



ITEM NO. 5

STAFF REPORT

DATE: NOVEMBER 15, 2011
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ROD FOSTER, CITY MANAGER
PREPARED BY: AMER JAKHER, PUBLIC WORKS & UTILITY SERVICES DIRECTOR
SUBJECT: JURISDICTION MASTER AGREEMENT FOR FUNDING ALLOCATION FOR THE MEASURE I 2010-2040 VALLEY MAJOR STREET PROGRAM BETWEEN COLTON AND SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

RECOMMENDED ACTION

It is recommended that the City Council:

1. Approve termination of Jurisdiction Master Agreement No. C10244 for funding allocation for the Measure I 2010-2040 Valley Major Street Program/Arterial Sub-program between San Bernardino County Transportation Authority (SANBAG).
2. Approve execution of Jurisdiction Master Agreement No. C12014 for funding allocation for the Measure I 2010-2040 Valley Major Street Program/Arterial Sub-program between San Bernardino County Transportation Authority (SANBAG).

GOAL STATEMENT

The proposed action will support the City's goal to improve its street infrastructure.

BACKGROUND

In 2004, San Bernardino County voters approved the extension of Measure I; a local county sales tax that provides for transportation improvements effective 2010-2040. The approved Measure I is administered by San Bernardino Associated Governments/San Bernardino County Transportation Authority (SANBAG). On April 1, 2009, the SANBAG Board of Directors approved a Strategic Plan that acts as a policy manual for carrying out transportation improvements as authorized by Measure I. One such program identified within the Strategic Plan, and funded by Measure I is the Valley Arterial Program.

ISSUES/ANALYSIS

On September 7, 2010, the City Council approved the Jurisdiction Master Agreement No. 10244 (Exhibit A) for the Measure I 2010-2040 Valley Major Street Program with SANBAG. Jurisdiction Master Agreement with SANBAG is required by Measure I Strategic Policy 40006 before reimbursement can occur with Measure I funds allocated to the jurisdiction under the Arterial sub-program. The 2010 Jurisdiction Master Agreement requires annual contract amendment with SANBAG.

To eliminate the need to execute annual contract amendment with SANBAG, a revised model Jurisdiction Master Agreement for the Measure I 2010-2040 Valley Major Street Program/Arterial Sub-program was approved by SANBAG Board of Directors on June 1, 2011. The new agreement refers to a "Funding Allocation and Project List" which will specify the Measure I arterial funds to be allocated to jurisdiction annually and the projects eligible for reimbursement. Instead, the SANBAG Board will approve an allocation and project list each fiscal year, developed in consultation with the local jurisdiction technical staff.

The streets identified to be eligible for reimbursement of expenses incurred for FY 10/11 are Reche Canyon Road and Agua Mansa Road. The streets identified to be eligible for reimbursement of project costs in FY 11/12 are Reche Canyon Road, Agua Mansa Road, Pepper Avenue Extension, Riverside Avenue (Agua Mansa Road to Riverside County Line), San Bernardino Avenue-Olive Street (Pepper Ave. to Rancho Avenue), Slover Avenue, Washington Street Extension, Washington Street (I-215 to Waterman Avenue, and C Street (West City Limit to Pennsylvania Avenue). For FY 12/13, the streets eligible for reimbursement of project costs are all the streets eligible for reimbursement for FY11/12 and La Cadena Drive (Rancho Avenue to Iowa Ave.).

FISCAL IMPACTS

The proposed agreement does not have financial impacts. The projects that will be identified on the project list will be budgeted in the budget adoption process.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

Exhibit A – Existing Jurisdiction Master Agreement No. C 10244 approved on 9/7/10
Exhibit B - Jurisdiction Master Agreement No. C 12014

Exhibit A

APPROVED BY
CITY COUNCIL
Date 9/7/10
Item # 10

JURISDICTION MASTER AGREEMENT NO. C10244

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF COLTON

THIS AGREEMENT is made and entered into this 3rd day of November by and between the San Bernardino County Transportation Authority (hereinafter referred to as "SANBAG") and the CITY of Colton (hereinafter referred to as "CITY").

WITNESSETH

WHEREAS, the Measure I 2010-2040 Strategic Plan identified Valley Major Street Program- Arterial Sub-program projects eligible for partial funding from Measure I 2010-2040 revenues; and

WHEREAS, this Jurisdiction Master Agreement is to be carried out in accordance with the policies in the Measure I 2010-2040 Strategic Plan; and

WHEREAS, SANBAG has determined that these PROJECTS (Attachment A) are included in the SANBAG Development Mitigation Nexus Study Capital Project Needs Analysis; and

WHEREAS, SANBAG will reimburse CITY for the public share of eligible PROJECT expenditures with Measure I 2010-2040 Major Street Program- Arterial Sub-program funds up to the annual fund allocation amount (Attachment B);

NOW, THEREFORE, SANBAG and CITY agree to the following:

SECTION I

SANBAG AGREES:

1. To reimburse CITY, as provided in Section III, within 30 days after CITY submits to SANBAG an original and two copies of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were

incurred by CITY, consistent with the invoicing requirements of the Measure I 2010-2040 Strategic Plan, including backup information. Invoices may be submitted to SANBAG as frequently as monthly.

2. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of CITY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to SANBAG when planning and conducting additional audits.
3. SANBAG shall assign a project liaison for purposes of coordinating project activities and invoice review.

SECTION II

CITY AGREES:

1. Only eligible PROJECT-specific work activities, as set forth in Attachment A to this Agreement, that conform to the SANBAG Nexus Study and are included in first two years of the current Capital Project Needs Analysis (CPNA) will be eligible for reimbursement with Measure I Major Street Program- Arterial Sub-program funds.
2. To prepare and submit to SANBAG an original and two copies of signed invoices for reimbursement of those eligible PROJECT expenses according to Attachment A. Invoices may be submitted to SANBAG as frequently as monthly, up to the allocation limit specified in Attachment B.
3. To repay to SANBAG any reimbursement for Measure I costs that are determined by subsequent audit to be unallowable within ninety (90) days of CITY receiving notice of audit findings, which time shall include an opportunity for CITY to respond to and/or resolve the finding. Should the finding not be otherwise resolved and CITY fail to reimburse moneys due SANBAG within ninety (90) days of audit finding, or within such other period as may be agreed between both parties hereto, the SANBAG Board reserves the right to withhold future payments due CITY from any source under SANBAG's control.
4. To provide 43.6% share of total eligible PROJECT expenses, which represents the development share, as documented in Attachment B.
5. To maintain all source documents, books and records connected with its performance under this Agreement for a minimum of five (5) years from the

date of the Final Report of Expenditures submittal to SANBAG or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of SANBAG. Copies will be made and furnished by CITY upon request,

6. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support CITY request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by CITY.
7. To prepare a Final Report of Expenditures, including a final invoice reporting the actual eligible PROJECT costs expended for those activities described in the work activities, and to submit that Report and invoice no. later than 120 days following the completion of those expenditures. The Final Report of Expenditures, an original and two copies of which report shall be submitted to SANBAG, must state that these PROJECT funds were used in conformance with this Agreement and for those PROJECT-specific work activities described.
8. To have a PROJECT-specific audit completed by SANBAG, at SANBAG's option, upon completion of the PROJECT. The audit must state that all funds expended on the PROJECT were used in conformance with this Agreement.
9. To include SANBAG in Project Development Team (PDT) meetings, if and when such meetings are held and related communications on project progress and to provide at least quarterly schedule updates to SANBAG. SANBAG shall assign a project liaison for the purpose of attending PDT meetings.
10. As an eligible PROJECT expense, to post signs when PROJECT begins at the boundaries of the PROJECT noting that PROJECT is funded with Measure I funds. Signs shall bear the logos of San Bernardino Associated Governments and City of Colton

SECTION III

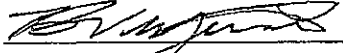
IT IS MUTUALLY AGREED:

1. To abide by all applicable federal, state and local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the date of execution of this agreement.

2. SANBAG's financial responsibility shall be 56.4% of actual cost for eligible PROJECT expenditures, up to the allocation limit specified in Attachment B. An estimate of costs for each PROJECT PHASE is provided in Attachment A.
3. CITY may be reimbursed in a subsequent fiscal year for expenditures in excess of the allocation limit for the current fiscal year, based on invoices for eligible PROJECT expenditures. SANBAG retains the option to reimburse CITY no more than 50% of the public share of excess expenditures for the current fiscal year within the first six months of the subsequent fiscal year, with the remaining 50% to be reimbursed in the second six months of the fiscal year. SANBAG shall inform the jurisdiction within 30 days of receipt of an invoice for the excess expenditures, if it chooses to exercise that option.
4. If CITY does not expend funds up to the allocation limit in Attachment B within the current fiscal year, the unused portion may be applied to eligible PROJECT expenditures in the subsequent fiscal year, in addition to the allocation limit for the subsequent year. A cumulative allocation limit will be maintained in Attachment B. The cumulative allocation limit will be reconciled against the CPNA submittals beginning with the submittals for Fiscal Year 2012/2013 and adjusted, as appropriate, in the apportionment and allocation process beginning that fiscal year.
5. Eligible PROJECT reimbursements shall include only those costs incurred by CITY for PROJECT-specific work activities.
6. Neither SANBAG nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless SANBAG, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. CITY's indemnification obligation applies to SANBAG's "passive" negligence but does not apply to SANBAG's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. CITY and SANBAG are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.


7. This Agreement is expressly subordinated to any bonds, notes, certificates or other evidences of indebtedness involved in bond financings as are now outstanding or as may hereafter be issued by SANBAG.
8. The terms of this Agreement represent the consent of the CITY to provide the full development share for the PROJECT required by the SANBAG Nexus Study and that failure to contribute the development share according to the terms of this agreement does not obligate SANBAG to provide supplemental funds or otherwise remedy that failure. SANBAG may terminate this agreement if the CITY fails to perform according to the terms of this Agreement and if this failure jeopardizes the delivery of the PROJECT according to the terms herein.
9. SANBAG shall track the CITY equitable share of the Valley Arterial Sub-program, including adjustments for the time-value of money based on time of apportionment of Measure I funds, per Strategic Plan Policy 40001/VS-1.

**San Bernardino County
Transportation Authority**

By: 
Brad Mitzelfelt
President, SANBAG Board of
Directors


Date: 11/3/2010

APPROVED AS TO FORM AND
PROCEDURE:

By: 
Jean Rene Basle
SANBAG County Counsel


Date: 10-14-10

City of Colton

By: 
DAVID J. TORO
Mayor Pro Tempore

Date: 9-21-10

APPROVED AS TO FORM AND
PROCEDURE:

By: 
CITY Attorney

Date: 9-21-10

Attachment A
Project(s) Eligible for Expenditure/Reimbursement of
MI Valley Arterial Funds for the City of Colton (\$1,000s)

Reche Cnyn Rd					
Realign/widen from Washington St to City Limit and from City Limit to County Line from 2 to 4 lanes					
Project Cost: \$736,000					
Maximum Public Share: \$320,896					
Nexus Study Fair Share: 43.6%					
Phase	Prior	FY10/11	FY11/12	Total	
Project Dev/Environ Doc (PA&ED)					
MI Valley Arterial	\$ -	\$ 113.14	\$ 146.30	\$ 259.44	
Development Fees	\$ -	\$ 87.46	\$ 113.10	\$ 200.56	
Plans, Specifications and Estimates (PS&E)					
MI Valley Arterial	\$ -	\$ -	\$ 155.66	\$ 155.66	
Development Fees	\$ -	\$ -	\$ 120.34	\$ 120.34	
Right of Way Acquisition (ROW)					
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -	
Development Fees	\$ -	\$ -	\$ -	\$ -	
Construction (CONST)					
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -	
Development Fees	\$ -	\$ -	\$ -	\$ -	
Total Project					
MI Valley Arterial	\$ -	\$ 113.14	\$ 301.96	\$ 415.10	
Development Fees	\$ -	\$ 87.46	\$ 233.44	\$ 320.90	

Washington St					
Extend Washington St from current terminus to La Cadena Dr from 0 to 4 lanes					
Project Cost: \$1,132,000					
Maximum Public Share: \$412,850					
Nexus Study Fair Share: 43.6%					
Phase	Prior	FY10/11	FY11/12	Total	
Project Dev/Environ Doc (PA&ED)					
Demo Funds	\$ -	\$ 400.00	\$ -	\$ 400.00	
MI Valley Arterial	\$ -	\$ -	\$ 319.20	\$ 319.20	
Development Fees	\$ -	\$ -	\$ 412.80	\$ 412.80	
Plans, Specifications and Estimates (PS&E)					
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -	
Development Fees	\$ -	\$ -	\$ -	\$ -	
Right of Way Acquisition (ROW)					
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -	
Development Fees	\$ -	\$ -	\$ -	\$ -	
Construction (CONST)					
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -	
Development Fees	\$ -	\$ -	\$ -	\$ -	
Total Project					
Demo Funds	\$ -	\$ 400.00	\$ -	\$ 400.00	
MI Valley Arterial	\$ -	\$ -	\$ 319.20	\$ 319.20	
Development Fees	\$ -	\$ -	\$ 412.80	\$ 412.80	

Agua Mansa Rd

Widen Agua Mansa Rd from Rancho Ave to Riverside Ave from 2 to 4 lanes

Project Cost: \$1,962,000

Maximum Public Share: \$902,400

Nexus Study Fair Share: 43.6%

Phase	Prior	FY10/11	FY11/12	Total
Project Dev/Environ Doc (PA&ED)				
Prop 1B	\$ -	\$ 167.00	\$ -	\$ 167.00
MI Valley Arterial	\$ 56.40	\$ -	\$ -	\$ 56.40
Development Fees	\$ 43.60	\$ -	\$ -	\$ 43.60
Plans, Specifications and Estimates (PS&E)				
Prop 1B	\$ -	\$ 195.00	\$ -	\$ 195.00
MI Valley Arterial	\$ 169.20	\$ -	\$ -	\$ 169.20
Development Fees	\$ 130.80	\$ -	\$ -	\$ 130.80
Right of Way Acquisition (ROW)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Construction (CONST)				
MI Valley Arterial	\$ 676.80	\$ -	\$ -	\$ 676.80
Development Fees	\$ 523.20	\$ -	\$ -	\$ 523.20
Total Project				
Prop 1B	\$ -	\$ 362.00	\$ -	\$ 362.00
MI Valley Arterial	\$ 902.40	\$ -	\$ -	\$ 902.40
Development Fees	\$ 697.60	\$ -	\$ -	\$ 697.60

Pepper Ave

Extend Pepper Ave from I-10 to Agua Mansa Rd and widen from I-10 to Slover Ave from 2 to 4 lanes

Project Cost: \$296,000

Maximum Public Share: \$166,940

Nexus Study Fair Share: 43.6%

Phase	Prior	FY10/11	FY11/12	Total
Project Dev/Environ Doc (PA&ED)				
MI Valley Arterial	\$ -	\$ -	\$ 166.94	\$ 166.94
Development Fees	\$ -	\$ -	\$ 129.06	\$ 129.06
Plans, Specifications and Estimates (PS&E)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Right of Way Acquisition (ROW)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Construction (CONST)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Total Project				
MI Valley Arterial	\$ -	\$ -	\$ 166.94	\$ 166.94
Development Fees	\$ -	\$ -	\$ 129.06	\$ 129.06

Slover Ave

Widen and reconstruct Slover Ave from Pepper to Riverside Ave from 2 to 4 lanes

Project Cost: \$151,000

Maximum Public Share: \$85,160

Nexus Study Fair Share: 43.6%

Phase	Prior	FY10/11	FY11/12	Total
Project Dev/Environ Doc (PA&ED)				
MI Valley Arterial	\$ -	\$ -	\$ 85.16	\$ 85.16
Development Fees	\$ -	\$ -	\$ 65.84	\$ 65.84
Plans, Specifications and Estimates (PS&E)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Right of Way Acquisition (ROW)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Construction (CONST)				
MI Valley Arterial	\$ -	\$ -	\$ -	\$ -
Development Fees	\$ -	\$ -	\$ -	\$ -
Total Project				
MI Valley Arterial	\$ -	\$ -	\$ 85.16	\$ 85.16
Development Fees	\$ -	\$ -	\$ 65.84	\$ 65.84

Attachment B

**Allocation Limit and Program Accounting of
MI Valley Arterial Funds for the City of Colton**

Allocation/Reimbursements	Amount
FY 10/11 MI Valley Arterial Allocation	\$ 158,780.00
FY 10/11 Projected Prior Adv Exp Reimbursement	\$ 158,780.00
FY 10/11 Projected New MI Expenditures	\$ 113,140.00
FY 10/11 Projected New MI Adv Expenditures	\$ 113,140.00
Additional Programming Capacity	\$ -
Cumulative Allocation	\$ 158,780.00
Cumulative Reimbursements*	\$ -
Outstanding Unreimb Advance Expenditures	\$ 856,760.00

* Includes both reimbursed project and advance expenditures.

Exhibit B

**JURISDICTION MASTER AGREEMENT NO. C12014
BETWEEN**

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF COLTON

THIS AGREEMENT is made and entered into as of the effective date, as defined herein, by and between the San Bernardino County Transportation Authority (hereinafter referred to as "SANBAG") and the City of Colton (hereinafter referred to as "CITY").

RECITALS

WHEREAS, the Measure I 2010-2040 Strategic Plan identified Valley Major Street Program- Arterial Sub-program projects eligible for partial funding from Measure I 2010-2040 revenues; and

WHEREAS, this Jurisdiction Master Agreement (AGREEMENT) is to be carried out in accordance with the policies in the most current Measure I 2010-2040 Strategic Plan, as adopted by the SANBAG Board of Directors; and

WHEREAS, SANBAG will annually adopt a Measure I funding allocation and project list for the Valley Major Street Program – Arterial Subprogram, based on SANBAG's annual budget and CITY'S Capital Project Needs Analysis (CPNA); and

WHEREAS, SANBAG will reimburse CITY for the public share of eligible project expenditures with Measure I 2010-2040 Major Street Program- Arterial Sub-program funds in an amount that is determined by SANBAG as part of its annual approval of the Measure I allocation for that program;

NOW, THEREFORE, SANBAG and CITY agree to the following:

SECTION I

SANBAG AGREES:

1. To reimburse CITY, as provided for in Section III, within thirty (30) days after CITY submits to SANBAG an original and two copies of the signed invoices in the proper form covering those actual allowable project expenditures that were incurred by CITY, consistent with the invoicing requirements of the Measure I 2010-2040 Strategic Plan, including backup information. Invoices may be submitted to SANBAG as frequently as monthly.
2. To annually adopt a Measure I funding allocation and project list (hereinafter referred to as "FUNDING ALLOCATION AND PROJECT LIST") for the Valley Major Street Program – Arterial Subprogram, based on SANBAG's annual budget and CITY'S Capital Project Needs Analysis (CPNA) submittal to SANBAG for the applicable fiscal year. SANBAG will notify CITY of the Measure I allocation and the list of projects eligible for reimbursement within approximately thirty (30) days of such action, which will also constitute authorization for CITY to begin invoicing for the applicable fiscal year.
3. Except as provided below in Section II Article 8, when conducting an audit of the costs claimed under the provisions of this AGREEMENT, to rely to the maximum extent possible on any prior audit of CITY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to SANBAG when planning and conducting additional audits.

SECTION II

CITY AGREES:

1. That only eligible project-specific work activities, as set forth in SANBAG's annually adopted FUNDING ALLOCATION AND PROJECT LIST, that also conform to the SANBAG Nexus Study and are included as projected expenditures in the first two years of the applicable Capital Project Needs Analysis (CPNA) or referenced as "prior" expenditures in the CPNA will be eligible for reimbursement with Measure I Major Street Program- Arterial Sub-program funds. Prior expenditures must be eligible under the Advance Expenditure policies in Section V.C of the SANBAG Measure I 2010-2040 Strategic Plan Policy 40002.
2. To prepare and submit to SANBAG an original and two copies of signed invoices for reimbursement of those eligible project expenses contained in SANBAG's adopted FUNDING ALLOCATION AND PROJECT LIST. Invoices may be submitted to SANBAG as frequently as monthly, up to the

cumulative allocation limit specified in the FUNDING ALLOCATION AND PROJECT LIST.

3. To repay to SANBAG any reimbursement for Measure I costs that are determined by subsequent audit to be unallowable within ninety (90) days of CITY receiving notice of audit findings, which time shall include an opportunity for CITY to respond to and/or resolve the finding. Should the finding not be otherwise resolved and CITY fail to reimburse moneys due SANBAG within ninety (90) days of audit finding, or within such other period as may be agreed between both parties hereto, SANBAG reserves the right to withhold future payments due CITY from any source under SANBAG's control.
4. To provide (select one of two options):
 - A. (If no specification of reserved and unreserved accounts) the percentage share of total eligible project expenses as specified in the most current, approved version of the SANBAG Development Mitigation Nexus Study, which represents the development share.
 - B. (If reserved and unreserved accounts are specified) 50% share of total eligible project expenses allocated to the reserved account, as documented in SANBAG's annually adopted FUNDING ALLOCATION AND PROJECT LIST.
5. To maintain copies of all consultant/contractor invoices, source documents, books and records connected with its performance under this AGREEMENT for a minimum of five (5) years from the date of the Final Report of Expenditures submittal to SANBAG or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of SANBAG. Copies will be made and furnished by CITY upon request,
6. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support CITY request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of project work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by CITY.
7. To prepare a Final Report of Expenditures, including a final invoice reporting the actual eligible project costs expended for those activities described in the work activities, and to submit that Final Report and invoice no later than one hundred twenty (120) days following the completion of those expenditures. The Final Report of Expenditures, an original and two copies of which report shall be submitted to SANBAG, must state that these project funds were used

in conformance with this AGREEMENT and for those project-specific work activities described.

8. To allow for the preparation of a project-specific audit by CITY or by SANBAG, at SANBAG's option and expense, and to cooperate in the audit as described in Section I Article 3, upon completion of the project. The audit must find that all funds expended on the project were used in conformance with this AGREEMENT.
9. To notify SANBAG of Project Development Team (PDT) meetings, if and when such meetings are held, and provide related communications on project progress when requested by SANBAG.
10. As an eligible project expense, to post signs when project construction begins at the boundaries of the project noting that project is funded with Measure I funds. Signs shall bear the logo of San Bernardino Associated Governments.

SECTION III

IT IS MUTUALLY AGREED:

1. To abide by all applicable federal, state and local laws and regulations pertaining to projects funded through this AGREEMENT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the date of SANBAG's adoption of the FUNDING ALLOCATION AND PROJECT LIST for the applicable fiscal year.
2. SANBAG's financial responsibility shall be (select one of two options for each individual year of allocation):
 - A. (if no specification of reserved and unreserved accounts) the percentage of actual cost for eligible project expenditures as specified in the most current, approved version of the SANBAG Development Mitigation Nexus Study, up to the cumulative allocation limit specified in the adopted FUNDING ALLOCATION AND PROJECT LIST.
 - B. (if reserved and unreserved accounts are specified) 100% of actual cost for eligible project expenditures up to the limit specified in the adopted FUNDING ALLOCATION AND PROJECT LIST for the unreserved account, and 50% of actual cost for eligible project expenditures up to the limit specified in the adopted FUNDING ALLOCATION AND PROJECT LIST for the reserved account.
3. CITY may be reimbursed in a subsequent fiscal year for expenditures in excess of the cumulative allocation limit for the current fiscal year, based on invoices for eligible project expenditures. SANBAG retains the option to

reimburse CITY no more than 50% of the public share of excess expenditures for the current fiscal year within the first six (6) months of the subsequent fiscal year, with the remaining 50% to be reimbursed in the second six months of the fiscal year. SANBAG shall inform the jurisdiction within thirty (30) days of receipt of an invoice for the excess expenditures, if it chooses to exercise that option.

4. If CITY does not expend funds up to the cumulative allocation limit as referenced in the adopted FUNDING ALLOCATION AND PROJECT LIST within the current fiscal year, the unused portion may be applied to eligible PROJECT expenditures in the subsequent fiscal year, in addition to the allocation received for the subsequent year. Eligible project reimbursements shall include only those costs incurred by CITY for project-specific work activities that are described in the adopted FUNDING ALLOCATION AND PROJECT LIST.
5. Neither SANBAG nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless SANBAG, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) or damage occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT. CITY's indemnification obligation applies to SANBAG's "passive" negligence but does not apply to SANBAG's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. CITY is an authorized self-insured public entity for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrants that through its programs of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT. SANBAG warrants that it maintains insurance for these purposes.
6. This Agreement is expressly subordinated to any bonds, notes, certificates or other evidences of indebtedness involved in bond financings as are now outstanding or as may hereafter be issued by SANBAG.
7. The terms of this AGREEMENT represent the consent of the CITY to provide the full development share for the project required by the SANBAG Nexus Study and that failure to contribute the development share according to the terms of this AGREEMENT does not obligate SANBAG to provide supplemental funds or otherwise remedy that failure. SANBAG may terminate or modify this AGREEMENT if the CITY fails to perform

according to the terms of this AGREEMENT and if this failure jeopardizes the delivery of the project according to the terms herein.

8. SANBAG shall track the CITY equitable share of the Valley Arterial Sub-program, including adjustments for the time-value of money based on time of allocation of Measure I funds in the SANBAG budget.
9. The Recitals stated above are true and correct and are incorporated by this reference into the AGREEMENT.
10. The effective date shall be the date upon which SANBAG executes this AGREEMENT.

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

CITY of COLTON

By: _____
Larry McCallon
President
SANBAG Board of Directors

By: _____
Sarah S. Zamora
Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
SANBAG Counsel

By: _____
City Attorney

Date: _____

Date: _____

CONCURRENCE:

By: _____
Kathleen Murphy-Perez
Contracts Manager