

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION MSRC FUNDING
COOPERATIVE AGREEMENT WITH THE CITY OF RIVERSIDE FOR RIVERSIDE
HUNTER PARK/UCR METROLINK STATION IMPROVEMENTS**

1. Parties and Date. This Agreement is made and entered into this ____ day of _____, 2022, by and between the Riverside County Transportation Commission, hereinafter referred to as "RCTC," and the City of Riverside, hereinafter referred to as "Agency".

2. Recitals.

2.1 Pursuant to Health & Safety Code Section 44225 (AB 2766), a fee is levied on motor vehicles to be used for reduction of air pollution from such vehicles in order to implement the California Clean Air Act. The fee is managed by the South Coast Air Quality Management District ("SCAQMD").

2.2 Under AB 2766, thirty percent (30%) of the vehicle registration fees collected are held by SCAQMD in a separate account for the purpose of implementing and monitoring programs to reduce air pollution from motor vehicles. The Mobile Source Air Pollution Reduction Review Committee (MSRC) developed a work program to fund projects from this account.

2.3 RCTC entered into that certain AB 2766/MSRC Transportation Control Measure Partnership Program Contract (Contract No. MS16094) with SCAQMD, pursuant to which SCAQMD agreed to provide MSRC grant funding to RCTC for implementation of certain projects designed to promote "first mile/last mile" access to commuter rail, increase rail ridership and reduce emissions associated with vehicle cold starts, in cooperation with RCTC member entities, including the Agency (the "MSRC Contract").

2.4 RCTC identified a pedestrian access project in the City of Riverside on Rustin Avenue between Marlborough Avenue and Spruce Street, referred to as Rustin Avenue Sidewalk Improvement project. Agency prepared a project proposal for the project described in Exhibit "A" in accordance with RCTC's request.

2.5 The proposal submitted by Agency describes a priority project which RCTC has determined merits funding, and Agency is eligible to receive MSRC grant funds. Agency's proposal is referred to herein as the "Project".

2.6 SCAQMD has approved the Project, and has included the Project in the MSRC Contract as a project to be funded thereunder.

2.7 On November 9, 2016, RCTC's Board of Directors approved the programming by RCTC of an amount not to exceed Six Hundred Thousand Dollars (\$600,000) in MSRC grant funds for the pedestrian improvement project.

RCTC shall disburse MSRC grant funds received from SCAQMD to Agency for the Project in accordance with the terms of this Agreement.

2.8 Since 2016, the Project has experienced significant delays due to: (1) the First Mile/Last Mile Assessment and Plan taking longer than initially anticipated and (2) the COVID-19 pandemic leading to a shift in priorities between projects, both of which led to the delay between RCTC Board of Directors approval to program the funds, and the execution date of this Agreement.

2.9 On May 24, 2022, the City of Riverside informed RCTC of Project cost savings due to less infrastructure being required within the Project site. The cost of the Project is budgeted at \$220,000.

3. Terms.

3.1 Definition; Term of Agreement.

A. Definitions.

1. Days - As used in this Agreement, "days" shall be calendar days.

2. Effective Date – Refers to the date first specified above.

3. Funding Plan – The plan included as part of the attached Exhibit "B" specifying the funding amounts and funding sources for the Project.

4. MSRC Funds – The MSRC grant funds provided by SCAQMD pursuant to the MSRC Contract for the Project, which RCTC shall provide to Agency as a subrecipient of RCTC under this Agreement.

5. Project – The project proposed by Agency, as described in Exhibit "A", which has been reviewed and approved by RCTC.

B. Term. The term of this Agreement shall commence on the Effective Date, and shall continue in effect through June 30, 2024, unless otherwise extended pursuant to an amendment to this Agreement or terminated as provided herein.

3.2 Grant Terms; Agency Responsibilities.

A. Scope of Grant; Cost Overruns. Agency shall use the MSRC Funds described hereunder exclusively to implement the Project. Agency shall be solely responsible for implementing the Project in the manner described herein. The MSRC Funds described in Exhibit "B" of this Agreement are specifically for the Project and make up the entire amount which RCTC has authorized for the Project. Any subsequent amendments to the Project scope or description or additional services to be provided are not covered by this Agreement, and the funding for any such amendments or additional services shall be the sole responsibility of Agency, unless such amendments or additional

services are approved in writing by RCTC prior to the provision of such amendments or additional services.

B. Incorporation of MSRC Contract. The MSRC Contract is on file at the offices of the parties hereto, and is incorporated herein by reference. All applicable provisions of the MSRC Contract binding on RCTC, as the "Contractor" thereunder, shall apply to Agency. By signing below, Agency represents and warrants that it has read and is familiar with the terms of the MSRC Contract, and agrees to comply therewith. In addition, Agency shall be responsible for including any relevant provisions of the MSRC Contract in its contracts for the Project. RCTC shall have the right to enforce the terms of the MSRC Contract as such terms apply to Agency. In the case of a conflict between the MSRC Contract and this Agreement, the terms of this Agreement shall govern.

C. Approval by RCTC; Responsibility of Recipient for Project Compliance with MSRC Contract. Any use of MSRC Funds provided pursuant to this Agreement shall be subject to the review and approval of RCTC. Notwithstanding any approval by RCTC of the Project or the use of MSRC Funds, Agency shall be solely responsible and liable for compliance with all rules and regulations applicable to the MSRC Funds. Approval by RCTC of the Project does not evidence any opinion of or representation by RCTC of the Project's compliance with applicable rules and regulations regarding use of the MSRC Funds, or with the MSRC Contract. If SCAQMD determines that any MSRC Funds were not spent in accordance with rules and regulations applicable to the MSRC Funds, or with the MSRC Contract, Agency shall be solely responsible for reimbursement of all such improperly expended funds and shall make such reimbursement in the manner specified in this Agreement.

D. Funding Reimbursement by Agency. If it is determined pursuant to a Project audit that any MSRC Funds provided pursuant to this Agreement have been improperly expended, Agency shall, at the direction of the agency performing the audit (e.g. RCTC or SCAQMD), reimburse within thirty (30) days the full amount of such improperly expended funds. The funds shall be reimbursed to the agency identified by RCTC with a notice to RCTC that the reimbursement was accomplished. RCTC shall also have the right to deduct any improperly expended MSRC Funds from future reimbursements of MSRC Funds to Agency.

E. Cost Savings. In the event that bids for the Project are lower than anticipated, or there are cost savings for any other reason, the Funding Plan shall be revised to apply such cost savings proportionately to each funding source listed in the Funding Plan. Agency shall inform RCTC of any cost savings and the parties shall amend this Agreement to reflect the revisions to the Funding Plan. RCTC's Executive Director and the Agency Manager shall be authorized to execute any such amendment.

F. Failure of SCAQMD to Disburse Funds. RCTC shall have no obligation to reimburse Agency for any Project costs unless and until SCAQMD has provided the MSRC Funds to RCTC in accordance with the terms of the MSRC Contract. RCTC shall not be liable to Agency for any delays or failure of SCAQMD to provide the

MSRC Funds obligated to Agency hereunder. Reimbursement of Project costs shall be in accordance with the terms of this Agreement, and the MSRC Contract.

G. Stop Work Order. If SCAQMD issues a stop work order under the MSRC Contract, RCTC shall notify Agency of such order, and all work subject to reimbursement under this Agreement shall cease until the stop work order is cancelled by SCAQMD. Work completed while the stop work order is in effect shall not be eligible for reimbursement under this Agreement.

3.3 Additional Responsibilities of Agency

A. Indemnification. To the fullest extent permitted by law, Agency shall defend, indemnify and hold RCTC, SCAQMD, and their directors, officials, officers, employees, agents and/or volunteers free and harmless from any and all liability from loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of Agency or any of its directors, officials, officers, employees, agents, volunteers, or service providers arising out of or in connection with Agency's performance of this Agreement, or the Project, including, without limitation, the payment of consequential damages and attorneys' fees. Further, Agency shall defend, at its own expense, including the payment of attorneys' fees, RCTC, SCAQMD, and their officials, officers, employees, agents and/or volunteers in any legal action based upon such acts, omissions or willful misconduct. Agency shall reimburse RCTC, SCAQMD, and their directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

B. Standard of Care; Performance Standards.

1. Agency shall implement the Project in a skillful and competent manner and in accordance with all applicable local, state, and federal laws, rules and regulations. Agency shall be responsible to RCTC for any errors or omissions in its execution of this Agreement or the implementation of the Project.

2. Agency shall meet or exceed the following performance standards for the Project:

a. Adhere to the timeline set forth in this Agreement or as subsequently approved by RCTC.

b. Expend the funding specified herein entirely on the Project.

c. Implement the Project in a manner consistent with Exhibit "A" and all provisions of this Agreement.

d. Provide Project reporting to RCTC in a manner consistent with this Agreement.

e. Comply with all applicable requirements and restrictions imposed by the MSRC Contract, and/or related to the MSRC Funds.

f. Comply with prevailing wage requirements (California Labor Code Sections 1770 et seq.).

C. Insurance. Agency shall obtain and require its subcontractors or sub-consultants to obtain insurance of the types and in the amounts described below for the entire term of this Agreement.

1. Commercial General Liability Insurance. Agency shall maintain and require its consultants and contractors to maintain sufficient insurance to cover the risks associated with the Project. Such insurance shall be in an amount of at least \$1,000,000 per occurrence, and \$2,000,000 general aggregate.

2. Business Automobile Liability Insurance. Agency shall maintain business automobile liability insurance or equivalent form with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

3. Workers' Compensation Insurance. Agency shall maintain workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than \$1,000,000 per accident.

4. Endorsements. The commercial general and automobile liability insurance policies described above shall:

a. Name RCTC, SCAQMD and their officials, officers, employees, agents, and consultants, as insureds with respect to performance of this Agreement. Such insured status shall contain no special limitations on the scope of its protection to the above-listed insureds.

b. Be primary and noncontributory with respect to any insurance or self-insurance programs covering RCTC, SCAQMD and their directors, officials, officers, employees, agents, and consultants.

c. Contain standard separation of insureds provisions.

5. Certificates/Insurer Rating/Cancellation Notice. Agency shall, prior to receiving any funding under this Agreement, furnish to RCTC properly executed certificates of insurance, certified copies of endorsements, and policies, if requested by RCTC which shall clearly evidence all insurance required in this Section. Agency shall not allow such insurance to be canceled, allowed to expire or be materially reduced in coverage except on thirty (30) days prior written notice to RCTC.

D. Obligation to Provide Match Funding. Agency shall provide funding at least equal to the amounts shown in Exhibit "B", attached hereto and incorporated by reference, as a match to the MSRC Funds provided for the Project.

E. Public Outreach Plan. Agency shall participate and engage in RCTC's approved Public Outreach Plan as required by the MSRC to promote the Project. Promotion may include, but is not limited to, electronic and written material. Electronic and written material include social media posts, news release to local media, fact sheet in English and Spanish, article in an e-newsletter, and information on the Agency website. RCTC shall provide approved Public Outreach Plan to Agency.

F. Pre and Post Construction Counts. Agency shall conduct pre-construction counts of and pedestrian usage in a representative segment of the Project area for at least two hours. After Project is complete, Agency shall count usage in the same location, on the same day(s) of the week, for the same number of hours, as in the pre-construction survey. Agency shall provide pre and post construction counts to RCTC.

G. Invoices. Agency shall maintain and create the necessary Project invoices, records, reports and financial accounts to permit disbursement of MSRC Funds to Agency in accordance with the requirements of the MSRC Contract. Final invoices for the Project shall be submitted to RCTC no later than sixty (60) days following the termination date of this Agreement to ensure eligibility for reimbursement.

3.4 RCTC's Rights and Responsibilities.

A. Disbursement of Funds. RCTC shall coordinate with SCAQMD and Agency in the authorization and the disbursement of MSRC Funds in an amount not to exceed \$600,000, for the Project. RCTC shall promptly disburse MSRC Funds to Agency upon receipt thereof, for eligible Project costs, from SCAQMD.

B. Time Extensions. RCTC will consider requests for extensions of time if the reason for delay is above and beyond the Agency's control.

4. Accounting Records.

4.1 Retention of Records. Agency shall maintain complete and accurate records with respect to costs incurred and other records generated under this Agreement. All such records shall be clearly identifiable. Agency shall allow representatives of RCTC and SCAQMD during normal business hours to examine, audit, and make transcripts or copies of such records. Agency shall maintain all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the expiration of this Agreement and shall allow inspection hereunder during such time.

4.2 Accounting of Funds. When requested by RCTC, Agency shall within fifteen (15) days provide RCTC with a full reporting and accounting of all MSRC Funds received pursuant to this Agreement during its term.

5. Project Reports - Quarterly Reporting: Agency shall prepare and submit to RCTC quarterly milestone reports detailing the Project's progress including a financial status report and milestone progress report, and any other items specified in Exhibit "A", in a form approved by RCTC, and in accordance with all requirements of SCAQMD. Project

reports shall be subject to review, comment and approval by SCAQMD. Agency shall revise Project reports as necessary to obtain SCAQMD approval.

6. Audit.

6.1 RCTC shall notify Agency in writing, by the end of the fiscal year, if Agency is required to conduct an annual financial audit of records pertaining to the Project. If an audit is required, it shall be completed and submitted to RCTC by December 31st of the following fiscal year ("Audit Deadline"). In order to ensure compliance with the Audit Deadline, Agency shall respond promptly to the auditor's requests for documentation and records.

6.2 RCTC may, in its sole and absolute discretion, grant an extension of the Audit Deadline upon written request of the Agency, which request shall include an explanation for the delay. No extension of the Audit Deadline shall exceed ninety (90) days.

6.3 Agency shall promptly resolve all audit matters to the satisfaction of RCTC.

6.4 If Agency fails to complete the audit by the Audit Deadline or by the date of any authorized extension, or if Agency fails to promptly resolve all audit matters to the satisfaction of RCTC, RCTC shall have the right, in addition to any other rights or remedies hereunder, to suspend performance under this Agreement.

6.5 Agency may be subject to an audit by SCAQMD or its authorized representative to determine if the MSRC Funds were spent for the reduction of pollution from motor vehicles pursuant to the Clean Air Act of 1988. Agency shall comply with any and all audit requirements of SCAQMD.

7. General Provisions.

7.1 Relationship of Parties. Agency is solely responsible for the Project. This Agreement does not create a joint venture or any partnership between Agency and RCTC. Agency and any persons or entities retained by Agency or any contractor of Agency shall be retained on an independent contractor basis and shall not be employees or agents of RCTC.

7.2 Termination of Agreement.

A. RCTC may, by written notice to Agency terminate the whole or any part of this Agreement at any time, with or without cause, by giving written notice to Agency of such termination, and specifying the effective date thereof. Agency may not terminate this Agreement except for cause. Upon receipt of notice of termination, Agency shall immediately cease expenditure of MSRC Funds conveyed pursuant to this Agreement and promptly return all unexpended MSRC Funds to RCTC or as RCTC may direct.

B. In the event this Agreement is terminated in whole or in part as provided in subsection A of this Section, RCTC may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

C. If this Agreement is terminated as provided in subsection A of this Section, RCTC may require Agency, when implementing a Project, to provide to RCTC all finished or unfinished documents, including but not exclusive to, data, studies, drawings, and reports, prepared by Agency in connection with the performance of this Agreement.

7.3 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

To RCTC: Riverside County Transportation
Commission
4080 Lemon Street, Third Floor
P. O. Box 12008
Riverside, California 92502-2208
Attn: Anne Mayer, Executive Director

To Agency: City of Riverside
Public Works Department
3900 Main Street, 4th Floor
Riverside, CA 92522
Attn: Gilbert Hernandez, Public Works
Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid and addressed to the party at its applicable address. Notice may also be provided via electronic mail and shall be deemed made the date sent, provided that any notice sent via electronic mail shall also be sent by U.S. mail, per the requirements set forth in the foregoing sentence, within twenty-four (24) hours of the notice via electronic mail. Notice sent via electronic mail that is not followed by notice sent via U.S. mail, as required in this paragraph, shall not be considered notice for purposes of this Agreement.

7.4 Attorneys' Fees. If any party commences an action against the other arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party's reasonable attorneys' fees and costs of suits.

7.5 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified in writing, signed by both parties.

7.6 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

7.7 Time of Essence. Time is of the essence for each and every provision of this Agreement.

7.8 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Agency without the prior written consent of RCTC.

7.9 Administration.

A. RCTC's Executive Director, or his or her designee, shall administer this Agreement on behalf of RCTC.

B. Agency hereby designates the City Manager, or his or her designee, to act as its representative to administer this Agreement on behalf of Agency ("Agency's Representative"). Agency's Representative shall have full authority to represent and act on behalf of Agency for all purposes under this Agreement.

7.10 Severability. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7.11 Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same agreement. Facsimile signatures shall be considered originals.

7.12 Incorporation of Recitals. The Recitals set forth above are true and correct and are incorporated into this Agreement by reference as though fully set forth herein.

7.13 Incorporation of Exhibit. This Agreement contains two (2) exhibits (Exhibit "A" and Exhibit "B") which are attached hereto and incorporated into this Agreement by reference.

7.14 Legal Authority. RCTC and Agency represent and warrant that the persons signing below on behalf of each party is duly authorized to execute this Agreement on behalf of its respective party and that, by so executing, the parties hereto are formally bound to the provisions of this Agreement.

[Signatures on following page]

**SIGNATURE PAGE
TO
MSRC FUNDING COOPERATIVE AGREEMENT
FOR RIVERSIDE HUNTER PARK/UCR METROLINK STATION IMPROVEMENTS**

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the Effective Date.

**RCTC:
RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

By: _____
Anne Mayer, Executive Director

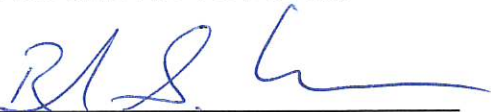
**AGENCY:
THE CITY OF RIVERSIDE**

By: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP
Counsel to the Riverside County Transportation
Commission

APPROVED AS TO FORM:

By: 
Title: Sr. Deputy City Attorney

ATTEST:

By: _____
Title: _____

EXHIBIT "A"

SCOPE OF WORK AND PROJECT LOCATION

Scope of Work:

1. Construct sidewalk on east side of Rustin Avenue between Marlborough Avenue and Spruce Street.
2. Install mid-block cross walk with rapid flashing beacons
3. Install cross walk at Rustin Avenue and Spruce Street
4. Relocate existing bus stop and bus shelter on the west side of Rustin Avenue, and construct new concrete sidewalk between the existing bus shelter and the relocated bus shelter, as shown in Exhibit A.

The Project includes all planning, design, equipment purchase, construction, installation and such other work and services required to implement the Project.

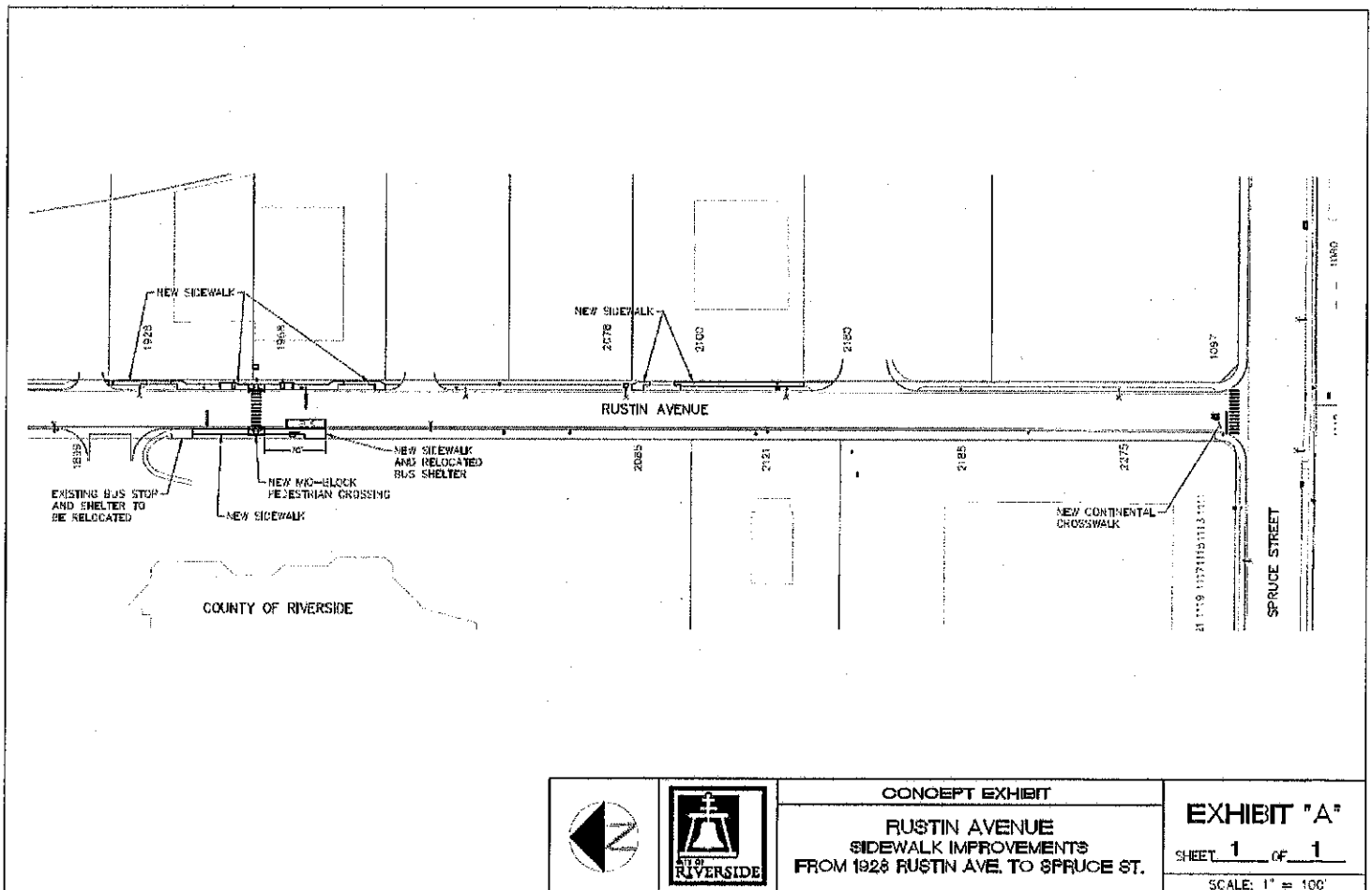


Exhibit A

EXHIBIT "B"
FUNDING PLAN

Total Project Cost:	\$220,000
Funding Source:	MSRC
Agency Match Funding:	0%
% Of Total Project Cost	100%

<u>Engineer's Estimate</u> Rustin Sidewalk (Missing Segments on the East Side and Bus Stop Relocation) 1928 Rustin Ave. to Spruce St.					
Plan Nos.: Prelim			Amount rounded to Nearest: \$.01		
No.	CONTRACT BID ITEMS	Quantity	Unit	Unit Price	Total
1	Mobilization, (P)	1	LS	\$20,000.00	\$20,000.00
2	Traffic Control and Access	1	LS	\$15,000.00	\$15,000.00
3	Water Pollution Control	1	LS	\$5,000.00	\$5,000.00
4	Clearing and Grubbing	75	CY	\$40.00	\$3,000.00
5	Construct Sidewalk Retaining Curb	245	LF	\$40.00	\$9,800.00
6	Construct Concrete Sidewalk per City Std 325 (Includes parkway slope grading in conformance with the plans.	3,500	SF	\$10.00	\$35,000.00
7	Tree Removal	5	EA	\$900.00	\$4,500.00
8	Install Mid-Block Continental Crosswalk, Striping, Edge Lit Signs, and Pedestrian Ramps	1	LS	\$25,000.00	\$25,000.00
9	Continental Crosswalk	286	SF	\$5.00	\$1,430.00
10	12" Solid White Stripe	25	SF	\$5.00	\$125.00
11	Pavement Legends	22	SF	\$5.00	\$110.00
12	Striping/Legend Removal	47	SF	\$3.00	\$141.00
13	Adjust to grade Utility Vault (Service line) at Power Pole	2	EA	\$800.00	\$1,600.00
14	Adjust to grade Backflow Preventer	2	EA	\$800.00	\$1,600.00
15	Adjust to grade FDC vault	4	EA	\$4,000.00	\$16,000.00
16	Relocate Bus Shelter and Appurtenances	1	LS	\$7,500.00	\$7,500.00
	TOTAL FOR ALL CONTRACT BID ITEMS				\$145,806
INCIDENTAL ITEMS					
	Construction Administration (10%)				\$15,000
	Engineering and Survey (10%)				\$15,000
	Contingencies (30%)				\$44,000
	Subtotal Incidentals Items				\$74,000
	TOTAL PROJECT COST				\$219,806
	FOR BUDGETING USE				\$220,000