

STAFF REPORT

CC/DA ACTION _____ MTG. DATE: 8-16-2007
APPROVED DENIED _____ REC/FILE _____ CONT. _____
OTHER _____
VOTE: YES 5 NO 0 ABSTAIN _____

DATE: August 16, 2007

TO: Honorable Mayor and City Council

FROM: Timothy T. Wassil, P.E.
Public Works Director/City Engineer

SUBJECT: Approve Future Reimbursement Agreement for Shared Funding of
Remainder of Highway 111 Improvements

Summary

This report recommends approving the attached Future Reimbursement Agreement between the Coachella Valley Association of Governments (CVAG) and the City of Indian Wells for shared funding of the remaining portions of the Highway 111 Beautification Project.

Background

On June 4, 2007, the CVAG Executive Committee approved a Future Reimbursement Agreement with the City of Indian Wells for the "Remainder of Highway 111 Improvement" Project. The agreement allows the City of Indian Wells to obtain a 75% reimbursement in Measure "A" funds for eligible expenses incurred by the City for all segments of the Highway 111 Beautification Project. The agreement specifies that FY 2009/10 is the earliest that any reimbursement by CVAG would occur.

Analysis

The approval of this Future Reimbursement Agreement will allow the City to complete any desired portions of the Highway 111 Beautification Project with the guarantee from CVAG that we will obtain a 75% reimbursement of our eligible expenditures beginning in FY 2009/10.

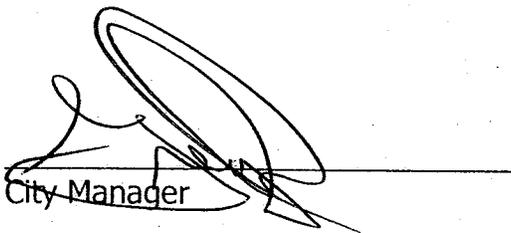
One portion of the Beautification Project that has been completed and will be reimbursed in accordance with this Agreement is the sound wall on the north side of Highway 111 east of Indian Wells Lane. The total cost to complete this sound wall was approximately \$2,110,000, and we will be reimbursed by CVAG after July 1, 2009 for 75% (or approximately \$1,582,500) of the eligible costs.

Fiscal Impact

1. Financial Benefit: Approval of this Future Reimbursement Agreement will insure that the City receives a 75% reimbursement from CVAG for eligible expenditures for all remaining (or future) portions of the Highway 111 Beautification Project beginning in FY 2009/10. Immediately after July 1, 2009 the City will submit to CVAG a reimbursement request all portions of the project completed to date.
2. Cost and Budget: Budgeted RDA funds in the approximate amount of \$2,110,000 were expended in constructing the sound wall east of Indian Wells Lane. We will submit to CVAG a reimbursement request in the approximate amount of \$1,582,500 immediately after July 1, 2009. The annual maintenance costs for the sound wall will be very minimal.
3. Supplemental Appropriation: No supplemental appropriation is required.

Recommendation

Approve the Future Reimbursement Agreement for Shared Funding of Remainder of Highway 111 Improvements.



City Manager

Attachment:
Future Reimbursement Agreement

CVAG - CITY OF INDIAN WELLS & INDIAN WELLS REDEVELOPMENT AGENCY

FUTURE (FISCAL YEAR 2009/2010) REIMBURSEMENT AGREEMENT

"REMAINDER OF HIGHWAY 111 IMPROVEMENTS PROJECT"

DESIGN, RIGHT-OF-WAY & CONSTRUCTION

THIS AGREEMENT is made and entered into this ____ day of _____, 2007, by and between the City of Indian Wells and the Indian Wells Redevelopment Agency, (Collectively "Agency"), and the Coachella Valley Association of Governments ("CVAG"), a California joint powers agency, and is made with reference to the following background facts and circumstances:

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

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

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

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

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

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

Agency desires to proceed with a project known as "Remainder of Hwy 111 Improvements" (the "Project"). The estimated cost of the Project is not determined at this time. CVAG's share of Project City's costs is not determined at this time.

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

1. The program embodied in this Agreement for the reimbursement of funds by CVAG shall apply only to those regional arterial projects that have heretofore been identified in the CVAG 2005 updated list of projects. The Project is one of those projects and is therefore eligible.

2. The Project is generally described and referred to as "Remainder of Hwy 111 Improvements", 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 will be more particularly described in Exhibit "B," entitled "Estimate of Cost," which will be made a part of this Agreement by amendment hereto at such time as the costs are determined. The cost estimate will include a calculation intended to allow Agency to recover an amount representing the time of its employed staff in working on the Project, as well as the amount Agency shall pay to outside contractors in connection with the Project. Subject to the terms herein and all applicable rules regarding allowed costs, the amount of the Jurisdiction One-Quarter and the CVAG Three-Quarters shall be calculated by reference to the cost estimates as shown on Exhibit "B" when it is made a part of this Agreement. Exhibit "C," will be attached by amendment at such time as the "Project Schedule" is finalized.

5. It is the agreement between CVAG and Agency that, of the total Agency share for the cost of the Project (not determined at this time), CVAG shall pay not-to-exceed (not determined at this time) in FY 2009/2010, and Agency shall pay its remaining Jurisdiction One-Quarter of covered costs, as well as one hundred percent (100%) of all costs not eligible for reimbursement by CVAG.

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

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

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

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

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

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

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

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

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

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

10. Agency shall maintain an accounting of all funds received from CVAG pursuant to this Agreement in accordance with generally accepted accounting principles. Agency agrees to keep all Project contracts and records for a period of not less than three years from the date a notice of completion is filed by the Agency on such Project; or, if the Project is not one as to which a notice of completion would normally be recorded, for three years from the date of completion. Agency shall permit CVAG, at any reasonable time, upon reasonable notice, to

inspect any records maintained in connection with the Project. CVAG shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of making or not making any such inspection.

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

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

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

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

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

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

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

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

servants, attorneys, and volunteers, and each of them, from and against all actions, damages, claims, losses, and expenses of every type and description to which they may be subjected or put by reason of or resulting from the actions of CVAG taken in the performance of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

If to Agency: City of Indian Wells/Indian Wells Redevelopment Agency
44950 Eldorado Drive
Indian Wells, CA 92210
Attn: City Manager/Executive Director
Telephone: (760) 776-0237
FAX No.: (760) 346-0407

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:

CITY OF INDIAN WELLS

By: _____
City Clerk

By: _____
Mayor

APPROVED AS TO FORM

INDIAN WELLS REDEVELOPMENT AGENCY

By: _____
City Attorney/Agency Counsel

By: _____
Chairperson

ATTEST:

CVAG

By: _____
John Wohlmuth,
Executive Director

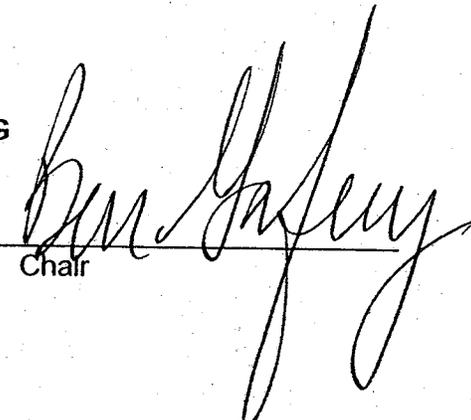
By: 
Chair

EXHIBIT "A"

SCOPE OF SERVICES

FUTURE (FISCAL YEAR 2009/2010) REIMBURSEMENT AGREEMENT

"REMAINDER OF HIGHWAY 111 IMPROVEMENTS PROJECT"

DESIGN, RIGHT-OF-WAY & CONSTRUCTION

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

City of Indian Wells project improvements, from westerly City limits to easterly City limits, will include segments HWY111H ranked with 9 priority points, segment HWY111F ranked with 14 points, and segment HWY111E ranked with 13 points.

This current Future Reimbursement Agreement will be for all remaining segments of Highway 111 through Indian Wells and will provide for a future street widening to six lanes, the construction of sound walls and dirt berms, all of which are eligible for reimbursement under CVAG policy. The City of Indian Wells and Caltrans have settled on a relinquishment agreement making the Highway 111 right-of-way the city's responsibility, and, therefore, eligible for regional project funding.

Typically, when a jurisdiction requests CVAG's participation in funding a regional transportation project, the Priority Point ranking of the highest buildable segment is used as the basis for determining the order of CVAG's funding. According to the TPPS, the Highway 111 Widening Project in Indian Wells roadway segment with the highest rank has 14 Priority Points. In addition, all projects on Highway 111 are listed as Backbone Level Projects, and are raised to the top of each Priority Point grouping wherever they occur. The highest ranked project in the TPPS is ranked with 16 Priority Points.

EXHIBIT "B"

ESTIMATE OF COST

FUTURE (FISCAL YEAR 2009/2010) REIMBURSEMENT AGREEMENT

"REMAINDER OF HIGHWAY 111 IMPROVEMENTS PROJECT"

DESIGN, RIGHT-OF-WAY & CONSTRUCTION

Funding agreed upon as follows:

Project cost is not determined at this time

• Reimbursement will be in FY09/10 according to CVAG Policy Number 07-05

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EXHIBIT "C"
PROJECT SCHEDULE
FUTURE (FISCAL YEAR 2009/2010) REIMBURSEMENT AGREEMENT
"REMAINDER OF HIGHWAY 111 IMPROVEMENTS PROJECT"
DESIGN, RIGHT-OF-WAY & CONSTRUCTION

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EXHIBIT "D"

"PROJECT SIGN"

FUTURE (FISCAL YEAR 2009/2010) REIMBURSEMENT AGREEMENT

"REMAINDER OF HIGHWAY 111 IMPROVEMENTS PROJECT"

DESIGN, RIGHT-OF-WAY & CONSTRUCTION

The Project Sign shall consist of the following information:

MEASURE "A"
PROJECT

YOUR TAX DOLLARS
AT WORK

"PROJECT NAME"

FUNDED BY:

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

TOTAL

\$ X,XXX,XXX

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

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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, 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