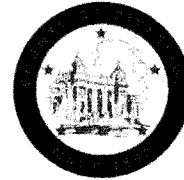


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.27
(ID # 5291)

MEETING DATE:

Tuesday, January 9, 2018

FROM : TLMA-TRANSPORTATION:

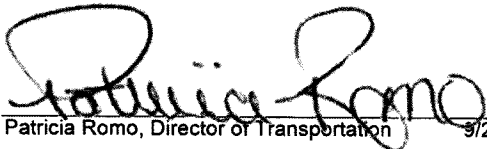
SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY-TRANSPORTATION:

Approval of the Amended and Restated Reimbursement Agreement between the County of Riverside, City of Indio and the Coachella Valley Association of Governments for proposed improvements to the Jackson / I-10 Interchange. 4th District. [\$2,400,000-Total]; Local Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Amended and Restated Reimbursement Agreement between the County of Riverside (County), City of Indio (City) and the Coachella Valley Association of Governments (CVAG) for the Jackson Street / I-10 Interchange Project; and
2. Authorize the Chairman of the Board to execute the same.

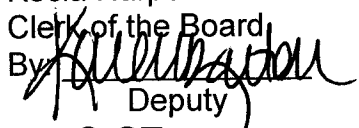
ACTION: Policy


Patricia Romo, Director of Transportation 3/22/2017

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington and Perez
Nays: None
Absent: Ashley
Date: January 9, 2018
xc: TLMS-Transp.

Kecia Harper-Ihem
Clerk of the Board
By 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 800,000	\$ 800,000	\$ 2,400,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Measure A / Transportation Mitigation Fee (CVAG) (75%), City of Indio (25%). There are no General Funds used in this project.			Budget Adjustment: No	
			For Fiscal Year: 17/18 to 19/20	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Jackson Street Interchange is located on I-10 between Monroe Street and Golf Center Parkway in the City of Indio. The interchange is a major access point for existing residential and retail sites. Significant growth and development has taken place that has resulted in traffic congestion at the interchange. Immediate and long-term growth in the area will cause an increase in traffic volume throughout the City and at the interchange. Constructing improvements to the Jackson Street interchange will address existing deficiencies, remove the existing bottleneck, and accommodate future growth and development.

A funding agreement between the City and CVAG for the Jackson Street at I-10 Interchange Project was approved by the CVAG Executive Committee on October 17, 2007. The agreement provided funding for the preparation of a Project Study Report (PSR). Amendment Number One to the Reimbursement Agreement approved the funding allocations for the preparation of the Project Approval/Environmental Document (PA&ED) on September 26, 2016.

CVAG approved Amendment Number Two to the reimbursement agreement on February 6, 2017. CVAG intends to administratively approve this Amended and Restated Reimbursement Agreement which more clearly defines the roles and responsibilities of the County as lead agency. The City approved this amendment on December 20, 2017 and will remain a party to this agreement.

The interchange is located within the jurisdictional boundaries of the City. The County Transportation Department has extensive experience in the development and implementation of Interchange projects, and the City, County and CVAG desire to designate the County as the lead agency in the development and implementation of the Project.

The terms of this Amended and Restated Reimbursement Agreement assigns responsibility to the County to deliver the PA&ED portion of the project and requires the City and CVAG to provide the necessary funding.

A future amendment or amendments will provide the terms and responsibilities of each agency

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

for the design, right-of-way and construction phases of the Project.

Amended and Restated Reimbursement Agreement Funding Obligations

CVAG	\$1,800,000	(75%)
City	\$600,000	(25%)
Total	\$2,400,000	(100 %) PA/ED

Following completion of the PA/ED phase, CVAG, County and the City will work together to identify the funding strategies to complete the design, right-of-way and construction phases of the project.

Additional Agreements between the County and the City; and between the County and the State Department of Transportation will be submitted to the Board for approval.

Jackson Street / I-10 Interchange Project Number: C7-0049

Impact on Residents and Businesses

The proposed improvements will improve safety and enhance operational efficiency for local, regional, and interregional traveling motorists.

SUPPLEMENTAL:

Additional Fiscal Information

County will invoice CVAG for 100% of the eligible project cost. CVAG will in turn invoice the City for its 25% share of the eligible project cost (Local Share) for the completion of the PA/ED phase.

Contract History and Price Reasonableness

The cost of this contract is in line with projects of similar scope and duration.

ATTACHMENTS:

CVAG – City of Indio Reimbursement Agreement
Amendment Number One to the Reimbursement Agreement
Jackson St Amended and Restated Reimbursement Agreement
Vicinity Map

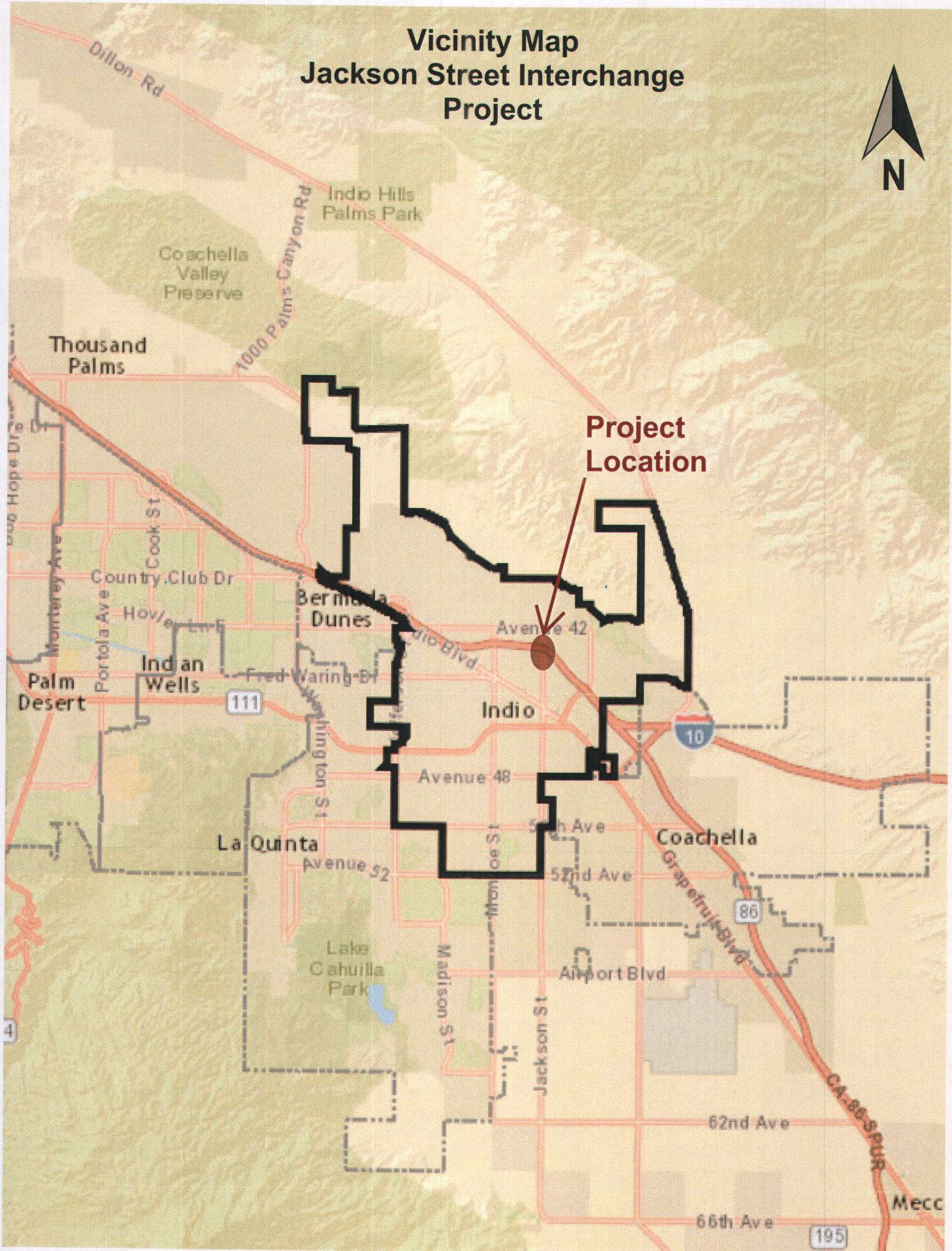
**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**


Cynthia M. Gwartz, Supervising Deputy County Counsel 12/27/2017


Melissa Noone, Associate Management Analyst 1/3/2018


Gregory V. Priamos, Director County Counsel 12/27/2017

Vicinity Map Jackson Street Interchange Project





COACHELLA VALLEY ASSOCIATION of GOVERNMENTS

Blythe • Cathedral City • Coachella • Desert Hot Springs • Indian Wells • Indio • La Quinta • Palm Desert • Palm Springs • Rancho Mirage
County of Riverside • Agua Caliente Band of Cahuilla Indians • Cabazon Band of Mission Indians • Torres Martinez Desert Cahuilla Indians

July 12, 2007

Mr. Jim Smith
Director of Public Works
City of Indio
100 Civic Center Dr.
Indio, CA. 92201

Dear Mr. Smith:

Enclosed please find an executed original of the reimbursement agreement between the City of Indio and the Coachella Valley Association of Governments (CVAG) for "Jackson Street Interstate 10 Interchange Project", Project Study Report (Phase I), Project Report. An original was also sent to the city clerk.

If I may be of further assistance, or if you have any questions regarding this agreement, please call me at (760) 346-1127.

Sincerely,

COACHELLA VALLEY
ASSOCIATION OF GOVERNMENTS



MARY M. GODFREY
Administrative Services Assistant

cc: Anne Azzu, Dept. of Transportation

CVAG - CITY OF INDIO REIMBURSEMENT AGREEMENT

"JACKSON STREET INTERSTATE 10 INTERCHANGE PROJECT"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

THIS AGREEMENT is made and entered into this 16th day of May, 2007, by and between the City of Indio ("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.

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.

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.

The Executive Committee, on February 26, 2007, authorized an **Interchange Preparation Fund** with a total pool of **\$10 Million** to support the concept of preparing interchanges for project readiness. There are presently only six interchanges, five on I-10 and one on SR86S, which do not have current PSR's completed. **This Project is one of those six interchanges that will qualify for this Interchange Preparation Fund.**

CVAG's participation in each interchange project is limited to \$1.5 Million. CVAG will pay 100% of this "Project Study Report" (PSR) Phase of the project. Once the PSR is completed, Agency can approach CVAG with a request to proceed to the Project Report and Environmental Document stage. This stage will require that a funding source for construction of the interchange be identified before the project will be allowed to proceed. This is an important element for continuation of the project since the Environmental Document has only a short shelf life, three to five years.

This stage following the PSR phase will utilize the amount remaining from the \$1.5 million set aside for the Interchange Preparation Fund. In accordance with current policy, CVAG will pay 75% of project costs up to the \$1.5 Million amount, and the jurisdiction initiating the request to enter the Interchange Preparation Fund Agreement with Agency will be responsible for the remaining 25% of costs, and any costs in excess of \$2 Million. This would be the limit of the proposed Interchange Preparation Fund Agreement.

Agency desires to proceed with a project known as Jackson Street Interstate 10 Interchange Phase I "Project Study Report" (the "Project"). CVAG's share of the Project costs is not-to-exceed \$ 1,500,000. Agency shall only submit the costs related to this "Project Study Report" Phase of the Project. Any remaining funds will be used towards the next phases of this Project.

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.

2. The Project is generally described and referred to as Jackson Street Interstate 10 Interchange Phase I "Project Study Report", hereinafter the "Project."

3. Any excess property purchased to secure the necessary right-of-way for the Project will be deemed to belong to the Regional Arterial Program. Excess property will be disposed of in the best interests of the Regional Arterial Program in order to recapture funds expended.

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 is more particularly described in Exhibit "B," entitled "Estimate of Cost," attached hereto and made a part hereof. The cost estimate includes 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," attached hereto and made a part hereof, is the "Project Schedule."~~

5. It is the agreement between CVAG and Agency that, of the total estimated cost of the Project (\$600,000), CVAG shall pay not-to-exceed **\$1,500,0000**, and Agency shall pay its remaining Jurisdiction One-Quarter of covered costs **for stages following this PSR Phase of the Project**, 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 Policies and Procedures Manual. **However, This PSR Phase of the Project is 100% Funded by CVAG.**

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. **This Applies for stages following this PSR Phase of the Project.**

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. 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 the percentage of eligible costs set for this project, 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," 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 affects 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: City of Indio
P.O.Box Drawer 1788/100 Civic Center
Indio, CA 92201
Attn: City Manager
Telephone: (760) 391-4000
FAX No.: (760) 391-4008

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.

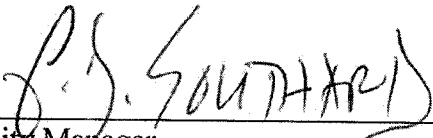
31. This Agreement and all documents provided for herein shall be governed by and construed in accordance with the laws of the State of California. Any litigation arising from this Agreement shall be adjudicated in the courts of Riverside County, Desert Judicial District, State of California.

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.

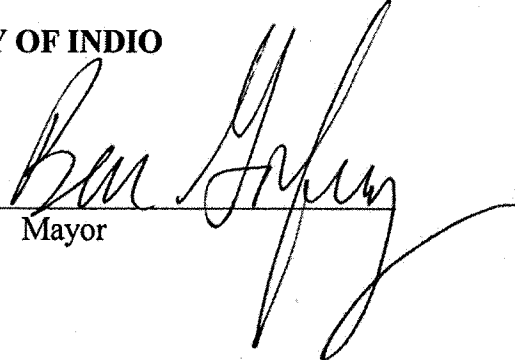
33. This Agreement may be executed in one or more counterparts and when a counterpart shall have been signed by each party hereto, each shall be deemed an original, but all of which constitute one and the same instrument.

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

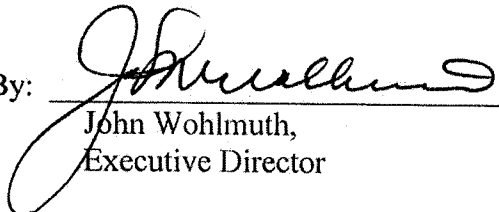
ATTEST:

By: 
City Manager

CITY OF INDIO

By: 
Mayor

ATTEST:

By: 
John Wohlmuth,
Executive Director

CVAG

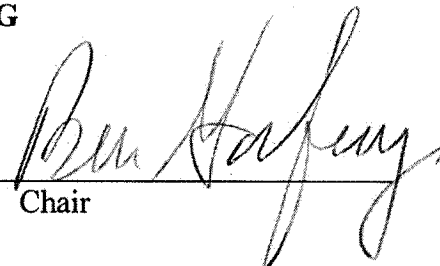
By: 
Chair

EXHIBIT "A"

SCOPE OF SERVICES

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

The scope of work will consist of preparing a Project Study Report (PSR) for the Jackson Street Interstate 10 Interchange Project, and all other needed reports to comply with the latest CALTRANS' regulations, policies, procedures, manuals and standards including compliance with Federal Highway Administration (FHWA) requirements.

The project will be funded using TUMF/Measure "A" Funds. Each PSR will need to be prepared to identify various types of alternatives to determine the most feasible design with regards to traffic demand and right-of-way availability. The alternatives will be acceptable under Caltrans and FHWA guidelines and allow project programming in the RTP and STIP. The PSR would also provide preliminary engineering information to a level to determine if a particular project is feasible and fundable and support early environmental documentation.

EXHIBIT "B"

ESTIMATE OF COST

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

(FROM ESTIMATE PROVIDED BY THE CITY OF INDIO)

CVAG will only pay for the Project Study Report related tasks eligible for reimbursement as outlined in the adopted Project Cost Determination and Expense Eligibility manual.

Estimated cost for the PSR is \$600,000

EXHIBIT "C"

PROJECT SCHEDULE

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

EXHIBIT "D"
NOT NEEDED FOR THIS PHASE OF THE PROJECT

"PROJECT SIGN"

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

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 City Logos and/or Measure "A" Funds Logo, is encouraged.

ATTACHMENT 1

**COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS
REGIONAL ARTERIAL PROGRAM**

PROJECT COST DETERMINATION

AND

EXPENSE ELIGIBILITY

PROJECT COST DETERMINATION

AND

EXPENSE ELIGIBILITY

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<u>SECTION</u>	<u>DESCRIPTION</u>
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2.0	COST ESTIMATE DEFINITIONS
3.0	PROJECT IDENTIFICATION
4.0	RIGHT-OF-WAY ACQUISITION
5.0	PROJECT LIMITS
6.0	PROJECT FUNDING SOURCES
7.0	PROJECT SCOPE OF WORK
8.0	PROJECT DESIGN (CIVIL)
9.0	PROJECT DESIGN (LANDSCAPING)
10.0	PROJECT CONSTRUCTION FUNDING
11.0	PROJECT CONSTRUCTION SURVEY
12.0	PROJECT CONSTRUCTION MANAGEMENT
13.0	PROJECT OVERSIGHT - AGENCY TIME
14.0	PROJECT CONTINGENCY FUNDS
15.0	REFERENCE DOCUMENTS

1.0 INTRODUCTION

This section of the procedures manual outlines the process which shall be followed in determining project costs and project expense eligibility which has been approved to be constructed as part of the Coachella Valley Regional Transportation Program.

This section was developed by the Coachella Valley Association of Governments (CVAG) Transportation Technical Advisory Sub-Committee (TTAS). The primary purpose of this section is to provide a guideline for agencies to make application for a project for both Measure A and Transportation Uniform Mitigation Fee (TUMF) funding.

The project development process starts with an agency-initiated study after a highway improvement need has been identified.

The estimates for projects identified as part of the Regional Transportation Plan are addressed in the 2005 Update of the Regional Arterial Cost Estimate (RACE), dated February, 2006 and shall be updated biannually as part of the TUMF review process.

2.0 COST ESTIMATE DEFINITIONS

- Construction An updated cost estimate for the costs to build the improvement per the approved plans and specifications.
- Engineering Engineering costs will usually be estimated on the basis of a percentage of the estimated construction costs.
- Right-of-Way Expenditures for right-of-way are to be prepared with an accuracy comparable to standards in the industry. Overhead charges need not be included.
- Scheduling Indicate status of project, giving a tentative schedule for engineering, right-of-way acquisition and construction. Discuss project phasing, if planned.

3.0 PROJECT IDENTIFICATION

Any project which is to be submitted for review and funding shall meet or provide all of the following:

- The proposed project shall appear on the approved 2005 Update Transportation Project Prioritization Study updated list of projects.
- The project shall be clearly identified showing, as a minimum, the limits of the project, scope of work, anticipated start and completion dates, estimated project cost and funding sources.
- A general statement of the project. Why it is needed, etc.
- A preliminary design estimate for all design services.

- A preliminary construction cost estimate, to be updated once design is completed.
- A preliminary construction management and Agency project management cost estimate.

4.0 RIGHT-OF-WAY ACQUISITION AND OTHER ASSOCIATED COSTS

All right-of-way acquisition and other associated costs, including appraisals and any other costs allowed by state and federal law, are eligible for regional funding.

The agency will further submit a detailed list of costs associated with the right-of-way acquisition to CVAG for review and comment. CVAG will assess each cost and determine its eligibility for regional funding. All protests shall be sent to the Transportation Technical Advisory Sub-Committee for further review. All protests must be in writing and the grounds for protest clearly identified.

Where the likelihood of extensive right-of-way acquisition exists or the need for extensive relocation of homes and businesses, or in the case of new roadway extensions or openings or other extenuating physically or economical restraints so warrant, preliminary engineering, alignment and traffic studies shall be eligible for reimbursement or funding from regional funds.

Any excess property purchased to secure the necessary right-of-way will be deemed to belong to the Regional Arterial Program. 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.

5.0 PROJECT LIMITS

The lead agency submitting a proposed project for review and funding shall clearly identify the project limits. The limits of the project shall be defined as the beginning and the end of the construction. If more than one beginning and/or ending is necessary, clearly indicate that on the statement of the project limits.

A vicinity map shall be included with the project submittal package identifying where the project is located.

6.0 PROJECT FUNDING SOURCE

Project funding will come from both regional Measure A revenues and TUMF collected by CVAG member agencies. Other sources of funding may include local funds from the agency proposing the project, local gas tax funds, ISTEAF funds, redevelopment funds, etc.

All funding sources should be considered by the agency prior to project submittal to CVAG for funding from the Regional system funds. CVAG will advance fund, for TUMF jurisdictions, a project up to 100% of the total approved, eligible, estimated project cost. Project contingency funds will not be funded. However, any additional costs incurred due to any change in scope of work may be submitted to CVAG for funding eligibility, and will be processed through CVAG's committee structure for approval.

7.0 PROJECT SCOPE OF WORK

A project scope of work narrative shall be submitted to CVAG with the submittal for expense eligibility and regional funding. The narrative shall include, but not be limited to, discussion of the following:

- . Right-of-Way Acquisition and Relocation
- . Project limits
- . Typical roadway improvement section
- . Vicinity map for project location identification
- . Anticipated starting date - Engineering, R-O-W Acquisition and Construction
- . Anticipated completion date - Engineering, R-O-W Acquisition and Construction
- . Anticipated funding amount

8.0 PROJECT DESIGN (CIVIL)

The project design is the sole responsibility of the agency and/or agencies which are proposing and constructing the project. However, the design and construction standards as outlined in the Regional Arterial Cost Estimate (RACE), 2005 Update, shall be a guideline to be used by the designer for project design and construction standards. Any deviations should be identified, along with the rationale for such deviations.

The total project design services shall not exceed in cost 10% of the estimated construction costs, or as determined by CVAG.

9.0 PROJECT DESIGN (LANDSCAPING)

The following is a narrative of the landscape improvements which shall or shall not be eligible for regional funding:

- . All new landscaping, electrical and irrigation work shall NOT be eligible for regional funding.
- . Only new utility sleeves which are to be placed below the roadway surface for future use shall be eligible for regional funding.

Additionally, any existing landscaping, electrical and irrigation which is directly affected by the project shall be eligible for funding providing it is replaced "in kind".

10.0 PROJECT CONSTRUCTION FUNDING

All regionally funded agency project construction will consist of furnishing all materials, equipment, labor, tools and incidentals as required to construct the improvements as required by the approved plans, specifications and contract documents.

"Curb-to-curb" improvements are eligible for funding, with the exception of landscaping. (See section 9.0 for further detail on landscaping.) "Curb-to-curb" improvements include asphalt paving, striping, curb, etc. Sidewalks, bus-turnouts, ~~bikelanes~~, etc. are not eligible for

Regional Arterial funding. **Exception: One sidewalk and/or one bikelane (as of October 30, 2000) will be eligible for Regional Arterial funding if it crosses a(n):**

1. Regional Arterial Bridge
2. Interstate 10 Interchange
3. Interstate 86 Interchange

All regionally funded agency projects will comply with the prevailing rates of wages and apprenticeship employment standards established by the State Director of Industrial Relations.

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.

All regionally funded project bids shall be prepared on the approved agency proposal forms in conformance with the instructions to bidders.

All approved regional construction projects will be funded to 100% of the lesser of the following:

- . CVAG approved project construction cost estimate.
- . The lowest responsible bidder's award.

11.0 PROJECT CONSTRUCTION SURVEY

Construction survey is defined as all surveying and construction staking necessary for the construction of the project as determined by the engineer.

The cost of any additional surveying and/or construction staking primarily for the convenience of the contractor, not in conformance with usual and customary practices and for replacement of stakes lost as a result of the contractor's or agency's negligence, shall be the responsibility of the contractor and/or agency.

The agency shall be responsible for all resetting of monumentation within public and/or private right-of-way that is destroyed by the construction operations unless it is itemized in the approved construction survey estimate.

12.0 PROJECT CONSTRUCTION MANAGEMENT

Project construction management costs shall be eligible for regional funding only if it is to fund one or more of the following:

- . Construction inspection
- . Materials testing
- . Project management
- . Construction Survey

- . Geotechnical studies and reports
- . Contract administration

The activities set forth above shall be eligible for regional funding based upon actual costs provided the total sum does not exceed 15% of the approved estimated construction costs.

13.0 PROJECT OVERSIGHT - AGENCY TIME

Project cost estimates should include an amount intended to allow Agency to recover an amount representing the costs incurred for the time of its employed staff in working on the project. **These amounts shall be eligible for regional funding based upon actual costs provided the total sum does not exceed 5% of the approved estimated project costs.**

14.0 PROJECT CONTINGENCY FUNDS

Project contingency funds shall not be granted at the beginning of a project. If a change in scope or design creates a need for a change order which may require additional funds, the agency shall make application with CVAG for expense eligibility from regional funds. Actual cost incurred shall only be eligible for funding.

15.0 REFERENCE DOCUMENTS

2005 Update Transportation Project Prioritization Study (TPPS), February 2006
2005 Update Regional Arterial Cost Estimate (RACE), February 2006
Regional Arterial Financial Plan and Expenditure Program, November 1994
Coachella Valley Area Transportation Study, 2003

AMENDMENT NUMBER ONE
TO THE REIMBURSEMENT AGREEMENT
BY AND BETWEEN THE CITY OF INDIO AND CVAG
PROJECT TO PREPARE THE JACKSON STREET/ INTERSTATE 10 INTERCHANGE
PROJECT, INTERCHANGE PREPARATION FUND PROJECT STUDY REPORT (PSR)

THIS AMENDMENT NUMBER ONE, effective this 26th day of September, 2016, by and between the City of Indio (lead Agency) and the Coachella Valley Association of Governments, a California joint powers agency, (CVAG), and is made with reference to the following background and circumstances. All other provisions in the existing Reimbursement Agreement for the Project to Prepare the Jackson Street/ Interstate 10 Interchange Project, Interchange Preparation Fund Project Study Report (PSR), shall remain in full force and effect.

This Amendment Number One shall provide an additional sum of \$1.8 million as 75% of eligible costs to fund the Project Approval and Environmental Document (PA & ED) Phase for the Jackson Street/ Interstate 10 Interchange Project, and;

Shall provide for a bicycle and pedestrian undercrossing on the right bank of the Whitewater Channel levee, and pedestrian and bicycle infrastructure on the bridge decks.

This Amendment Number One shall provide that the CVAG Regional Share of total costs for this project, assuming all estimates shown are accurate, to be \$2,600,000 and the City of Indio Local Share of total costs to be \$600,000.

Previously Obligated and Authorized for Expenditure:	\$ 800,000
Amendment #1	<u>\$1,800,000</u>
TOTAL	\$ 2,600,000

(Signatures on following page)

COACHELLA VALLEY ASSOCIATION of GOVERNMENTS

The parties hereto have caused this Amendment Number One to be executed by their duly authorized representatives on the above-referenced date.

ATTEST:

AGENCY:

CITY OF INDIO

By: 

City Manager, Dan Martinez

By: 

Mayor, Glenn Miller

CVAG

By: Tom Kirk

Executive Director

By: 

Dana Reed
CVAG Chair

AMENDED AND RESTATED REIMBURSEMENT AGREEMENT

BETWEEN CITY OF INDIO and CVAG AND TO

ADD COUNTY OF RIVERSIDE AS A PARTY

JACKSON STREET/I-10 INTERCHANGE PROJECT

INTERCHANGE PREPARATION FUND PROJECT STUDY REPORT (PSR) AND
PROJECT ASSESSMENT AND ENVIRONMENTAL DOCUMENT (PA&ED)

This AMENDED AND RESTATED AGREEMENT is made and entered into on January 9, 2018, by and among the City of Indio ("City"), the Coachella Valley Association of Governments, a California joint powers authority (CVAG); and the County of Riverside, a political subdivision of the County of Riverside ("County"), now being added as a party; collectively referred to as "parties" or individually as "party".

WHEREAS, the Agreement dated May 16, 2007 was entered into between City denoted as "Agency", and CVAG for Phase I –Project Study Report. Phase I-Project Study Report was completed and approved by the California Department of Transportation ("CALTRANS") on December 30, 2016;

WHEREAS, the clarification of the requirement of a Project Assessment and Environmental Document is being made to the scope of work for Project;

WHEREAS, County is being added as a party to the Agreement for the purposes of having County take over as the lead agency to move the Project forward;

WHEREAS, Amendment No. One effective September 26, 2016 by and between City and CVAG provided an additional sum of \$1.8 million as 75% of eligible Costs to fund the Project Approval and Environmental Document (PA&ED) Phase for the Project, and added a bicycle and pedestrian undercrossing on the right bank of the Whitewater Channel levee and pedestrian and bicycle infrastructure on the bridge decks;

WHEREAS This Amended and Restated Agreement shall establish a "Time Trigger" which will require that the Plans, Specifications and Estimate (PS&E) of the Project must begin within Four Years of the Date of Approval of this Amended and Restated Agreement by the CVAG Executive Committee, and if the four year period to the next phase of the Project is exceeded, and there is no change in regional funding required, CVAG's Executive Director shall have the option of extending the Time Trigger.

NOW THEREFORE, effective as of the date first written above, the parties agree to amend and restate the Agreement as follows to accomplish the additional scope of service and modify the roles of the parties:

JAN 09 2018 3.27

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.

2. The Project is generally described and referred to as **Jackson Street Interstate 10 Interchange Phase I-Project Study Report and Project Assessment and Environmental Document (PA/ED)**, hereinafter the "Project."

3. Any excess property purchased to secure the necessary right-of-way for the Project will be deemed to belong to the Regional Arterial Program. Excess property will be disposed of in the best interests of the Regional Arterial Program in order to recapture funds expended.

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 is more particularly described in Exhibit "B," entitled "Estimate of Cost," attached hereto and made a part hereof. The cost estimate includes a calculation intended to allow City and County to recover an amount representing the time of its employed staff in working on the Project, as well as the amount County shall pay to outside contractors in connection with the Project.

5. Of the total estimated cost of the PSR for Project, CVAG shall pay a not-to-exceed amount of \$1,500,000, and City shall pay its remaining Jurisdiction One-Quarter of covered costs for the Project Assessment and Environmental Document Phase of the Project, as well as one hundred percent (100%) of all costs not eligible for reimbursement by CVAG.

6. City may 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 Policies and Procedures Manual. **However, the PSR Phase is 100% funded by CVAG. As of the Date of Approval of this Amended and Restated Agreement, CVAG authorizes \$1,800,000 exclusively for the PA&ED phase of the Project at 75% Regional (CVAG) reimbursement as administered below:**

- 6.1 County shall be responsible for the initial payment of all covered costs as they are incurred. Following payment of such costs, County shall submit invoices to CVAG requesting reimbursement of one hundred 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 County, and documents evidencing County's payment of the invoices or demands for payment.

County shall also submit a Project Completion Report, in a form acceptable to CVAG, with each statement. County shall submit invoices not more often than monthly and not less often than quarterly. **This applies for stages following the PSR Phase of the Project.**

- 6.2 Upon receipt of Project invoices from County, CVAG shall submit invoices to the City requesting reimbursement of twenty-five percent of those eligible costs associated with the Project. Each invoice shall be accompanied by the corresponding invoice from County.
- 6.3 Upon receipt of an invoice from City or County, CVAG may request additional documentation or explanation of the Project costs. Undisputed reimbursement amounts shall be paid by CVAG to County within thirty (30) days.
- 6.4 If a post-payment audit or review indicates that CVAG has provided reimbursement to County in an amount in excess of the percentage of eligible costs set for this Project, or has provided reimbursement of ineligible Project costs, City shall reimburse CVAG for the excess or ineligible payments within thirty (30) days of notification by CVAG.

7. Prior to any final payment to City or County by CVAG, a final report shall be submitted to CVAG by County containing a record of all payments made for the 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. This Amended and Restated Agreement establishes a "Time Trigger" which will require that the Plans, Specifications and Estimate (PS&E) of the Project must begin within Four Years of the Date of Approval of this Amended and Restated Agreement by the CVAG Executive Committee, and if the four year period to the next phase of the Project is exceeded, and there is no change in regional funding required, CVAG's Executive Director shall have the option of extending the Time Trigger.

9. The format used for all bids solicited by County for the Project shall require itemization sufficient to allow quantities of each bid item to be easily discernable. 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," 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. In no event shall County be liable for any Project costs. County is providing project management and has no fiscal responsibility for funding any portion or Phase of the Project.

10. County shall maintain an accounting of all funds received from CVAG pursuant to this Agreement in accordance with generally accepted accounting principles. County shall provide all Project records to City upon completion, and City 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 County 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. City 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 City or County, as appropriate, shall provide CVAG with immediate notice thereof:

- 11.1 Any warranty, representation, statement, report or certificate made or delivered to CVAG by City or County or any of their respective officers, employees or agents now or hereafter which is incorrect, false, untrue or misleading in any material respects;
- 11.2 City or County 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 City or County; the commencement of any proceeding under any bankruptcy or insolvency law by or against City or County; entry of a court order

which enjoins, restrains or in any way prevents City or County 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 part 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, County and City and no third person shall have any right of action under this Agreement.

14. It is the intent of the parties 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 City, RCTC and CVAG using Measure "A"/TUMF funds. Prior to initiation of on-site construction, County agrees to have the contractor 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 venture with City as to the Project.

15.1 The City shall assume the defense of, indemnify and hold harmless CVAG and its member agencies, and County, 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 City related to the Project or taken in the performance of this Agreement or any agreement entered into by Agency with reference to the Project.

15.2 CVAG shall assume the defense of, indemnify and hold harmless the City and County, and their respective 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.

15.3 County shall assume the defense of, indemnify and hold harmless the City and CVAG, 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 of County taken in the performance of this Agreement or any agreement entered into by County with reference to the Project.

16. County agrees to include in the 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 County on each contract. County will provide a copy of the insurance certificate to CVAG, depicting CVAG and its member agencies as “also insured” within thirty 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 City or County. This decision shall be in writing. However, no action in accordance with this Section shall in any way limit any party’s rights and remedies through actions in a court of law with appropriate jurisdiction. Neither the pendency of a dispute nor its consideration by CVAG shall excuse City or County 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, City and County covenant that, by and for themselves and all persons claiming under or through them, 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. City and County warrant that all aspects of the Project undertaken by them shall be undertaken in compliance with all applicable local, state and federal rules, regulations and laws. City and County will execute and deliver to CVAG such further documents and do other acts and things as CVAG may reasonable 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. City and County, and their successor 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 City or County, or any successor in interest, in the event of any default or 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. City and County warrant that the funds received from CVAG pursuant to this Agreement shall only be used in a manner consistent with CVAG's reimbursement policy and all applicable regulations and laws.

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 City: City of Indio
P.O. Box Drawer 1788/100 Civic Center
Indio, CA 92201
Attn: City Manager
Telephone: (760) 391-4000
FAX No.: (760) 391-4008

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

If to County: County of Riverside, Transportation Department
4080 Lemon Street, 8th Floor
Riverside, CA 92501
Attn: Director of Transportation
Telephone: (951) 955-6747
FAX No.: (951) 955-3198

Notices sent in accordance with this paragraph shall be deemed delivered upon the next business days 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 judgement.

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. City and County warrant 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 shall constitute one and the same instrument.

WHEREFORE the parties have caused this Amended and Restated Agreement to be executed by their duly authorized representatives effective on the above referenced date.

ATTEST:

CITY OF INDIO

By: Mark Scott
City Manager, Mark Scott

By: Michael H. Wilson
Mayor, Michael H. Wilson

ATTEST:

COUNTY OF RIVERSIDE

Kecia Harper-Ihem, Clerk

By: Kecia Harper-Ihem
Deputy

By: Chuck Washington
Chuck Washington, Chairman

ATTEST:

CVAG

By: Tom Kirk
Tom Kirk, Executive Director

By: Dana Reed
Dana Reed, CVAG Chair

FORM APPROVED COUNTY COUNSEL

BY Kristine Bell-Valdez 1/5/10
KRISTINE BELL-VALDEZ DATE

EXHIBIT "A"

SCOPE OF SERVICES

JACKSON STREET INTERSTATE 10 INTERCHANGE

PROJECT STUDY REPORT (PHASE I)

and

PROJECT ASSESSMENT AND ENVIRONMENTAL DOCUMENT (PA&ED)

The scope of work will consist of preparing a Project Study Report (PSR) and Project Assessment and Environmental Document (PA&ED) for the Jackson Street Interstate 10 Interchange Project, and all other needed reports to comply with the latest CALTRANS regulations, policies, procedures, manuals and standards including compliance with Federal Highway Administration (FHWA) requirements.

The project will be funded using TUMF/Measure "A" Funds. Each PSR will need to be prepared to identify various types of alternatives to determine the most feasible design with regard to traffic demand and right-of-way availability. The alternatives will be acceptable under CALTRANS and FHWA guidelines and allow project programming in the Regional Transportation Plan (RTP) and State Transportation Improvement Program (STIP). The PSR would also provide preliminary engineering information to a level to determine if a particular project is feasible and fundable and support early environmental documentation. The PA&ED will be prepared to provide preliminary design and obtain CEQA and NEPA environmental clearance. These documents will be used to identify right-of-way needs and in preparation of final design plans in the future PS&E Phase.

EXHIBIT "B"

ESTIMATE OF COST

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

(FROM ESTIMATE PROVIDED BY THE CITY OF INDIO)

CVAG will only pay for the Project Study Report related tasks eligible for reimbursement as outlined in the adopted Project Cost Determination and Expense Eligibility manual.

Estimated cost for the PSR is \$600,000

EXHIBIT "C"

PROJECT SCHEDULE

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

EXHIBIT "D"
NOT NEEDED FOR THIS PHASE OF THE PROJECT

"PROJECT SIGN"

"JACKSON STREET INTERSTATE 10 INTERCHANGE"

PROJECT STUDY REPORT (PHASE I), PROJECT REPORT

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 City Logos and/or Measure "A" Funds Logo, is encouraged.

ATTACHMENT 1

**COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS
REGIONAL ARTERIAL PROGRAM**

**PROJECT COST DETERMINATION
AND
EXPENSE ELIGIBILITY**

PROJECT COST DETERMINATION

AND

EXPENSE ELIGIBILITY

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1.0 INTRODUCTION

This section of the procedures manual outlines the process which shall be followed in determining project costs and project expense eligibility which has been approved to be constructed as part of the Coachella Valley Regional Transportation Program.

This section was developed by the Coachella Valley Association of Governments (CVAG) Transportation Technical Advisory Sub-Committee (TTAS). The primary purpose of this section is to provide a guideline for agencies to make application for a project for both Measure A and Transportation Uniform Mitigation Fee (TUMF) funding.

The project development process starts with an agency-initiated study after a highway improvement need has been identified.

The estimates for projects identified as part of the Regional Transportation Plan are addressed in the 2005 Update of the Regional Arterial Cost Estimate (RACE), dated February, 2006 and shall be updated biannually as part of the TUMF review process.

2.0 COST ESTIMATE DEFINITIONS

- Construction An updated cost estimate for the costs to build the improvement per the approved plans and specifications.
- Engineering Engineering costs will usually be estimated on the basis of a percentage of the estimated construction costs.
- Right-of-Way Expenditures for right-of-way are to be prepared with an accuracy comparable to standards in the industry. Overhead charges need not be included.
- Scheduling Indicate status of project, giving a tentative schedule for engineering, right-of-way acquisition and construction. Discuss project phasing, if planned.

3.0 PROJECT IDENTIFICATION

Any project which is to be submitted for review and funding shall meet or provide all of the following:

- The proposed project shall appear on the approved 2005 Update Transportation Project Prioritization Study updated list of projects.
- The project shall be clearly identified showing, as a minimum, the limits of the project, scope of work, anticipated start and completion dates, estimated project cost and funding sources.
- A general statement of the project. Why it is needed, etc.
- A preliminary design estimate for all design services.

- . A preliminary construction cost estimate, to be updated once design is completed.
- . A preliminary construction management and Agency project management cost estimate.

4.0 RIGHT-OF-WAY ACQUISITION AND OTHER ASSOCIATED COSTS

All right-of-way acquisition and other associated costs, including appraisals and any other costs allowed by state and federal law, are eligible for regional funding.

The agency will further submit a detailed list of costs associated with the right-of-way acquisition to CVAG for review and comment. CVAG will assess each cost and determine its eligibility for regional funding. All protests shall be sent to the Transportation Technical Advisory Sub-Committee for further review. All protests must be in writing and the grounds for protest clearly identified.

Where the likelihood of extensive right-of-way acquisition exists or the need for extensive relocation of homes and businesses, or in the case of new roadway extensions or openings or other extenuating physically or economical restraints so warrant, preliminary engineering, alignment and traffic studies shall be eligible for reimbursement or funding from regional funds.

Any excess property purchased to secure the necessary right-of-way will be deemed to belong to the Regional Arterial Program. 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.

5.0 PROJECT LIMITS

The lead agency submitting a proposed project for review and funding shall clearly identify the project limits. The limits of the project shall be defined as the beginning and the end of the construction. If more than one beginning and/or ending is necessary, clearly indicate that on the statement of the project limits.

A vicinity map shall be included with the project submittal package identifying where the project is located.

6.0 PROJECT FUNDING SOURCE

Project funding will come from both regional Measure A revenues and TUMF collected by CVAG member agencies. Other sources of funding may include local funds from the agency proposing the project, local gas tax funds, ISTEA funds, redevelopment funds, etc.

All funding sources should be considered by the agency prior to project submittal to CVAG for funding from the Regional system funds. CVAG will advance fund, for TUMF jurisdictions, a project up to 100% of the total approved, eligible, estimated project cost. Project contingency funds will not be funded. However, any additional costs incurred due to any change in scope of work may be submitted to CVAG for funding eligibility, and will be processed through CVAG's committee structure for approval.

7.0 PROJECT SCOPE OF WORK

A project scope of work narrative shall be submitted to CVAG with the submittal for expense eligibility and regional funding. The narrative shall include, but not be limited to, discussion of the following:

- . Right-of-Way Acquisition and Relocation
- . Project limits
- . Typical roadway improvement section
- . Vicinity map for project location identification
- . Anticipated starting date - Engineering, R-O-W Acquisition and Construction
- . Anticipated completion date - Engineering, R-O-W Acquisition and Construction
- . Anticipated funding amount

8.0 PROJECT DESIGN (CIVIL)

The project design is the sole responsibility of the agency and/or agencies which are proposing and constructing the project. However, the design and construction standards as outlined in the Regional Arterial Cost Estimate (RACE), 2005 Update, shall be a guideline to be used by the designer for project design and construction standards. Any deviations should be identified, along with the rationale for such deviations.

The total project design services shall not exceed in cost 10% of the estimated construction costs, or as determined by CVAG.

9.0 PROJECT DESIGN (LANDSCAPING)

The following is a narrative of the landscape improvements which shall or shall not be eligible for regional funding:

- . All new landscaping, electrical and irrigation work shall NOT be eligible for regional funding.
- . Only new utility sleeves which are to be placed below the roadway surface for future use shall be eligible for regional funding.

Additionally, any existing landscaping, electrical and irrigation which is directly affected by the project shall be eligible for funding providing it is replaced "in kind".

10.0 PROJECT CONSTRUCTION FUNDING

All regionally funded agency project construction will consist of furnishing all materials, equipment, labor, tools and incidentals as required to construct the improvements as required by the approved plans, specifications and contract documents.

"Curb-to-curb" improvements are eligible for funding, with the exception of landscaping. (See section 9.0 for further detail on landscaping.) "Curb-to-curb" improvements include asphalt paving, striping, curb, etc. Sidewalks, bus-turnouts, ~~bikelanes~~, etc. are not eligible for

Regional Arterial funding. Exception: One sidewalk and/or one bikelane (as of October 30, 2000) will be eligible for Regional Arterial funding if it crosses a(n):

1. Regional Arterial Bridge
2. Interstate 10 Interchange
3. Interstate 86 Interchange

All regionally funded agency projects will comply with the prevailing rates of wages and apprenticeship employment standards established by the State Director of Industrial Relations.

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.

All regionally funded project bids shall be prepared on the approved agency proposal forms in conformance with the instructions to bidders.

All approved regional construction projects will be funded to 100% of the lesser of the following:

- CVAG approved project construction cost estimate.
- The lowest responsible bidder's award.

11.0 PROJECT CONSTRUCTION SURVEY

Construction survey is defined as all surveying and construction staking necessary for the construction of the project as determined by the engineer.

The cost of any additional surveying and/or construction staking primarily for the convenience of the contractor, not in conformance with usual and customary practices and for replacement of stakes lost as a result of the contractor's or agency's negligence, shall be the responsibility of the contractor and/or agency.

The agency shall be responsible for all resetting of monumentation within public and/or private right-of-way that is destroyed by the construction operations unless it is itemized in the approved construction survey estimate.

12.0 PROJECT CONSTRUCTION MANAGEMENT

Project construction management costs shall be eligible for regional funding only if it is to fund one or more of the following:

- Construction inspection
- Materials testing
- Project management
- Construction Survey

Geotechnical studies and reports
Contract administration

The activities set forth above shall be eligible for regional funding based upon actual costs provided the total sum does not exceed 15% of the approved estimated construction costs.

13.0 PROJECT OVERSIGHT - AGENCY TIME

Project cost estimates should include an amount intended to allow Agency to recover an amount representing the costs incurred for the time of its employed staff in working on the project. **These amounts shall be eligible for regional funding based upon actual costs provided the total sum does not exceed 5% of the approved estimated project costs.**

14.0 PROJECT CONTINGENCY FUNDS

Project contingency funds shall not be granted at the beginning of a project. If a change in scope or design creates a need for a change order which may require additional funds, the agency shall make application with CVAG for expense eligibility from regional funds. Actual cost incurred shall only be eligible for funding.

15.0 REFERENCE DOCUMENTS

2005 Update Transportation Project Prioritization Study (TPPS), February 2006
2005 Update Regional Arterial Cost Estimate (RACE), February 2006
Regional Arterial Financial Plan and Expenditure Program, November 1994
Coachella Valley Area Transportation Study, 2003