



## City Council Staff Report

Date: November 3, 2010

CONSENT CALENDAR

Subject: AMENDMENT NO. 1 TO THE INDIAN CANYON DRIVE WIDENING  
CVAG REIMBURSEMENT AGREEMENT

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

### SUMMARY

Approval of Amendment No. 1 to the reimbursement agreement between the City of Palm Springs and the Coachella Valley Association of Governments ("CVAG") (Agreement No. 4593) revises the total authorized Measure A amount to \$4,500,000 for the Indian Canyon Drive Widening through the Whitewater River (City Project 01-25), revises the CVAG Regional Measure A share to 75% of total project costs, and allocates the City's federal grant as credit for the City's local match.

### RECOMMENDATION:

- 1) Approve Amendment No. 1 to Agreement No. 4593, a Reimbursement Agreement with the Coachella Valley Association of Governments for the Indian Canyon Drive Widening through the Whitewater River (City Project 01-25); and
- 2) Authorize the City Manager to execute all necessary documents.

### STAFF ANALYSIS:

On November 26, 2002, City Council approved a Reimbursement Agreement with CVAG (Agreement No. 4593) for the Indian Canyon Drive Widening through the Whitewater River (City Project 01-25). The original agreement was to be funded 50% by CVAG, and the City was successful in obtaining a \$2,199,000 federal grant for this project which was to be applied to the overall cost and as the City's 50% share.

City staff and the consultant (Dokken Engineering) have completed all environmental review, permitting, right-of-way acquisition, and engineering design for this project. The final project cost is now estimated at \$4,500,000 which under the original funding share would require a City local match of \$2,250,000 – an amount slightly more than the \$2,199,000 federal grant obtained for this project.

ITEM NO. 2.5

Staff requested CVAG to consider an amendment to the reimbursement agreement that establishes the CVAG funding share at 75% of project costs, which is now typical on all CVAG funded projects. Staff also requested that CVAG continue to credit the federal grant to the City's 25% local share, which has been accommodated on other City projects.

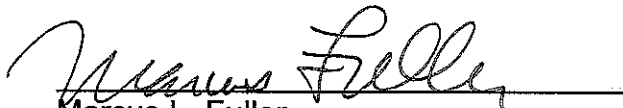
On September 27, 2010, the CVAG Executive Committee approved Amendment No. 1 to the CVAG Reimbursement Agreement.

FISCAL IMPACT:

Total project costs are estimated at \$4,500,000. Amendment No. 1 to the CVAG Reimbursement Agreement revises CVAG's share at 75% of project costs and applies the \$2,199,000 federal grant to the 25% City local share. Ultimately, the City will have \$0 cost for developing and implementing this project, which will be funded entirely by the federal grant and Regional Measure A funds.

SUBMITTED:

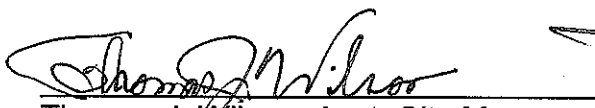
Prepared by:

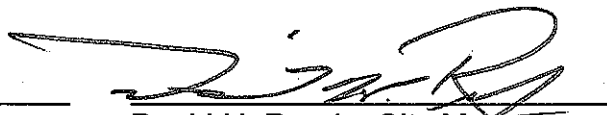
  
\_\_\_\_\_  
Marcus L. Fuller  
Assistant Director of Public Works

Recommended by:

  
\_\_\_\_\_  
David J. Barakian  
Director of Public Works/City Engineer

Approved by:

  
\_\_\_\_\_  
Thomas J. Wilson, Asst. City Manager

  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

1. Amendment No. 1 to Agreement No. 4593
2. September 27, 2010, CVAG Executive Committee Staff Report

**AMENDMENT NUMBER ONE**

to the

**CITY OF PALM SPRINGS- CVAG**

**Reimbursement Agreement for the Project to Widen Indian Canyon Drive across the  
Whitewater River Wash**

**THIS AMENDMENT NUMBER ONE** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between **City of Palm Springs (Agency)**, and the **Coachella Valley Association of Governments**, a California joint powers agency, ("**CVAG**"), and is made in reference to the following:

At their meeting in October 2002, the Executive Committee approved the request by the City of Palm Springs to enter a Reimbursement Agreement for the Project to Widen Indian Canyon Drive across the Whitewater River Wash from the Union Pacific Railroad crossing bridge, just south of Interstate 10, south to Tram View Road. As was the policy at the time, the Executive Committee agreed to pay 50% of qualified project costs. The current estimated project cost is \$4,500,000. In accordance with the current Reimbursement Agreement, the CVAG share would be \$2,250,000.

The City of Palm Springs is now ready to proceed to construction on this project and is requesting Amendment Number One to the Reimbursement Agreement.

**This Amendment Number One shall:**

**Modify the Original Reimbursement Agreement to Provide CVAG Regional Funds for 75% of Qualified Project Costs, and;**

**Allow Surface Transportation Funds acquired by the City of Palm Springs to be applied to the 25% Local Share of Project Costs, and;**

**Reduce the CVAG Regional Share of Project Costs by the amount of Surface Transportation Funds in excess of the 25% Local Share of Project Costs, and;**

**Provide that any "Additional Qualified Funds" which the City of Palm Springs should acquire for this Project be First Applied "Off the Top" to reduce initial Total Project Costs, and;**

**Set a Cap on the CVAG Regional Share of Project Costs, in the Amount Not to Exceed \$2,301,000, and;**

**Authorize Establishing the "Time Trigger" to require Construction on this Project to Begin within Two Years from the Date of Execution of this Amendment Number One, and;**

**Require the City of Palm Springs to repay any Regional Funds advanced for the initial/ earlier constructed phases of the Project, with interest, should the City fail to meet the deadlines established by the Time Trigger as described, and;**

Require that any regional funds advanced to the City of Palm Springs for the initial/earlier phases of the project which are directed for repayment accrue interest at the rate for the Local Agency Investment Fund (LAIF), as determined on July 1<sup>st</sup> of each year, and;

Authorize the Executive Director, in consultation with CVAG General Counsel, to resolve any Minor Inconsistencies in approving this Amendment Number One.

All other conditions of the initial Reimbursement Agreement shall remain in full force and effect.

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 PALM SPRINGS**

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Mayor

**CVAG**

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

By: \_\_\_\_\_  
Yvonne Parks  
CVAG Chair

**Item 7H**

**DATE:** September 27, 2010  
**TO:** EXECUTIVE COMMITTEE  
**FROM:** Allyn S. Waggle, Deputy Executive Director  
**SUBJECT:** Consider Amendment Number One to the Reimbursement Agreement with the City of Palm Springs for the Project to Widen Indian Canyon Drive across the Whitewater River Wash

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**STAFF RECOMMENDED MOTION:** That the Executive Committee Approve Amendment Number One to the Reimbursement Agreement with the City of Palm Springs for the Project to Widen Indian Canyon Drive across the Whitewater River Wash, to:

- 1) **Modify the Original Reimbursement Agreement to Provide CVAG Regional Funds for 75% of Qualified Project Costs;**
- 2) **Allow Surface Transportation Funds acquired by the City of Palm Springs to be applied to the 25% Local Share of Project Costs;**
- 3) **Set a Cap on the CVAG Regional Share of Project Costs, in the Amount Not to Exceed \$2,301,000;**
- 4) **Authorize Establishing the "Time Trigger" as described herein, to require Construction on this Project to Begin within Two Years from the Date of Execution of this Amendment Number One; and**
- 5) **Authorize the Executive Director, in consultation with CVAG General Counsel, to resolve any Minor Inconsistencies in approving this Amendment Number One.**

**Transportation Committee:** CONCURS (Meeting of August 30<sup>th</sup>)

**Technical Advisory Committee:** CONCURS (Meeting of September 13<sup>th</sup>)

**BACKGROUND:** At their meeting in October 2002, the Executive Committee approved the request by the City of Palm Springs to enter an agreement for the Project to Widen Indian Canyon Drive across the Whitewater River Wash from the Union Pacific Railroad crossing bridge, just south of Interstate 10, south to Tram View Road. As was the policy at the time, the Executive Committee agreed to pay 50% of qualified project costs. The current estimated project cost is \$4,500,000. In accordance with the current Reimbursement Agreement, the CVAG share would be \$2,250,000.

The City of Palm Springs is now ready to proceed to construction on this project and is requesting Amendment Number One to the Reimbursement Agreement. As part of the amendment, the City of Palm Springs requests that CVAG increase the Regional Share of qualified project costs from 50% to 75%, which policy was approved for all regional

transportation projects when the Transportation Uniform Mitigation Fee (TUMF) was increased in January 2007.

The City of Palm Springs has acquired Surface Transportation Program (STP) funds, and requests that those funds be acknowledged as representing the 25% Local Share of project costs. The STP funds allocated to this project, \$2,199,000, far exceed the estimated 25% Local Share of project costs. Any STP funds in excess of the 25% Local Share of project costs will be applied to the CVAG Regional Share of project costs. In addition, any "Additional Qualified Funds", from whatever source, will be applied against the total project costs before reductions realized from assignment of the STP funds described herein.

As this proposed distribution is nearly identical to that which would have been encumbered under the original Reimbursement Agreement CVAG staff supports this distribution of costs. However, in keeping with CVAG's present efforts to closely monitor cash flow requirements, staff is proposing certain conditions on this proposed amendment.

As the concept has been approved previously, staff proposes approval of a "Time Trigger" as to when CVAG funds support may be withdrawn from this project. The Time Trigger will provide that construction must begin within two years of the date of execution of the approved Amendment Number One to the Reimbursement Agreement with the City of Palm Springs for the Project to Widen Indian Canyon Drive across the Whitewater River Wash. If the project has not started construction after two years, the City of Palm Springs will be required to again submit the project for consideration to receive CVAG regional fund support.

Failure by the City of Palm Springs to comply with the conditions of the Time Trigger will require the City to repay any regional funds advanced for the initial phases of the project which do not meet the deadlines established by the Time Trigger as described. Regional funds subject to repayment will accrue interest at the rate for the Local Agency Investment Fund (LAIF), as determined on July 1<sup>st</sup> of each year. Repayment schedules for regional funds will be subject to negotiation and approval by the CVAG Executive Committee.

**FISCAL ANALYSIS:** Approval of Amendment Number One to the Reimbursement Agreement for the Project to Widen Indian Canyon Drive across the Whitewater River Wash from the Union Pacific Railroad crossing bridge, just south of Interstate 10, south to Tram View Road, increases the CVAG regional share of project costs, by approximately \$51,000, from what the original Reimbursement Agreement would have established, based on the total estimated project cost shown above. By this proposed Amendment Number One the City of Palm Springs' share is fully satisfied, and all of the STP funds are still applied to the project for which they were approved.

This is a reasonable position for CVAG to assume, but it remains so only if the total estimated project costs does not exceed \$4,500,000. Using this cost estimate, the re-calculated CVAG regional share of project costs is 51.1% of the present estimate. Under this scenario, should the actual project costs become greater than the estimate, the CVAG regional share of project costs would increase. In the alternative, the percentage of CVAG's share of total project costs would decrease if the actual, total project costs become less than estimated. The point at which the CVAG regional share of project costs would equal 50% of the present estimate, as the original Reimbursement Agreement provided, using this re-calculated CVAG regional share of project costs, is if the actual total project costs are closest to \$4,449,000.

For this reason, staff proposes that a cap be set on the impact to CVAG's Cash Flow, a Not to Exceed limit for the CVAG regional share of project costs being set at \$2,301,000, which cost is proposed by the City of Palm Springs.



# City of Palm Springs

Department of Public Works and Engineering  
3200 East Tahquitz Canyon Way • Palm Springs, California 92262  
Tel: (760) 323-8253 • Fax: (760) 322-8325 • Web: [www.palmspringsca.gov](http://www.palmspringsca.gov)

July 6, 2010

Mr. Allyn Waggle  
Coachella Valley Association of Governments  
73-710 Fred Waring Drive, Suite 200  
Palm Desert, CA 92260

Re: **Indian Canyon Drive Across the White Water River Wash  
Federal Project SPTLN 5282 (023); City Project No. 01-25  
Amendment No. 1 - Revised Request**

Dear Allyn:

This letter supplements the City's previous letter of May 5, 2010. As a result of our request to amend the agreement for this project, we have discussed how to address the City's \$2,199,000 federal Surface Transportation Program ("STP") grant for this project and how it is credited to the overall project costs. Generally, this issue is of concern because of our request to amend the existing agreement to reflect current CVAG Executive Committee policy establishing a funding share of 75% Regional / 25% Local Measure A funds (as opposed to the former 50%-50% split) on this project.

Repeating what we have outlined in our prior letters, the existing Agreement (unamended) has a current maximum authorized expenditure amount of \$3,324,000 of which CVAG Regional Measure A funds are limited to 50% (or \$1,662,000). The City has the following federal funds obligated for this project:

Federal STP: \$263,000 (design)  
Federal STP: \$1,936,000 (construction)  
Total federal funds: **\$2,199,000**

The final estimated costs for this project are as follows:

Environmental Approvals:	\$ 400,000
Design Engineering:	\$ 350,000
Right-of-Way:	\$ 100,000
Construction:	\$ 3,300,000
Construction Engineering:	\$ 350,000
<b>Total Project Cost:</b>	<b>\$ 4,500,000</b>
<b>Less Federal STP Grant:</b>	<b>\$ 2,199,000</b>
<b>Net Project Cost:</b>	<b>\$ 2,301,000</b>



Mr. Allyn Waggle  
July 6, 2010  
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We believe it is equitable and fair to reestablish the funding share for this project at a 75%-25% split consistent with most other transportation projects funded in the Measure A Program. Basing this funding share to the overall cost of the project would establish CVAG and City funding obligations at:

CVAG (75% of \$4,500,000) = \$3,375,000  
City (25% of \$4,500,000) = \$1,125,000

Our request would require an additional \$1,713,000 CVAG Measure A funding obligation above the current maximum of \$1,662,000.

However, the above amounts do not reflect the City's \$2,199,000 federal STP grant which ultimately reduces the overall funding obligation otherwise due from CVAG and the City. But, as you know, there is significant red tape associated with any federal grant as relates to processing the project through Caltrans, and it is our humble opinion that the City's efforts to secure the federal grant and coordinate the project at the federal level through Caltrans is justification for crediting the federal grant as the City's local share for this project.

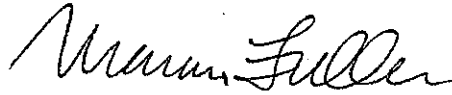
Therefore, the net balance of \$2,301,000 remaining after crediting the total project costs with the \$2,199,000 federal STP grant would be distributed as follows:

CVAG (100% of \$2,301,000) = \$2,301,000  
City (0% of \$2,301,000) = \$0

This request would decrease the CVAG 75% funding obligation for this project (absent the STP federal grant) from \$3,375,000 to \$2,301,000 (a savings of \$1,074,000 to the Measure A Program).

I have prepared a revised Exhibit "B" that could be used in this Amendment No. 1 (see enclosed copy). If you have any questions, please feel free to contact me at (760) 323-8253, extension 8732, or by e-mail at [Dave.Barakian@palmspringsca.gov](mailto:Dave.Barakian@palmspringsca.gov).

Sincerely,



for David J. Barakian, P.E., T.E., P.T.O.E.  
Director of Public Works/City Engineer

enc

cc: file

**EXHIBIT B**

**ESTIMATE OF COST**

**"INDIAN CANYON DRIVE ACROSS THE WHITE WATER RIVER WASH"**

**ENVIRONMENTAL, DESIGN ENGINEERING, RIGHT-OF-WAY, AND CONSTRUCTION**

Environmental Approvals	\$ 400,000
Design Engineering	\$ 350,000
Right-of-Way	\$ 100,000
Construction	\$ 3,300,000
Construction Engineering	\$ 350,000
<b>Total Cost</b>	<b>\$ 4,500,000</b>
CVAG Original Share:	\$ 3,375,000
Local Original Share:	\$ 1,125,000
Offsetting Funds:	
Federal STP (design):	\$ 263,000
Federal STP (construction):	\$ 1,936,000
<b>Total Offsetting Funds:</b>	<b>\$ 2,199,000</b>
<b>Net Balance</b>	<b>\$ 2,301,000</b>
CVAG Net Share:	\$ 2,301,000
Local Net Share:	\$ 0