



## City Council Staff Report

Date: October 19, 2011 CONSENT CALENDAR

Subject: AMENDMENT NO. 3 TO THE INDIAN CANYON DRIVE UPRR BRIDGE  
WIDENING CVAG REIMBURSEMENT AGREEMENT

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

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### SUMMARY

Approval of Amendment No. 3 to the reimbursement agreement between the City of Palm Springs and the Coachella Valley Association of Governments ("CVAG") (Agreement No. 4394) revises the total authorized Measure A amount to \$5,000,000 for the Indian Canyon Drive UPRR Bridge Widening (City Project 01-11), and increases the CVAG Regional Measure A share from 50% to 75% of net project costs.

### RECOMMENDATION:

- 1) Approve Amendment No. 3 to Agreement No. 4394, a Reimbursement Agreement with the Coachella Valley Association of Governments for the Indian Canyon Drive UPRR Bridge Widening (City Project 01-11); and
- 2) Authorize the City Manager to execute all necessary documents.

### STAFF ANALYSIS:

On September 5, 2001, City Council approved a Reimbursement Agreement with CVAG (Agreement No. 4394) for the Indian Canyon Drive UPRR Bridge Widening (City Project 01-11). The original agreement was for a total project cost of \$3,093,750 to be funded 50% by CVAG. The City was successful in obtaining over \$2.1 Million in federal grants for this project which were to be credited as the City's 50% share (creating an "excess local share" of \$585,185 to be applied to the City's share of project costs for the Indian Canyon Drive I-10 Interchange Project).

This project is federally funded, and as such requires coordination with the California Department of Transportation (Caltrans). Caltrans, as the lead federal agency, has responsibility to review the project for conformance with federal environmental laws and to ensure compliance with state and federal regulations and design standards.

Although the project commenced in 2002, a lengthy environmental review process was required, with Caltrans issuing final environmental approvals in 2009. Federal rules prevented the City from proceeding with final engineering design until after the environmental clearance is obtained. The City initiated final design in late 2009.

The original scope of this project assumed widening of the existing UPRR bridge. This assumption was based on all prior projects in the Coachella Valley involving widening of existing railroad bridges, including the Gene Autry Trail UPRR bridge which is currently under construction. However, recent UPRR policy implemented statewide dictates that if existing railroad bridges do not allow for future expansion of railroad operations, including construction of new tracks, widening the existing bridge will not be allowed by UPRR. Essentially, this new UPRR policy communicated to the City in January 2010 requires the City to demolish the existing UPRR bridge and construct an entirely new bridge to provide clearance for future UPRR tracks.

Despite our best efforts to prevail with UPRR on this policy, without UPRR's approval of our bridge widening plans this project cannot proceed to construction. Therefore, a complete change of scope to this project has been dictated by the UPRR requiring demolition of the existing bridge and replacement with a new bridge structure. The existing bridge is a 4-span bridge, the UPRR is allowing the City to construct a new bridge with one pier in the UPRR right-of-way. The new 2-span bridge design impacts the entire project, increasing the project footprint and requiring re-validation of the environmental approval.

The changed scope dramatically increased the total cost of this project from just over \$3 Million to \$21,500,000. However, City staff pursued additional federal funding from Caltrans to offset the increased cost of the project. Staff was ultimately successful in securing an additional \$14.5 Million in federal funds for the project.

Given the increased project cost it was necessary to request CVAG to amend the funding agreement to allocate more Regional Measure A funds to this project. 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 City's federal grants towards the City's 25% local share, which had previously been accommodated on other City projects.

However, CVAG did not support the City's request to credit the federal grants City staff have obtained for this project towards the City's local share. On September 26, 2011, the CVAG Executive Committee approved Amendment No. 3 to the CVAG Reimbursement Agreement with the stipulation that the federal grants the City obtained for the project be "taken off the top" and the net project cost be divided 75% Regional Measure A funding and 25% Local Measure A funding.

Thus, despite staff's best efforts to secure an additional \$14.5 Million in federal funds for this project, CVAG policy recently adopted with regard to outside funding on CVAG projects requires that the funding be "taken off the top", rather than credited towards the City's local share. In this case, the City's local share of project costs is increasing from \$0 with the original agreement to \$1,250,000 with the amended agreement.

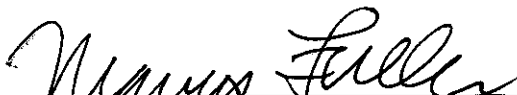
However, City staff did prevail in having CVAG honor the "excess local share" provision of the original agreement, in that the \$585,185 credit towards the City's local share of costs for the Indian/I-10 Interchange will continue to be applied. This way, the City will ultimately have \$0 cost for the Indian/I-10 Interchange.

FISCAL IMPACT:

Total project costs are estimated at \$21,500,000. Amendment No. 3 to the CVAG Reimbursement Agreement revises CVAG's share at 75% of net project costs after subtracting the \$16.5 Million in federal funding City staff have secured for the project. The net project cost is \$5 Million with the City's 25% local share being \$1,250,000 to be budgeted from Local Measure A funding.

SUBMITTED:

Prepared by:

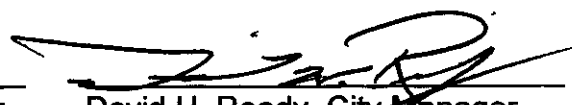
  
\_\_\_\_\_  
Marcus L. Fuller  
Assistant Director of Public Works

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. September 26, 2011, CVAG Executive Committee Staff Report
2. Amendment No. 3 to Agreement No. 4394



**Staff Report**

**Subject:** Amendment Number Three to the Reimbursement Agreement with the City of Palm Springs for the Project to Improve Indian Avenue from Garnet Road to, and Including, the UPRR Railroad Crossing

**Through:** Tom Kirk, Executive Director

**Contact:** Allyn Waggle, Deputy Executive Director ([awaggle@cvaq.org](mailto:awaggle@cvaq.org))

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**Recommendation:** Approve Amendment Number Three to the Reimbursement Agreement with the City of Palm Springs, in accordance with adopted policies and procedures, for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing, to modify the original Reimbursement Agreement to provide CVAG Regional Funds for 75% of Qualified Project Costs, in the Amount not to exceed \$3,750,000.

**Transportation Committee:** Initially delayed action on this item until the Technical Advisory Committee was able to review it. (Meeting of June 6<sup>th</sup>)

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

**Transportation Committee:** CONCURS (Meeting of August 29<sup>th</sup>)

**Background:** In June 2001, the Executive Committee authorized the amount of \$1,546,875 for the design engineering and preparation of the environmental document for the project to improve Indian Avenue from Garnet Road (South of I-10) to, and including, the UPRR Railroad Crossing Bridge. As was the policy at the time, the Executive Committee agreed to pay 50% of qualified project costs.

In April 2003 the Executive Committee authorized Amendment Number One in the amount of \$28,300 to cover additional costs for the design consultant.

In February 2007 the Executive Committee authorized Amendment Number Two in the amount of \$50,100 for the design consultant who encountered an extensive schedule impact. The prolonged schedule was due to several factors related to changes in Caltrans' requirements for Environmental Documents, such as changed format, additional analysis, Caltrans personnel changes, and the Caltrans review process.

The City of Palm Springs is now requesting Amendment Number Three to the Original Reimbursement Agreement. The primary need for the amendment is to comply with changed requirements adopted by the UPRR for any structures overcrossing their rail line. In addition, 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%. CVAG has typically honored this type request from other jurisdictions as their projects have proceeded through the amendment process.

The revised cost estimate to complete this bridge project is approximately \$21.5 Million. The City of Palm Springs indicates it has successfully obtained funding of approximately \$16.5 Million, leaving a remainder of approximately \$5.0 Million. In addition to requesting the project funding share be amended to provide 75% CVAG Regional Funds/ 25% Local Funds, the City of Palm Springs is also requesting that CVAG be responsible for the entire remainder of \$5.0 Million. At this time, staff cannot support that portion of the city's request. Applying the now standard 75% Regional Funds/ 25% Local Funds formula, the CVAG share of the remainder costs will be \$3,750,000, and the Palm Springs share will be \$1,250,000.

At the Technical Advisory Committee meeting of June 13<sup>th</sup>, a motion was made and seconded to approve the Palm Springs request that CVAG be responsible for the entire remainder share of \$5.0 Million. That motion failed to carry with three Ayes, seven Nays, one Abstention and two members absent. A second motion to adopt the staff recommendation, as presented above, was successful. The motion carried with one Nay note.

In addition, and as the concept has been approved through CVAG Policy 10-04, 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 Four Years of the date of execution of the approved Amendment Number Three to the Reimbursement Agreement with the City of Palm Springs for the project to improve Indian Avenue from Garnet Road (South of I-10) to, and including, the UPRR Railroad Crossing Bridge. If the project has not started construction after four 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:** CVAG's current cash flow projections indicate a recurring negative balance of regional transportation funds and CVAG has generally avoided new financial commitments in the last two years. Staff is hopeful that the cash flow projections will continue to improve due to actions taken by CVAG, as well as, hopefully, an improving economy. As described above, the substantial leveraging opportunity of projects such as this one are the only new projects approved by CVAG in the last two years. Still, CVAG's major commitments with higher priority TPPS projects, such as the Jefferson Street/ Interstate 10 Interchange project, require a fiscally conservative approach. Therefore "off-ramp" language has been added in the event regional funds are not available at the time of construction of this project. Staff recommends language to authorize that CVAG may decline, or delay, to provide regional funds for the project to improve Indian Avenue from Garnet Road (South of I-10) to, and including, the UPRR Railroad Crossing Bridge should it be determined that such action is necessary to maintain a minimum cash flow balance of regional funds.

**Contract Finalization:** Minor changes/revisions may be made for clarification purposes by CVAG Executive Director and Legal Counsel prior to execution.

**AMENDMENT NUMBER THREE  
to the  
REIMBURSEMENT AGREEMENT  
with the  
CITY OF PALM SPRINGS  
for the  
PROJECT TO IMPROVE INDIAN AVENUE FROM GARNET ROAD TO, AND INCLUDING,  
THE UPRR RAILROAD CROSSING**

**THIS AMENDMENT NUMBER THREE, effective this 26<sup>th</sup> day of September, 2011, by and between the 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 June 2001 meeting the Executive Committee approved the **Reimbursement Agreement with the City of Palm Springs for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing**. At the time, the estimated cost for the design engineering phase of the project was \$1,546,875. As Indian Avenue is a qualified regional arterial roadway the project was approved for the then standard 50% funding from CVAG regional funds.

In April 2003 the Executive Committee approved Amendment Number One to the project, and in February 2007 approved Amendment Number Two to the Reimbursement Agreement. Both amendments provided additional funds to implement the Reimbursement Agreement.

The City of Palm Springs is now requesting Amendment Number Three to the Reimbursement Agreement. The primary need for this amendment is to comply with changed requirements adopted by the UPRR for any structures overcrossing their rail line.

In addition, and as part of Amendment Number Three, the City of Palm Springs requests that CVAG increase the Regional Share of qualified project costs from 50% to 75%. CVAG has typically honored this type request from other jurisdictions as their projects have proceeded through the amendment process.

The revised cost estimate to complete this bridge project is approximately \$21.5 Million. The City of Palm Springs indicates it has successfully obtained funding of approximately \$16.5 Million, leaving a remainder of approximately \$5.0 Million. Applying the now standard 75% Regional Funds/ 25% Local Funds cost sharing formula, the CVAG share of the remainder costs will be \$3,750,000, and the Palm Springs share will be \$1,250,000.

**This Amendment Number Three to the Reimbursement Agreement with the City of Palm Springs for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing shall:**

**Approve and Authorize CVAG Regional Funds for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing in the amount not to exceed \$3,750,000, and;**

Increase the Regional Share of qualified project costs from 50% to 75% for this portion of the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing, and;

Establish a "Time Trigger" which will require that construction of the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing must begin within Four Years of the date of execution of Amendment Number Three to the Reimbursement Agreement with the City of Palm Springs, and;

Require that failure by Agency to comply with the conditions of the "Time Trigger" described above will require repayment of any regional funds advanced for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing. Repayment schedules are subject to negotiation and approval by the CVAG Executive Committee, and;

Establish that CVAG may decline, or delay, to provide regional funds for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing should it be determined that such action is necessary to maintain a minimum balance of regional funds.

All other conditions of the approved Reimbursement Agreement for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing, as well as Amendment Number One and Amendment Number Two thereto, shall remain in full force and effect.

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The parties hereto have caused this Amendment Number Three to the Reimbursement Agreement with the City of Palm Springs for the Project to Improve Indian Avenue from Garnet Road to, and including, the UPRR Railroad Crossing 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: \_\_\_\_\_  
John J. Benoit  
CVAG Chair