RCTC's approval, which shall not be unreasonably withheld, to one or more non-profit land conservancy organizations (qualified as such under state law), to be used for the establishment of trails (including but not limited to trails along or adjacent to

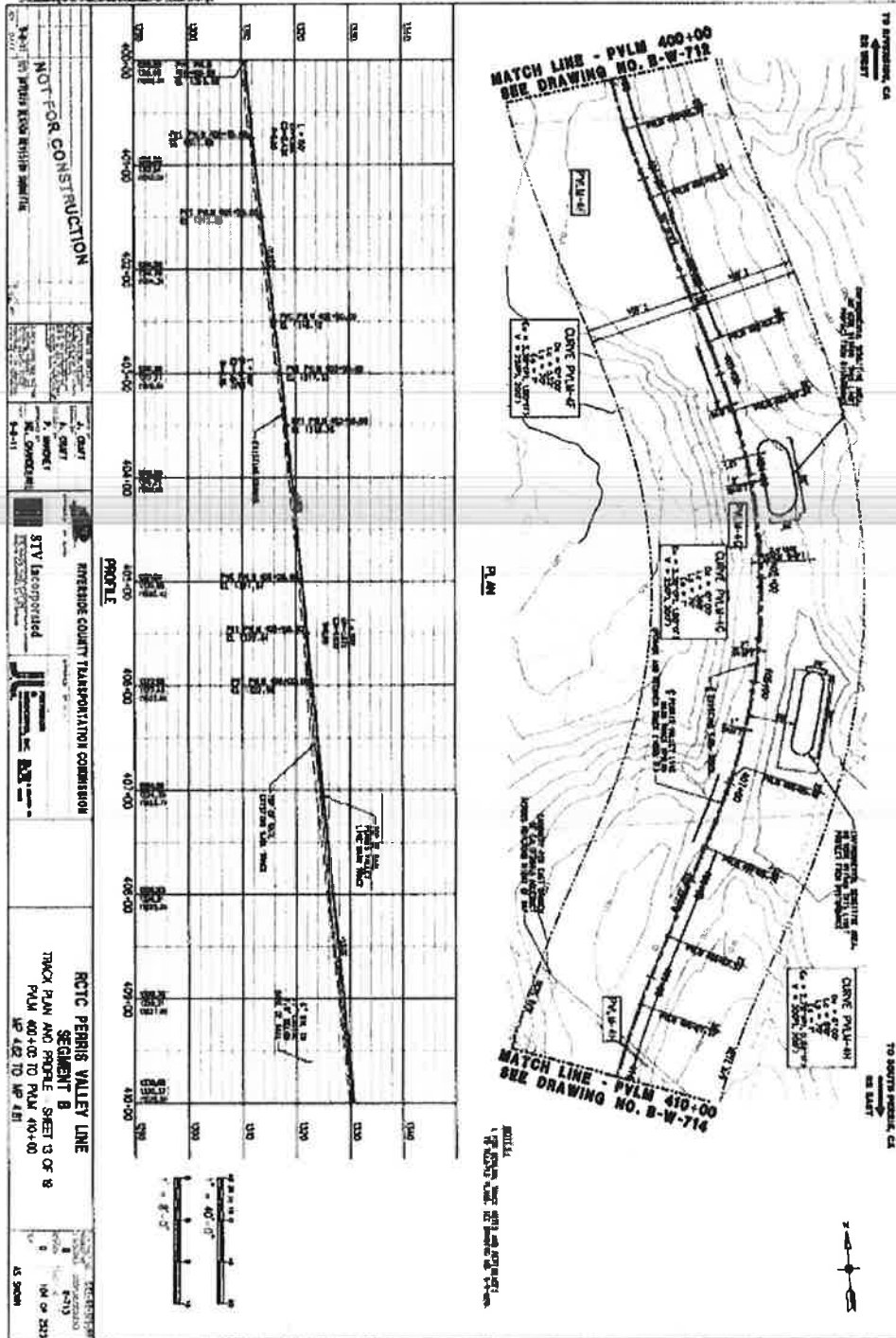
the PVL right-of-way) and/or purchasing and maintaining as open space and wildlife conservation areas lands within the Box Springs Mountains area in the general vicinity of the PVL. Pursuant to receipt of said funds, the public agency or non-profit must agree by contract specification or otherwise to obtain prior approval from FORH for any proposed expenditures over \$20,000.

15. RCTC shall continue to support the establishment of a rail-related Quiet Zone in the City of Riverside at the Marlborough, Spruce, Blaine, and Mt. Vernon grade crossings. As part of Project construction, RCTC agrees to prioritize the construction and testing of all improvements required for the Quiet Zone in order to expedite the formal establishment of the Quiet Zone. The completion of the infrastructure and testing of improvements required for the Spruce, Blaine, and Mt. Vernon Quiet Zones shall occur within 18 months of commencement of Project construction.
16. RCTC shall permit the City of Riverside, the Western Municipal Water District, or other appropriate public agency(ies) to provide and maintain landscaping immediately adjacent to the sides of the PVL soundwalls facing the tracks. Such access will be subject to RCTC's standard license agreement and all applicable state and federal laws, SCRRA requirements, and any other regulatory provisions that may apply to such access. Additionally, RCTC shall provide written notice to the City of Riverside, the Western Municipal Water District, and other appropriate public agency(ies) of this opportunity within a reasonable period of time following the execution of this Agreement.
17. The Project is required to prepare and submit Traffic Construction Management Plans to the City of Riverside which will identify measures for facilitating roadway access during construction. RCTC agrees to ensure enforcement of those Plans. Additionally, and if the Traffic Construction Management Plans show detour routes of one mile or more around the Spruce, Blaine, or Mt. Vernon closures, RCTC will work with RUSD, and the University Neighborhood Association or City of Riverside, to ensure that the delays for providing access for pedestrians and bicyclists around or through the work zones in the UCR neighborhood are as short as is consistent with safety. RCTC agrees to coordinate with the RUSD with regards to providing access for affected schoolchildren, which may include, if necessary, RCTC funding alternate modes of transportation such as a temporary bus for such schoolchildren.
18. RCTC will agree that, during Project construction, only one out of the three UCR Neighborhood grade crossings (located at Spruce, Blaine, and Mt. Vernon) will be closed at any given time. Additionally, RCTC shall limit the duration of any closures to the fullest extent possible in order to allow access to resume as quickly as possible, consistent with good safety practices.
19. RCTC has now completed the 100% design drawings for the Project. Based on the 100% design, substantially less soil will be exported from the Project alignment than the 290,685 cubic yards of soil anticipated at the time the Environmental Impact Report was certified in July 2011. Current estimates for the soil export necessary under the 100% design are 155,280 cubic yards. As a result, fewer trucks would be required to export soil than originally anticipated. Nonetheless, RCTC shall continue to work with the

construction contractor to further reduce soil exports and the number of heavy trucks associated with soil export through actions such as the use of rounded berms, use of soil for station foundation work, landscaping, and noise- and landscape-wall footings. RCTC will limit the number of trucks required for construction to the maximum extent possible. Furthermore, RCTC agrees that it shall limit the export of soils from the PVL alignment to not more than 30 truck loads per day. RCTC shall also work with the construction contractor to further reduce the volume of dirt and the number and length of haul trips to the maximum extent possible, including by seeking disposal sites that are outside the UCR Neighborhood but are closer to the Project site than the Badlands Landfill. Also, the City of Riverside has requirements, regarding heavy truck movements, for submission of a haul route plan to the City for review and approval prior to commencing operations. RCTC shall ensure that such a haul plan is submitted and City approval obtained prior to commencing heavy truck movements in the City, and RCTC promptly upon receiving approval shall provide FORH with a copy. Moreover, RCTC shall ensure that the haul route plan is enforced.

20. RCTC shall post a telephone number on signs at multiple locations throughout the PVL Project site for persons to report dust, noise, or other complaints. This telephone number shall also be included in public outreach materials provided by RCTC.
21. RCTC shall pay \$250,000 to FORH's counsel, Raymond Johnson of JOHNSON AND SEDLACK, in satisfaction of all attorney's fees, costs, and other litigation expenses in accordance with subsection 2 of Section A of the Agreement Terms entitled "RCTC's Obligations."
22. RCTC shall provide \$650,000 to the Riverside County Regional Park and Open-Space District and/or the City of Riverside for the funding of bicycle/pedestrian trails in accordance with the Riverside County and/or City of Riverside General Plans in western Riverside County and located primarily within one or both of the following segments of the RCTC right of way: between Sta. 234+00 (Marlborough St. and the Hunter Park Station) and Sta. 335+50 (Mt. Vernon Ave.), and between Sta. 364+00 (near the end of Big Springs Rd.) and Sta. 423+50 (the (closed) Poarch/Gernert Rds. grade crossing (the missing link could go through Islander Park and would not be RCTC's responsibility)). RCTC shall include, as a condition of the provision of such funding to the District and/or the City, that the District and/or the City provide a bi-annual accounting to the FORH of any and all use of these funds. Any portion of the \$650,000 that is not used for construction of said trail within two years of execution of this Settlement Agreement will be put into the Trail/Conservation Land Fund described above, to be used according to the provisions of the Trail/Conservation Land Fund term described above.
23. As detailed and set forth in the Agreement within the Terms Section B entitled "FORH's Obligations", FORH, on behalf of itself and each of its individual members, shall support this Agreement and the Project with the conditions imposed herein, and shall not directly or indirectly encourage any other party to oppose the Project, so long as the Project is consistent with the terms of this Agreement and substantially similar and consistent with the Project as approved by RCTC in Resolution No. 11-013.

Toad Protection Areas Exhibit



17336.02311

Johnson & Sedlack

ATTORNEYS AT LAW

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July 29, 2013

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JUL 30 2013

VIA CERTIFIED MAIL

BEST BEST & KRIEGER

Anne Mayer, Executive Director
Riverside County Transportation
Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92502-2208

Michelle Ouellette, Esq.
Charity Schiller, Esq.
Best Best & Krieger LLP
3390 University Ave., 5th Floor
Riverside, CA 92501

**RE: Change of Address for Friends of Riverside's Hills in Future Perris Valley Line
Communications (Riverside Superior Court Case No. RIC 1113896, Court of Appeal Case
No. E058933)**


Greetings:

Pursuant to paragraph F "Notices" of the Settlement Agreement in this matter, please accept this letter as written notice that Friends of Riverside's Hills requests that any and all future notices or requests be delivered to the following address:

Friends of Riverside's Hills
4108 Watkins Dr.
Riverside, CA 92507

Future communications to Friends of Riverside's Hills may also include a copy sent to the following emails: gkhalsa@nutritionnews.com and rblock31@charter.net.

Sincerely,


Raymond Johnson
JOHNSON & SEDLACK