



Western Riverside Council of Governments Administration & Finance Committee

AGENDA

**Wednesday, September 11, 2019
12:00 p.m.**

**Western Riverside Council of Governments
Citrus Tower
3390 University Avenue, Suite 450
Riverside, CA 92501**

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if special assistance is needed to participate in the Administration & Finance Committee meeting, please contact WRCOG at (951) 405-6703. Notification of at least 48 hours prior to meeting time will assist staff in assuring that reasonable arrangements can be made to provide accessibility at the meeting. In compliance with Government Code Section 54957.5, agenda materials distributed within 72 hours prior to the meeting which are public records relating to an open session agenda item will be available for inspection by members of the public prior to the meeting at 3390 University Avenue, Suite 450, Riverside, CA, 92501.

The Administration & Finance Committee may take any action on any item listed on the agenda, regardless of the Requested Action.

1. CALL TO ORDER (Bonnie Wright, Chair)

2. PUBLIC COMMENTS

At this time members of the public can address the Administration & Finance Committee regarding any items listed on this agenda. Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion. No action may be taken on items not listed on the agenda unless authorized by law. Whenever possible, lengthy testimony should be presented to the Committee in writing and only pertinent points presented orally.

3. MINUTES

A. Summary Minutes from the July 10, 2019, Administration & Finance Committee Meeting are Available for Consideration.

P. 1

Requested Action: 1. *Approve the Summary Minutes from the July 10, 2019, Administration & Finance Committee meeting.*

4. CONSENT CALENDAR

All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Committee, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Committee request specific items be removed from the Consent Calendar.

A. Finance Department Activities Update P. 5

Requested Action: 1. *Receive and file.*

B. Amendment to the Agency Personnel Policies and Procedures P. 11

Requested Action: 1. *Recommend that the Executive Committee adopt Resolution Number 31-19: A Resolution of the Executive Committee of the Western Riverside Council of Governments amending its Personnel Policies and Procedures.*

C. Western Riverside Energy Partnership Program Activities Update P. 21

Requested Action: 1. *Recommend that the Executive Committee authorize the Executive Director to approve a public-private partnership agreement between WRCOG and The Research Corporation to develop bid packets for Southern California Edison's Request for Abstract & Request for Proposal solicitations public sector energy programs.*

D. Approval of Memorandum of Understanding Between WRCOG and the Western Riverside County Regional Conservation Authority for TUMF Revenue Disbursement P. 37

Requested Action: 1. *Recommend that the Executive Committee approve the updated Memorandum of Understanding between WRCOG and the Western Riverside County Regional Conservation Authority for TUMF Revenue Disbursement.*

E. Approval of First Amendment to Professional Services Agreement with Twintel Solutions for Agency IT / AV Support P. 79

Requested Action: 1. *Recommend that the Executive Committee authorize the Executive Director to enter into a First Amendment of the Professional Services Agreement between WRCOG and TWINTEL Solutions, Inc., to provide continued Information Technology and Audio / Visual services in an amount not to exceed \$114,000 annually for two additional years.*

5. REPORTS / DISCUSSION

A. California Public Employees Retirement System Unfunded Accrued Liability Update P. 87

Requested Action: 1. *Direct staff to establish a Section 115 Trust with PARS for WRCOG's Unfunded Accrued Liability.*

B. PACE Programs Activities Update: Annual Delinquency Report and Request to Enter into a Purchase and Sales Agreement with First National Assets P. 91

- Requested Actions:** 1. *Recommend that the Executive Committee defer the judicial foreclosure proceedings on delinquent residential parcels of the 2018/2019 Tax Year and assign WRCOG's collection rights to a third party for 630 delinquent parcels totaling \$1,790,780.64.*
2. *Recommend that the Executive Committee authorize the Executive Director to enter in a Purchase and Sales Agreement with a third party, First National Assets, as to form, for the purchase of the delinquent assessment receivables.*

C. Consideration of Resolution Regarding Balanced Energy Choices P. 129

- Requested Action:** 1. *Discuss and provide direction, if necessary.*

6. REPORT FROM THE EXECUTIVE DIRECTOR *Rick Bishop*

7. ITEMS FOR FUTURE AGENDAS *Members*

Members are invited to suggest additional items to be brought forward for discussion at future Administration & Finance Committee meetings.

8. GENERAL ANNOUNCEMENTS *Members*

Members are invited to announce items / activities which may be of general interest to the Administration & Finance Committee.

9. CLOSED SESSION

PERFORMANCE EVALUATION PURSUANT TO SECTION 54957

Title: Executive Director

10. NEXT MEETING: The next Administration & Finance Committee meeting is scheduled for Wednesday, October 9, 2019, at 12:00 p.m., at WRCOG's office located at 3390 University Avenue, Suite 450, Riverside.

11. ADJOURNMENT

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1. CALL TO ORDER

The meeting of the Administration & Finance Committee was called to order at 12:10 p.m. by Chair Bonnie Wright at WRCOG's Office, Citrus Conference Room.

Members present:

Bonnie Wright, City of Hemet
Brian Tisdale, City of Lake Elsinore
Kelly Seyarto, City of Murrieta
Kevin Bash, City of Norco
Rita Rogers, City of Perris
Brenda Dennstedt, Western Municipal Water District

Staff present:

Ryan Baron, Legal Counsel, Best Best & Krieger
Rick Bishop, Executive Director
Andrew Ruiz, Interim Chief Financial Officer
Christopher Gray, Director of Transportation & Planning
Casey Dailey, Director of Energy & Environmental Programs
Tyler Masters, Program Manager
Janis Leonard, Administrative Services Manager
Cynthia Mejia, Staff Analyst
Kyle Rodriguez, Staff Analyst
Rachel Singer, Staff Analyst
Sofia Perez, Staff Analyst
Suzy Nelson, Administrative Assistant
Haley Hansen, Intern

Guests present:

Damian Fussey, Building Industry Association, Riverside
Shawn Stone, Chief Executive Officer, Renovate America
Michael Mildenberger, Chief Risk Officer Renovate America
Dustin Reilich, Vice President - Market Development, Renovate America

2. PUBLIC COMMENTS

There were no public comments.

3. MINUTES – (Perris / Murrieta) 5 yes; 0 no; 1 abstention. Item 3.A was approved. The Cities of Beaumont, Riverside, and Wildomar, and the County of Riverside Districts 2 and 3, were not present. The Western Municipal Water District abstained.

A. Summary Minutes from the June 12, 2019, Administration & Finance Committee Meeting are Available for Consideration.

Action: 1. Approved the Summary Minutes from the June 12, 2019, Administration & Finance Committee meeting.

4. CONSENT CALENDAR – (Murrieta / Norco) 6 yes; 0 no; 0 abstention. Items 4.A through 4.C were approved. The Cities of Beaumont, Riverside, and Wildomar, and the County of Riverside Districts 2 and 3, were not present.

A. Finance Department Activities Update

Action: 1. Received and filed.

B. Single Signature Authority Report

Action: 1. Received and filed.

C. Second Amendment to Professional Services Agreement for On-Call Planning Professional Services for Member Jurisdictions

Action: 1. Recommended that the Executive Committee approve the Second Amendment to the Professional Services Agreement between WRCOG and Kearns and West, Inc., to provide WRCOG planning support and advisory services in an amount not to exceed \$60,925 for WRCOG Clean Cities Program, taking the amended contract in a not to exceed amount of \$219,485 in total, and to extend the term of the Agreement through June 30, 2020.

5. REPORTS / DISCUSSION

A. PERS Liability Update

Andrew Ruiz reported that the present value of the Unfunded Accrued Liability (UAL) is approximately \$3.4 million and is approximately 76% funded. The average across the state is 71% funded. If WRCOG continues making payments over the 30-year term, it will total \$6.8 million. If WRCOG stayed with this schedule the total payments would be nearly double the original amount.

Paydown options include paying additional amounts to PERS with any addition surplus revenues; establish a Section 115 Trust; establish a separate reserve account; and/or maintain the current status.

Committee member Brenda Dennstedt suggested that WRCOG's Finance Directors Committee have a detailed discussion on what jurisdictions are doing and then return to this Committee with a recommendation.

Committee member Brian Tisdale asked for the numbers over 20 and 30 years on all the various options.

Action: 1. Received and filed.

B. PACE Program Activities Update: Request for Revisions to HERO's Residential Dealer Fees

Casey Dailey introduced Shawn Stone of Renovate America.

Mr. Stone announced that he has been with Renovate America for a couple of months and provided information on his background experiences. Mr. Stone's current focus is to grow the business in a more material way, ensure consumer protections are in place, and ensure there is oversight in checking information.

Mr. Dailey reported that the Executive Committee approved the Dealer Fee Program in February 2017. The current structure of the Program allows contractors to select between several different interest rate bands and are locked into those rates for a 90-day period.

Today's recommendation does not make any changes to the interest rates; it is to allow flexibility for the contractors so that they are not locked into a 90-day period. Contractors are still not allowed to pass on increased costs to consumers.

Michael Mildenberger reported that under the proposed changes, owners of companies can still restrict what they make available to the sales representatives and Renovate America will continue to have, and will increase, oversight with respect to disparate treatment so that homeowners are not targeted in any way in; for example, a minority class being offered only a higher interest rate.

Committee member Brian Tisdale asked if there is an impact in removing the 90-day period requirement.

Mr. Mildenberger responded that this would allow the Program to remain competitive in the market place. This flex rate structure is ubiquitous within home improvement financing and many PACE competitors already have this.

Action: 1. *Recommended that the Executive Committee approve updated revisions to the HERO Residential Dealer Fee.*

(Lake Elsinore / Norco) 6 yes; 0 no; 0 abstention. Item 5.B was approved. The Cities of Beaumont, Riverside, and Wildomar, and the County of Riverside Districts 2 and 3, were not present.

C. 28th Annual General Assembly & Leadership Conference: Recap and Financial Report

Cynthia Mejia reported that this year's event was held at Pechanga Resort Casino for the first time. The event has outgrown the venue capacity at the prior location of the Morongo Casino, Resort & Spa. The venue at Pechanga allowed WRCOG to also include a Future of Cities Symposium the morning of General Assembly.

The Symposium drew in just over 250 guests and General Assembly drew in over 850 guests. Event revenues were \$283,925 against expenditures of \$263,103.

A satisfaction survey was sent to sponsors and attendees. Initial responses indicate attendees liked the new venue.

Chair Bonnie Wright asked if attendees were happy with the full-day format.

Mrs. Mejia responded that most have expressed satisfaction in being able to attend both events in one day.

Committee member Kelly Seyarto indicated that the Symposium would have been more well attended by elected officials if WRCOG were not competing with the Executive Forum held by the League of California Cities on the same day.

Chair Wright complimented staff on their hard work.

Action: 1. *Received and filed.*

6. REPORT FROM THE EXECUTIVE DIRECTOR

Rick Bishop had no report.

7. ITEMS FOR FUTURE AGENDAS

There were no items for future agendas.

8. GENERAL ANNOUNCEMENTS

There were no general announcements.

9. CLOSED SESSION

Due to the lack of all Committee members present, this item will be brought back in September.

10. NEXT MEETING: The next meeting is scheduled for Wednesday, September 11, 2019, at 12:00 p.m., at WRCOG's office located at 3390 University Avenue, Suite 450, Riverside.

11. ADJOURNMENT: The meeting of the Administration & Finance Committee adjourned at 12:49 p.m.



Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: Finance Department Activities Update

Contact: Andrew Ruiz, Interim Chief Financial Officer, aruiz@wrcog.us, (951) 405-6741

Date: September 11, 2019

The purpose of this item is to provide an update on the Fiscal Year (FY) 2018/2019 Agency Audit, the Agency Financial Report summary through June 2019, and the status of the Agency relocation.

Requested Action:

1. Receive and file.

FY 2018/2019 Agency Audit

WRCOG's annual Agency Interim Audit was completed on June 12, 2019. WRCOG utilizes the services of the audit firm Rogers, Anderson, Malody, and Scott (RAMS) to conduct its financial audit. The first visit is known as the "interim" audit, which involves preliminary audit work that is conducted prior to fiscal year end. The interim audit tasks are conducted in order to compress the period needed to complete the final audit after fiscal year end. In September, RAMS will return to finish its second round, which is known as "fieldwork." It is anticipated that the final Audit will be presented to this Committee in December 2019.

Financial Report Summary through June 2019

The Agency Financial Report summary through June 2019, a monthly overview of WRCOG's financial statements in the form of combined Agency revenues and costs, is provided as Attachment 1.

Agency Relocation Update

During Fiscal Year 2018/2019, WRCOG began subleasing approximately 2,000 square feet of its office space to David Taussig & Associates (dta). Building ownership also proposed an offer for WRCOG to relocate its offices to the 2nd floor, where there is 4,000 square feet less than the 4th floor and would net WRCOG approximately \$1 million in savings during the remainder of the lease in comparison to the existing lease. The Executive Committee took action to allow for the move, and WRCOG has since entered into an agreement to relocate.

While the 2nd floor is 4,000 square feet less than the 4th floor, staff is working with an architect to compress the current open space concept into a more compact workplace while still retaining the same number of offices and workspaces and the two large conference rooms. There will still be enough space on the 2nd floor to accommodate growth when / if the Regional Energy Network (REN) and/or Western Community Energy (WCE) launch. The savings in relocating to the 2nd floor represents a 20% reduction in the overall lease cost. The anticipated move-in date is in late January / February 2020.

CalPERS Unfunded Accrued Liability Update

At the June 21, 2019, Executive Committee meeting, Committee member Jeff Hewitt requested information

regarding where WRCOG stands with its Unfunded Accrued Liability (UAL) and how much of WRCOG's pension is currently covered. Committee member Hewitt noted that the Riverside County Transportation Commission (RCTC) recently acted to pay off its UAL of \$8.1 million, which would save RCTC approximately \$7.5 million in interest payments over 30 years.

On July 10, 2019, the Administration & Finance Committee received a presentation and requested that the Finance Directors Committee provide its input and that staff return to the Administration & Finance Committee in September with an update. Once the item is re-reviewed by the Administration & Finance Committee on September 11, 2019, staff will bring forward a full report with any recommendations to the Executive Committee. More information on this item is under item 5.A

Prior Action:

None.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachment:

1. Financial Report summary – June 2019.

Item 4.A

Finance Department Activities Update

Attachment 1

Financial Report summary – June 2019

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**Western Riverside Council of Governments
Monthly Budget to Actuals
For the Month Ending June 30, 2019**

Total Agency			
	Approved Budget 6/30/2019	Thru Actual 6/30/2019	Remaining Budget 6/30/2019
Revenues			
Member Dues	311,410	311,410	-
PACE Residential Revenue	255,598	244,052	11,546
WRELP Phase 2 Revenue	86,750	149,654	(62,904)
Statewide HERO Revenue	1,080,342	1,080,342	-
Gas Co. Prtnrshp Revenue	86,676	101,893	(15,217)
PACE Commercial Revenue	41,984	30,844	11,140
WRCOG HERO-Recording Revenue	132,795	180,565	(47,770)
PACE Commercial Recording Revenue	22,770	1,361	21,409
Statewide Recording Revenue	665,915	665,915	-
Active Transportation Revenue	71,443	71,443	-
Regional Streetlights Revenue	300,000	425,687	(125,687)
Solid Waste	122,248	122,248	-
Used Oil Grants	228,820	228,574	246
NW Clean Cities - Air Quality	181,770	191,770	(10,000)
LTF Revenue	775,500	775,500	-
Adaptation Grant Revenue	258,186	258,186	0
CAP Grant Revenue	11,881	11,881	(0)
RivTAM Revenue	150,000	112,600	37,400
General Assembly Revenue	300,000	247,800	52,200
PACE Admin Requisition Fee	25,000	25,000	-
Commerical/Service	110,645	104,018	6,627
Retail	130,094	125,670	4,424
Industrial	397,418	533,627	(136,209)
Residential/Multi/Single	1,192,183	1,295,926	(103,743)
Multi-Family	8,037,275	488,203	7,549,072
PACE SB2 Recording Revenue	308,810	308,810	-
Interest Revenue - Other	128,942	178,994	(50,052)
HERO - Other Revenue	150,823	150,823	-
Commercial/Service - Non-Admin Portion	2,655,491	2,600,447	55,045
Retail - Non-Admin Portion	3,122,265	3,141,741	(19,476)
Industrial - Non-Admin Portion	9,538,037	13,340,671	(3,802,634)
Residential/Multi/Single - Non-Admin Portion	27,516,865	32,398,156	(4,881,291)
Multi-Family - Non-Admin Portion	11,304,318	12,205,079	(900,761)
FY 17/18 Carryover Funds Transfer in	945,845	945,845	-
Carryover Funds Transfer in	4,268,757	4,268,757	-
Overhead Transfer in	2,084,260	2,078,697	5,563
Total Revenues and Carryover Funds	58,937,742	79,402,189	(1,840,847)
Expenditures	Approved 6/30/2019	Actual 6/30/2019	Remaining Budget
Wages and Benefits			
Salaries & Wages	2,706,622	2,476,266	230,356
Fringe Benefits	907,163	778,111	129,052
Overhead Allocation	2,078,254	2,078,697	(443)

Total Wages, Benefits and Overhead	6,001,857	5,333,074	358,965
General Legal Services	685,194	627,641	57,553
PERS Unfunded Liability	198,823	152,327	46,496
Audit Svcs - Professional Fees	27,500	32,480	(4,980)
Bank Fees	26,856	33,347	(6,491)
Commissioners Per Diem	71,800	67,665	4,135
Office Lease	400,000	390,420	9,580
WRCOG Auto Fuels Expenses	1,250	1,362	(112)
WRCOG Auto Maintenance Expense	89	89	-
Parking Validations	24,752	17,054	7,698
Staff Recognition	800	408	392
Coffee and Supplies	3,000	1,720	1,280
Event Support	175,722	171,704	4,018
Program/Office Supplies	22,809	22,177	632
Computer Equipment/Supplies	6,993	3,238	3,755
Computer Software	93,448	74,506	18,942
Rent/Lease Equipment	30,000	15,799	14,201
Membership Dues	34,000	30,822	3,178
Subscription/Publications	1,948	1,620	328
Meeting Support Services	8,052	3,225	4,827
Postage	6,468	3,580	2,888
Other Household Exp	1,129	787	342
COG HERO Share Expenses	15,000	5,431	9,569
Storage	6,657	5,251	1,406
Printing Services	2,798	2,190	608
Computer Hardware	12,600	2,664	9,936
Communications - Regular Phone	15,000	18,132	(3,132)
Communications - Cellular Phones	20,379	9,275	11,104
Communications - Computer Services	57,936	42,590	15,346
Communications - Web Site	8,063	8,063	-
Equipment Maintenance - General	9,000	5,396	3,604
Equipment Maintenance - Comp/Software	21,000	17,920	3,080
Insurance - Gen/Busi Liab/Auto	97,678	104,073	(6,395)
PACE Residential Recording	333,966	288,851	45,115
Seminars/Conferences	13,233	6,105	7,128
General Assembly Expenses	300,000	213,207	86,793
Travel - Mileage Reimbursement	24,357	16,017	8,340
Travel - Ground Transportation	4,535	4,057	478
Travel - Airfare	14,755	12,504	2,251
Lodging	12,290	14,828	(2,538)
Meals	7,919	5,980	1,939
Other Incidentals	7,206	8,075	(869)
Training	6,250	745	5,505
OPEB Repayment	71,053	71,053	-
Supplies/Materials	52,195	35,343	16,852
Advertisement Radio & TV Ads	42,274	26,820	15,454
Consulting Labor	2,660,491	2,568,772	91,719
TUMF Project Reimbursement	38,000,000	31,874,980	6,125,020
BEYOND Program REIMB	2,793,608	1,831,037	962,571
Misc Equipment Purchased	3,000	2,735	265
Bad Debt Expense	78,238	78,238	-
Total General Operations	47,676,204	38,857,272	8,210,104
Total Expenditures and Overhead	53,678,061	44,190,346	8,569,069



Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: Amendment to the Agency Personnel Policies and Procedures

Contact: Barbara Spoonhour, Deputy Executive Director – Operations, bspoonhour@wrcog.us, (951) 405-6760

Date: September 11, 2019

The purpose of this item is to provide an amendment to WRCOG's Personnel Policies and Procedures regarding employees being involved in job-related vehicle incidents.

Requested Action:

1. Recommend that the Executive Committee adopt Resolution Number 31-19: A Resolution of the Executive Committee of the Western Riverside Council of Governments amending its Personnel Policies and Procedures.

On June 3, 2019, the Executive Committee approved an updated version of the Agency's Personnel Policies and Procedures. Legal counsel has recently advised staff that since WRCOG owns vehicles and staff operate vehicles (at the Reserve, as well as at its office) that the Agency's Personnel Policies and Procedures should be revised to include language on procedures when a vehicle incident occurs.

A redline version of Section N is also provided as Attachment 1 for member's reference. The following language has been added to the section:

"WRCOG requires employees to report all job-related vehicle incidents, including but not limited to vehicle accidents, vehicle damage, vehicle theft, vehicle vandalism, property damage, and any other vehicle-related incidents, no matter how slight. The report must be made to the employee's immediate supervisor during the shift in which the accident or incident occurred, or if that is not feasible, as soon as possible thereafter. If an employee is involved in an accident on a public road, the employee's supervisor and the California Highway Patrol or appropriate law enforcement agency must be notified."

Prior Action:

June 3, 2019: The Executive Committee approved the revised Agency Personnel Policies and Procedures.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachments:

1. Redline version of WRCOG Personnel Policies and Procedures dated June 3, 2019, for Section N. Vehicle Operation Policy.

2. Resolution Number 31-19: A Resolution of the Executive Committee of the Western Riverside Council of Governments amending its Personnel Policies and Procedures.

Item 4.B

Amendment to the Agency Personnel
Policies and Procedures

Attachment 1

Redline version of WRCOG Personnel
Policies and Procedures dated June 3,
2019, for Section N. Vehicle Operation
Policy

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WRCOG-occupied property is prohibited. The following rules are to be strictly observed by all employees.

- Employees are prohibited from engaging in solicitation while on Paid Working Status. For the purposes of this Policy, Paid Working Status means any time the employee is on the clock with the exception of meal and rest breaks.
- Employees engaging in solicitation while not on Paid Working Status are prohibited from engaging in solicitation in a manner that is disruptive to other employees who are on Paid Working Status and/or to the WRCOG's customers.
- Employees may distribute or circulate non-WRCOG written materials only while not on Paid Working Status and only in non-work areas. Non-work areas are defined as anywhere off WRCOG property, with the exception of the break room. If an employee is not certain whether an area is a work or non-work area, he or she should consult his or her immediate supervisor for clarification.
- Solicitation or distribution in any way connected with the sale of any goods or services for profit is strictly prohibited anywhere on WRCOG property at any time. Similarly, solicitation or distribution of literature for any purpose by non-employees is strictly prohibited on WRCOG property at any time.
- WRCOG has bulletin boards located throughout the facility for the purpose of communicating with employees. Postings on these boards are limited to items posted by WRCOG, including statutory and legal notices, safety and disciplinary rules, WRCOG policies, memos of general interest relating to WRCOG, local operating rules, and other WRCOG items. All postings require prior approval of the Executive Director or designee. No postings will be permitted for any other purpose.
- Any employee who does not understand the application of these rules should consult with the Executive Director or designee.

N. Vehicle Operation Policy

No employee is to operate or drive any motor vehicle on behalf of WRCOG unless the employee is licensed for the class of vehicle to be driven, possesses a valid California Driver's License, and maintains adequate insurance. WRCOG retains the right to suspend or terminate an employee whose license is revoked, or who fails to maintain personal automobile insurance coverage, or who is uninsurable under a WRCOG policy when operation of a motor vehicle is an essential function of the employee's position.

WRCOG requires employees to report all job-related vehicle incidents, including but not limited to vehicle accidents, vehicle damage, vehicle theft, vehicle vandalism, property damage, and any other vehicle-related incidents, no matter how slight. The report must be made to the employee's immediate supervisor during the shift in which the accident or incident occurred, or if that is not feasible, as soon as possible thereafter. If an employee is involved in an accident on a public road, the employee's supervisor and the California Highway Patrol or appropriate law enforcement agency must be notified."

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Item 4.B

Amendment to the Agency Personnel
Policies and Procedures

Attachment 2

Resolution Number 31-19: A
Resolution of the Executive Committee
of the Western Riverside Council of
Governments amending its Personnel
Policies and Procedures

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RESOLUTION NUMBER 31-19

**A RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
AMENDING ITS PERSONNEL POLICIES AND PROCEDURES**

WHEREAS, the Western Riverside Council of Governments ("WRCOG") currently maintains WRCOG Personnel Policies and Procedures for the benefit of its employees; and

WHEREAS, staff continually review the Personnel Policies and Procedures to ensure compliance with the law and improve operational efficiency; and

WHEREAS, WRCOG staff seeks to amend its Policy to the Personnel Policies and Procedures at Section VII, entitled "Vehicle Operation Policy" regarding employee reporting of vehicle accidents / incidents which provides as follows:

"WRCOG requires employees to report all job-related vehicle incidents, including but not limited to vehicle accidents, vehicle damage, vehicle theft, vehicle vandalism, property damage, and any other vehicle-related incidents, no matter how slight. The report must be made to the employee's immediate supervisor during the shift in which the accident or incident occurred, or if that is not feasible, as soon as possible thereafter. If an employee is involved in an accident on a public road, the employee's supervisor and the California Highway Patrol or appropriate law enforcement agency must be notified."

NOW THEREFORE, BE IT RESOLVED by the Executive Committee of the Western Riverside Council of Governments that WRCOG hereby adopts Item VII.N, Vehicle Operation Policy, and that WRCOG's Personnel Policies and Procedures are amended to include Item VII.N, Vehicle Operation Policy.

PASSED AND ADOPTED by the Executive Committee of the Western Riverside Council of Governments on October 7, 2019.

Bonnie Wright, Chair
WRCOG Executive Committee

Rick Bishop, Secretary
WRCOG Executive Committee

Approved as to form:

Steven DeBaun
WRCOG Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

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Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: Western Riverside Energy Partnership Program Activities Update

Contact: Anthony Segura, Senior Analyst, asegura@wrcog.us, (951) 405-6733

Date: September 11, 2019

The purpose of this item is to provide information on the collaboration between the Coachella Valley Association of Governments, the San Bernardino Council of Governments and WRCOG on the partnership with The Research Corporation (TRC) on the bidding of public sector programs through SCE's third-party solicitation.

Requested Action:

1. Recommend that the Executive Committee authorize the Executive Director to approve a public-private partnership agreement between WRCOG and The Research Corporation to develop bid packets for Southern California Edison's Request for Abstract & Request for Proposal solicitations public sector energy programs.

The Western Riverside Energy Partnership (WREP) responds to Executive Committee direction for WRCOG, SCE, and SoCal Gas to seek ways to improve marketing and outreach to the WRCOG subregion regarding energy efficiency. WREP is designed to help local governments set an example for their communities to increase energy efficiency, reduce greenhouse gas emissions, increase renewable energy usage, and improve air quality.

SCE Public Sector Solicitation

In the next few months SCE will be releasing a solicitation to competitively bid out its existing Local Government Partnership (LGP) Program to third party providers. As mandated by the California Public Utilities Commission, SCE, along with the other Investor Owned Utilities (IOU), will initiate the outsourcing of approximately 60% of its energy efficiency portfolio to third party implementors. The outsourcing of the energy efficiency portfolio began in 2018 and will conclude in 2022. The reasoning for this outsourcing of programs is intended for the IOUs to find an alternative solution to achieving greater energy savings more efficiently by allowing third party implementors the opportunity to bring innovative strategies to the energy efficiency market. As of 2018, SCE has been in the process of outsourcing several of its energy efficiency programs such as residential, industrial, commercial, and public sector to identify and select a third-party implementor to oversee and implement cost effective energy efficiency programs for SCE.

The solicitation of the LGP Programs will occur over a two-stage process. The first phase consists of SCE's release of a Request for Abstract (RFA), tentatively anticipated for release in October 2019. The response to this RFA will be limited to 15 - 20 pages and will include information on proposers' conceptual energy efficiency program design, preliminary energy savings, and program budget information. The successful bidders in the RFA stage will move on to the Request for Proposal (RFP) stage that is tentatively anticipated during the first quarter of 2020 (could be pushed out further). The RFP response is much more involved and includes details on the energy program design, marketing and outreach plan, and in-depth program savings and cost

effectiveness calculations. Local jurisdictions and previous Local Government Partnership Implementors (like WRCOG) are eligible to propose on this opportunity.

Over the past several months, WRCOG, in coordination with the Coachella Valley Association of Governments (CVAG) and the San Bernardino Council of Governments (SBCOG), have been exploring the idea of submitting an RFA to take part in the solicitation process for the public sector component for LGPs. To participate on this bidding process, all three Councils of Governments (COGs) have been in conversation with The Research Corporation (TRC), which has been the technical assistance vendor for several LGPs, including CVAG, SBCOG, and WRCOG. TRC is interested in having a private-public partnership with all three COGs to submit an RFA to SCE for consideration of applying towards the RFP component of the solicitation process.

For the RFA stage, there is no financial commitment required from the COGs' member agencies. What will be needed to develop a response for the RFA is the collection of City property data (facility energy usage information) and any energy savings achieved to date. This information is important for the development of the RFA because it provides information on the subregion's potential to continue providing energy efficiency programs for ongoing support for projects at the municipal facility level. As part of this partnership, TRC would provide support at every stage of the process including program design, implementation and cost effectiveness calculations for both the RFA & RFP response stages.

In preparation for the RFA process, the COGs are looking to prepare and gather the city facility data that has been used in the past for prior programs such as the Western Riverside Energy Partnership. The data that would be provided for the development of the RFA would include city facility, purpose of the facility, square footage, date built, and energy usage. In addition to this information, any energy projects that have been completed for the participating members would also be added to the RFA which would highlight the active participation of local governments involved with energy efficiency work. This information would be provided to TRC for the development of the of the RFA.

In addition to this collaboration, TRC has provided the COGs with a draft teaming agreement (Attachment 1) that would need to be executed for the ongoing collaboration between the agencies for the development of the RFA & RFP stages. WRCOG, CVAG, and SBCOG are working together to review and provide feedback towards the teaming agreement with the goal of having the document executed for the interest of submitting a bid towards SCE's RFA & RFP stage per legal approval.

Prior Action:

None.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachment:

1. Draft Teaming Agreement with TRC.

Item 4.C

Western Riverside Energy Partnership
Program Activities Update

Attachment 1

Draft Teaming Agreement with TRC

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TEAMING AGREEMENT BI-DIRECTIONAL TO PURSUE MULTIPLE OPPORTUNITIES

This TEAMING AGREEMENT – BI-DIRECTIONAL TO PURSUE MULTIPLE BUSINESS OPPORTUNITIES (“**Agreement**”) is made as of [date] (“**Effective Date**”) by and between [TRC entity], a [state] [type of legal entity] with an office located at [address] and [Correct Legal Name of other Teaming Party], a [where incorporated?] [type of legal entity] with a principal place of business at [address] (each a “**Party**” and collectively the “**Parties**”). For the purposes of this Agreement, the term “**Affiliate**” means any direct or indirect, current or future, subsidiary of a Party, or any other entity which is controlled by a Party, or which controls a Party. The term “control” as used in the prior sentence means possession, directly or indirectly, of at least fifty percent (50%) of the voting equity of another entity (or other comparable interest for an entity other than a corporation), or the power to direct or cause the direction of the management or policies of an entity, whether through ownership of securities, by contract, or otherwise

Whereas, this Agreement is made with reference to the following facts and objectives:

1. Each Party is interested in pursuing various requests for proposals (“**RFPs**”), which might commence with requests for qualifications (“**RFQs**”) issued by clients, owners, or contractors (each a “**Client**”) for projects the Parties are capable of performing (“**Projects**”).
2. Each Party desires to work with the other Party to prepare and submit statements of qualifications (each an “**SOQs**”) in response to selected RFQs, and proposals (“**Proposals**”), in response to selected RFPs, with the objective of entering into an agreement with the Client issuing the RFP to perform the selected Project (“**Contracts**”).
3. Each Party intends to collaborate and effectively use its respective core competencies and experience in the preparation and submission of SOQs and Proposals to Clients for Projects.
4. Each Party is experienced in the kinds of services required by the Projects, and, if applicable, is properly licensed to perform such work for the Projects, which will be defined in the anticipated RFPs.
5. In order to maximize the likelihood of presenting effective Proposals, the Party desires to pool its resources with the other Party’s resources to maximize their complementary capabilities according to the terms and conditions herein.

Therefore, in consideration of the promises and mutual covenants set forth in this Agreement, each Party agrees as follows:

1. **Registered Opportunities.** Each opportunity the Parties agree to jointly pursue pursuant to this Agreement shall become a Registered Opportunity, and documented as a Registered Opportunity using the Registered Opportunity form attached hereto as Exhibit A. For each Registered Opportunity, the Parties will designate a party to be prime contractor (“**Prime**”) and a party to be subcontractor (“**Sub**”), (collectively, a “**Team**”), and will identify the portion of the Project work that will be performed by Sub (the “**Subcontractor Work Portion**”). Each Registered Opportunity form also shall contain any additional terms and conditions applicable to such Registered Opportunity, including, but not limited to, any Client confidentiality or non-disclosure requirements and/or agreement for that Registered Opportunity. The Parties will maintain a log of Registered Opportunities, substantially in the form of Exhibit B.

2. **Exclusive Arrangement.** For each Registered Opportunity, the Team will work exclusively with each other to furnish SOQs and Proposals, as applicable. Each Party agrees not to enter into a teaming arrangement with respect to the Registered Opportunity or to submit an SOQ or a Proposal for the Registered Opportunity individually or with any other person or entity (except as provided in Section 3 below). Specifically, (i) Prime agrees not to solicit from any other firm the Subcontractor Work Portion unless the Client will not approve Sub as a subcontractor; and (ii) Sub agrees that for any Registered Opportunity it will not participate in the submission of a response to an RFQ



or RFP as a prime contractor, consultant, or a subcontractor to any other firm. This provision will apply to all Affiliates of the Parties. To avoid conflicts or potential conflicts by other business units, each Party will perform internal due diligence to determine no conflicts exist and will be avoided for each Registered Opportunity. Other than with respect to Registered Opportunities, this Agreement shall not preclude either Party from marketing its services to any potential client, competing for projects, or entering into contracts, independent of the other or with other entities.

3. Additional Team Members. Prime reserves the right, upon notification to Sub, to add additional members to the Team to assist in performing tasks relating to the SOQ / Proposal; *provided, however*, that no additional members shall be added to the Team to perform the Subcontractor Work Portion. In the event that additional members are added, Prime agrees to obtain adequate written protection of Sub's proprietary information from each new team member.

4. General Responsibilities for each RFQ / Proposal. Each Party will comply with the requirements of the RFP and will not do anything that would cause the Team to fail to qualify. Each Party will make every reasonable effort to coordinate and schedule work with each other and with any necessary subconsultants and subcontractors to enable the Parties to assemble the most competitive team and Proposal that they can to obtain an award of the Contract to Prime. Prior to submission of the Proposal, the Parties will prepare a preliminary division of responsibilities identifying the portions of the Project for which each Party will be responsible if Prime enters into a Contract with Client.

5. Sub's Responsibilities for SOQs / Proposals. For each Registered Opportunity, as applicable, Sub will assist Prime in preparing and submitting an SOQ and a Proposal to respond to the RFQ and/or RFP. Specifically, Sub will furnish, for incorporation into the SOQ or Proposal, as applicable, all material pertinent to the Subcontractor Work Portion, including, but not limited to, description of work, clarifications, exceptions, graphics, and cost and/or pricing data, as appropriate. The format for presenting scope, pricing, and/or any other pertinent information shall be as specified by Prime. Sub shall make available to Prime appropriate and qualified personnel to work on Sub's portion of the SOQ / Proposal, and shall provide reasonable assistance to Prime in preparing the SOQ / Proposal, including periodic reviews of the documents and supporting information.

6. Prime's Responsibilities for SOQs / Proposals. Prime will prepare an SOQ Proposal that complies with the requirements of the RFQ/RFP, and will make reasonable efforts to incorporate and accurately and adequately portray the information provided by Sub. Prime will keep Sub informed of any changes in the Client's requirements for the Registered Opportunity. Prime will afford Sub the opportunity to review, prior to submission, that portion of the Proposal which relates to the Subcontractor Work Portion. In addition, Prime will consult with, and obtain the concurrence of Sub, before making any changes in the Proposal which concern the Subcontractor Work Portion. Prime will be responsible for the final Proposal, its means and methods, sequence, scheduling, contingencies, pricing, subcontracting, equipment, and material procurement, and contingencies in the Proposal, and will be the sole and final determinant of the Proposal content, risk profile, and pricing. Prime will identify Sub as a team member and proposed subcontractor in the Proposal, and shall describe in the Proposal Sub's responsibilities concerning the Subcontractor Work Portion. Prime will submit the Proposal on a timely basis to Client, and thereafter will keep Sub reasonably advised of any the status of the SOQ / Proposal.

7. SOQ and Proposal Costs. Except as otherwise agreed for any individual SOQ or Proposal, in performing their respective obligations under this Agreement, each Party will be responsible for its own costs incurred, including, but not limited to, travel expenses. Neither party shall have any right to any reimbursement, payment, or compensation of any kind from the other during the period prior to Prime and Sub entering into a Subcontract as contemplated by this Agreement.

8. Communications With Client. Except as requested by Prime, Sub will not communicate directly with any Client regarding any RFQ / RFP, the Project, or the Team's SOQ / Proposal, but rather will submit to Prime any applicable questions or comments, which Prime will communicate to Client. Notwithstanding the foregoing, it is recognized that Sub may have a continuing relations with Client and may be the recipient of inquiries concerning any RFQ / RFP, or the Team's SOQ / Proposal. Whenever practicable, such direct communications must be approved in advance by Prime to ensure coordination of efforts and understanding of commitments. However, if it becomes reasonably unavoidable for Sub to directly communicate with Client concerning the an SOQ or a Proposal, or if Client desires to communicate directly with Sub, such communications shall not be deemed to be a breach of this Agreement, provided Sub makes reasonable efforts to include Prime, copies Prime on any written

communications from Sub, and promptly notifies Prime of any oral communications on which Prime could not reasonably be included.

9. Negotiations With Client. Prime will use its reasonable best efforts after submission of the Proposal to the Client to obtain the contract award, and Sub agrees to provide such assistance in such efforts as Prime may reasonably request. Prime will be responsible for any negotiations and communications with Client concerning the Registered Opportunity, the RFQ/RFP, the SOQ, the Proposal or any Contract resulting therefrom. Following submission of an SOQ or a Proposal, Prime will keep Sub informed about relevant, concurrent negotiations by Prime with Client, and, when reasonably practicable, Prime agrees to afford Sub an opportunity to be present at negotiations or meetings with Client that are likely to concern the Subcontractor Work Portion. If requested by Prime, Sub will make reasonable efforts to supply management and technical personnel to assist Prime in any negotiations and discussions with Client relating to the RFQ / RFP or SOQ / Proposal. In any discussions or negotiations with an Client, Prime will not deviate from any clarifications, exceptions, and/or pricing regarding the Subcontractor Work Portion of the Proposal without first obtaining agreement from Sub.

10. Confidentiality.

- a. The Parties will exchange such information and data as are reasonably required of each to perform its obligations under this Agreement. All technical information, information systems, and confidential business information which is received from a Party under this Agreement related to a Proposal or a Project, whether in tangible or electronic form ("**Confidential Information**") will not be disclosed to other persons except as provided herein. Confidential Information may be disclosed only on a "need to know" basis, and only to (1) a Party's Affiliates and/or employees, (2) Clients, their affiliates, and their agents to respond to requirements of SOQs or RFPs, and (3) provided the subcontractor enters into a confidentiality agreement, a Party's subcontractor or subconsultant. Each Party will include a similar confidentiality clause in its agreements with its subcontractors/subconsultants. The restrictions on the disclosure of Confidential Information will not apply to the extent that such data: (i) was in the public domain at the time of disclosure or later came into the public domain; (ii) was known to the receiving Party at the time of disclosure; (iii) is authorized for disclosure by the written approval of the disclosing Party; (iv) is not unlawfully derived by the receiving Party from a source other than the disclosing Party without restriction as to the use or disclosure of such data, or (v) is independently developed by the receiving Party without resource to any Confidential Information provided under this Agreement.
- b. The Parties will not be restricted in any way from releasing information in response to a subpoena, court order or legal process, but will notify the other Party of the demand for information before responding to such a demand.
- c. The restrictions in this Section 5 will cease to apply five (5) years after the termination of this Agreement.
- d. The Parties agree to comply with any additional or different confidentiality obligations in any RFP or any confidentiality / nondisclosure agreement associated with any RFP.

11. Proprietary Rights. Subject to the rules established by Clients for RFPs, each Party will retain title to all of its intellectual property rights, including, without limitation, copyrights, with respect to all documents, drawings, specifications, electronic data, and information prepared, provided, or procured by it in connection with any SOQ or Proposal for any Project. Subject to the rights of any third party, each Party hereby grants to the other Party, for purposes of proceeding under to this Agreement, an irrevocable royalty-free license to copy and use, for any purpose solely relating to an SOQ or Proposal, all items and material subject to its intellectual property rights that are used or intended to be used for the purposes of preparation and submission of an SOQ or Proposal, and negotiation of the associated Contract. If a Party withdraws under this Agreement, the remaining Party and any new party will cease to have entitlement to use any items or materials that are the subject of the license granted pursuant to this Section 6 provided by the withdrawing Party.

12. No License Granted. No license to either Party, under any trademark, patent, or copyright is either granted or implied by the conveying of information to that Party or by executing this Agreement. None of the information which may be submitted or exchanged by the respective Parties shall constitute any representation, warranty, assurance, guarantee, or inducement by either Party to the other Party with respect to the infringement of trademarks, patents, copyrights, or any right of privacy or other rights of third persons.

13. Standard of Care. In the event either Party performs professional services for the preparation of the Proposal, the standard of care for such services will be the care and skill ordinarily used by members of a design

profession similar to the professional services being performed hereunder, practicing under similar conditions at the same time and locality as the professional services performed for the SOQ or Proposal. The standard of care will not be altered, expanded, or abridged by the application, interpretation or construction or any provision of this Agreement or any incorporated document. Each Party acknowledges that any professional services performed as part of any Proposal are based on limited information, and must be considered as preliminary and not suitable for construction.

14. Compliance with Laws and Policies / Bribery & Corruption. Each Party will comply with all laws applicable to the performance of its obligations under this Agreement. In particular, and without limiting the foregoing, each Party agrees that in the course of being introduced to an opportunity to bid to a Client, and participating under an RFQ or RFP, it will comply with all applicable laws and policies and requirements under the RFQ and/or RFP regarding ethical business practices and improper or illegal payments, gifts, or gratuities, and will not offer, make, or give any such payments, gifts, or gratuities to any person (whether government official or private individual) for the purpose of inducing such person or individual to make a buying decision or to take any other action favorable to any Party.

15. Subcontract Agreement. For any Contract awarded to Prime as a result of a Proposal submitted pursuant to this Agreement, with respect to the Subcontractor Work Portion of the Project, Prime and Sub will enter into a negotiated, mutually acceptable subcontract agreement substantially in accordance with Sub's pricing in the Proposal for the Subcontractor Work Portion, and pursuant to terms and conditions substantially similar to that attached hereto as Exhibit C ("Subcontract").

16. Subcontract Supersedes. In the event the Parties enter into a Subcontract for a Project pursuant to this Agreement, with respect to that Project the Subcontract will entirely supersede and take precedence over this Agreement.

17. Initial Term. This Agreement will commence on the Effective Date and will remain in effect for one (1) year ("**Initial Term**").

18. Renewal Terms. Following the Initial Term, this Agreement will automatically renew annually for an one (1) additional year (each a "**Renewal Term**"), subject to annual billing rate adjustments, until terminated by either Party.

19. Termination or Suspension of Agreement for Convenience. Either Party may terminate or suspend this Agreement, in whole or in part by providing written notice to the other Party at least thirty (30) days prior to the effective date of termination. Any termination of the entire Agreement will take effect after submission of an SOQ or Proposal under any Registered Opportunities in progress as of the notice of termination..

20. Automatic Termination of this Agreement. This Agreement and all Registered Opportunities will terminate automatically upon the occurrence of any of the following events:

- a. Either Party files a petition in bankruptcy or reorganization (or fails to discharge an involuntary petition within 60 days), makes a general assignment to creditors, or becomes insolvent;
- b. Either Party is acquired by or merged with an entity having a conflict of interest with the pursuit of work with Client; or
- c. Mutual agreement of the Parties.

21. Termination of Registered Opportunities. With respect to any Registered Opportunity in progress, the Parties' obligations under this Agreement will terminate upon the occurrence of any of the following events:

- a. Award by Client of a Contract to Prime and then execution of a Subcontract between Prime and Sub for the Project;
- b. Award by Client of a contract for the Project to a bidder other than Prime;
- c. No award of the Project is made within 180 days after the Proposal is submitted to Client, unless the Parties agree upon an extension;
- d. Cancellation of the Project or the RFP;
- e. Failure of Prime to become prequalified by Client to submit a Proposal;
- f. Refusal of Client to accept Sub as a subcontractor;
- g. Either Party reasonably determining that a significant Project matter, such as the scope of work, the Project's financing plan, the procurement process, or the terms of the Contract, RFP, or Subcontract

- is/are unacceptable to said Party; provided, however, that neither Party will be allowed to terminate this Agreement for convenience within ten (10) days of the due date for any Proposal;
- h. A default by either Party with respect to any of its obligations under this Agreement that is not corrected within ten (10) calendar days after receipt of written notice of such default provided by the other Party, at the discretion of the non-defaulting Party; or
- i. Mutual agreement of the Parties.

22. Pursuit of Projects Following Termination of this Agreement or a Registered Opportunity. If termination occurs for reasons in sub-sections 15.b, or 15.e, 15.f then either Party may pursue work on the Project independently. If termination occurs for reasons in sub-sections 14.a, 14.b, 15.g, or 15.h, only the non-failing, non-defaulting, or non-withdrawing Party may compete for the Project individually or in combination with another entity. If termination occurs by for reasons in sub-sections 14.c, 15.c, 15.d, 15.h, neither Party may compete for the Project unless otherwise agreed to in writing by the Parties.

23. Mutual Waiver of Consequential Damages. In no event will either Party be liable (whether based on contract, warranty, indemnity, tort – including negligence, strict liability, or otherwise) to the other Party, and each Party expressly waives any rights it might have to recover from the other Party, for any special, exemplary, punitive, indirect, multiple, and consequential, or incidental damages arising out of this Agreement, except when such damages are caused by the intentional misconduct of the other Party. The mutual waiver in the foregoing sentence specifically includes, but is not limited to, rental expenses, loss of use, loss of production, loss of opportunity, loss of income, loss of profit, loss of financing, loss of business, and loss of reputation.

24. Mutual Indemnification.

- a. Indemnity for Professional Negligence. Each Party will indemnify and hold harmless the other Party and its directors, officers, and employees from damages, costs, or expenses, including reasonable attorneys' fees and costs of litigation ("**Losses**") arising out of demands, claims, or suits ("**Claims**") by third parties to the extent such Claims are caused by the indemnifying Party's negligent acts, errors, or omissions in the performance of any professional services under this Agreement.
- b. General Indemnity. With the exception of claims arising under Section 24.a above, above, each Party will indemnify the other Party and its directors, officers, and employees against, and hold them harmless from, such all Losses, and will defend Indemnitees against any and all Claims, arising out of third party bodily injury, disease, death, or property damage (excluding damages for loss of use) associated with the performance of this Agreement, but only to the extent such bodily injury, disease, death, or property damage is caused by the negligence or intentional misconduct of the indemnifying Party, or any person or entity for whose acts or omissions the indemnifying Party is responsible.

25. Dispute Resolution. The Parties will attempt in good faith to resolve any dispute, controversy, or claim of a contractual nature arising out of or relating to any Proposal or this Agreement, or the breach thereof ("**Dispute**") promptly by negotiation. When either Party determines it has exhausted its efforts to resolve a Dispute by the persons responsible for the administration of this Agreement, that Party may provide written notice to the other demanding negotiation by executives ("**Notice**"). Within 15 days after the date of such Notice, executives of both Parties who have authority to agree to a settlement of the Dispute will meet at a mutually acceptable time and place (or, otherwise, within twenty-five (25) miles of the site of the Project), and thereafter as often as they reasonably deem necessary, to attempt to resolve the Dispute. All negotiations pursuant to this Section 14 are confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties do not resolve the Dispute by negotiation within 45 days after delivery of the Notice, either Party may demand arbitration. After such demand, the Parties agree the Dispute will be resolved by arbitration, by a single arbitrator agreed upon by the Parties. If the Parties cannot agree on an arbitrator, each Party will designate a neutral and those two neutrals will select an arbitrator. The arbitrator will conduct the arbitration generally in accordance with the most current Construction Industry Arbitration Rules of the American Arbitration Association ("AAA"), although the AAA will not administer the arbitration. Unless otherwise agreed, the arbitration will take place within twenty-five (25) miles of the site of the Project. The arbitration decision will be final, binding, and irrevocable, and the Parties expressly and unreservedly waive any and all rights to attack the same through any ordinary judicial means or through recourse to any other procedure

26. No Partnership. Nothing in this Agreement may be construed as creating any agency, partnership, joint venture, or legal business of any kind between the Parties. It is expressly understood that the Parties are, and will remain at all times, independent contractors pursuant to this Agreement and nothing herein will be construed as

giving either Party any of the rights of, or subjecting either Party to any of the liabilities of, a partner, nor shall either Party be authorized to represent or make any commitments binding on the other Party. This Agreement is limited to the Registered Opportunities and has no effect on any other project or any other business of either Party.

27. No Publicity. Neither Party will make any public disclosures, including, without limitation, in any advertisements, publications, or documents, regarding Client, this Agreement, the other Party, or the Project, without the prior written approval of the other Party.

28. Non-Solicitation. Unless mutually agreed otherwise, during the term of this Agreement and for a period of twelve months following the termination or completion of this Agreement, neither Party will, either directly or indirectly solicit or encourage any present employee of the other to leave the employment of that company; *provided, however*, that nothing in this Agreement prohibits (i) any general advertisement or general solicitation that is not specifically targeted at such persons (or the hiring of any employee of either Party as a result thereof); or (ii) the hiring of any such persons who initiate discussions with such Party regarding employment without any direct or indirect solicitation by such Party.

29. Miscellaneous. This Agreement: (a) is governed by the laws of the State of [state], without regard to choice of law or conflict of law principles, and applicable federal law and regulations; (b) represents the Parties' entire understanding regarding teaming for the Registered Opportunities, and supersedes any prior agreements or discussions, written or oral, regarding teaming for the Registered Opportunities; (c) may be modified only by written amendment signed by each Party's officers or authorized designees; (d) is to be considered severable, and if any provision of this Agreement is illegal or unenforceable, the unaffected provisions will remain in effect; (e) contains headings for reference only; these headings have no effect on any provision's meaning; (f) does not extend to any third-party beneficiaries; (g) may be executed in any number of counterparts, may be executed electronically, and/or may contain signatures delivered electronically, any of which will have the same effect as original manual signatures on a single instrument. If either Party fails to enforce any right or remedy under this Agreement, that failure is not a waiver of the right or remedy for any other breach or failure by the other Party.

30. Notices. Any notice required to be given under this Agreement must be in writing and will be deemed effective upon receipt, provided notice is given by personal delivery or via overnight delivery with either a nationally recognized courier or the U.S. Postal Service, and sent to the addresses of the Parties set forth in the first paragraph above, to the attention of the person executing below, or to such other address/person as either of the Parties shall have furnished to the other in writing.

31. Exhibits. This Agreement includes and fully incorporates the following exhibits:

- Exhibit A Form of Registered Opportunity
- Exhibit B Log of Registered Opportunities
- Exhibit C Form of Subcontract for Professional Services

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their fully-authorized representatives as of the Effective Date, and by so executing have agreed to be bound by this Agreement.

[TRC entity]

[Other Teaming Party]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
REGISTERED OPPORTUNITY FORM

[see attached]

DRAFT

REGISTERED OPPORTUNITY NO. []

This Registered Opportunity is issued under the Teaming Agreement (“**Agreement**”) dated [date] between [TRC entity], and [Correct Legal Name of other Teaming Party].

Effective Date of this Registered Opportunity: [date]

Client Name: [correct legal name of client]

Address: [address]

Contact: [RFP contact person]

Phone Number: [RFP contact person phone]

Email: [RFP contact person email]

Client RFQ / RFP Number and/or Title: [RFQ / RFP #, Title]

Check one: ☐ This RFQ / RFP includes a Client NDA which is attached hereto and executed by both Parties.
☐ This RFQ / RFP does not include a Client NDA.

Bid Date: [month dd, yyyy]

Party to be Prime Contractor: [Party name]

Prime’s Contact Person, Email, Phone: [name, email, phone number]

Party to be Subcontractor: [Party name]

Sub’s Contact Person, Email, Phone: [name, email, phone number]

Prime Roles & Responsibilities: [general description, to the extent not covered in the Agreement]

Subcontractor Work Portion: [description of Sub’s scope]

Additional terms and conditions applicable to this Registered Opportunity: [insert additional info if applicable, otherwise state N/A]

IN WITNESS WHEREOF, the Parties hereto have caused this Registered Opportunity to be executed by their fully-authorized representatives as of the Effective Date, and by so executing have agreed to pursue the Opportunity herein in accordance with the terms of the Agreement.

[TRC entity]

[Other Teaming Party]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____



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EXHIBIT B

LOG OF REGISTERED OPPORTUNITIES

[see attached]

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LOG OF REGISTERED OPPORTUNITIES

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Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: Approval of Memorandum of Understanding Between WRCOG and the Western Riverside County Regional Conservation Authority for TUMF Revenue Disbursement

Contact: Christopher Gray, Director of Transportation & Planning, cgray@wrcog.us, (951) 405-6710

Date: September 11, 2019

The purpose of this item is to provide an updated Memorandum of Understanding (MOU) with the Western Riverside County Regional Conservation Authority (RCA). This updated version contains language that revises the process by which WRCOG provides funding to RCA and clarifies the process by which RCA's percentage of TUMF is allocated. This updated MOU is similar in form to the MOU between WRCOG and the Riverside Transit Agency (RTA).

Requested Action:

1. Recommend that the Executive Committee approve the updated Memorandum of Understanding between WRCOG and the Western Riverside County Regional Conservation Authority for TUMF Revenue Disbursement.

WRCOG's Transportation Uniform Mitigation Fee (TUMF) Program is a regional fee program designed to provide transportation and transit infrastructure that mitigates the impact of new growth in Western Riverside County. Each of WRCOG's member jurisdictions participates in the Program through an adopted ordinance, collects fees from new development, and remits the fees to WRCOG. WRCOG, as administrator of the TUMF Program, allocates TUMF to the Riverside County Transportation Commission (RCTC), groupings of jurisdictions – referred to as TUMF Zones – based on the amounts of fees collected in these groups, and the Riverside Transit Agency (RTA) and the Western Riverside County Regional Conservation Authority (RCA).

Background

During the development of the TUMF Program, WRCOG identified that key agency partnerships would be needed to successfully implement the goals of the program. These key agency partnerships included RCTC, RTA, and RCA.

A series of agreements were entered into between WRCOG and these agencies which explicitly sets the roles and responsibilities of each party.

MOU with RCA

The agreement between WRCOG and RCA is intended to mitigate the multi-species habitat impacts of transportation improvements made through the Program. Since the Program's inception, WRCOG has allocated a share of TUMF for reimbursement of expenses incurred to purchase habitat included in the Multiple Species Habitat Conservation Plan (MSHCP). RCA purchases lands and then requests reimbursement from WRCOG. Currently, the TUMF Nexus Study allocates a 1.47% share of TUMF for land acquisition.

WRCOG regularly reviews these MOUs and other foundational documents related to the TUMF Program. The MOU with RTA was updated two years ago to create a more streamlined process for reimbursement and also to make other minor changes. During this review, staff determined that it would be appropriate to update the RCA MOU, as it had not been updated since the initial drafting. The main reason for this update is to expedite the reimbursement process, following the process used for RCTC and RTA.

The updated MOU (Attachment 1) is attached for reference. Once the Administration & Finance Committee approves this updated MOU, it will be forwarded to WRCOG's Executive Committee for their approval. Once that approval occurs, the updated MOU will be provided to RCA for their approval process.

Prior Action:

None.

Fiscal Impact:

TUMF activities are included in the Agency's adopted Fiscal Year 2019/2020 Budget under the Transportation Department.

Attachment:

1. Memorandum of Understanding between WRCOG and the Western Riverside County Regional Conservation Authority.

Item 4.D

Approval of Memorandum of Understanding Between WRCOG and the Western Riverside County Regional Conservation Authority for TUMF Revenue Disbursement

Attachment 1

Memorandum of Understanding between WRCOG and the Western Riverside County Regional Conservation Authority

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AND
THE WESTERN RIVERSIDE COUNTY REGIONAL
CONSERVATION AUTHORITY**

This **Memorandum of Understanding** (the "MOU") is made and effective this _____ day of _____, 2019, (the "Effective Date") by and between the Western Riverside Council of Governments ("WRCOG") and the Western Riverside County Regional Conservation Authority ("RCA"). WRCOG and RCA are sometimes collectively referred to herein as the "Parties."

WHEREAS, WRCOG is the administrator of the Transportation Uniform Mitigation Fee ("TUMF") Program in Western Riverside County; and

WHEREAS, the TUMF Program is a uniform mitigation fee imposed in Western Riverside County to fund regional transportation facilities made necessary by new development within the region; and

WHEREAS, the TUMF Program is supported by a Nexus Study which, among other things, sets forth specific transportation infrastructure improvements to be funded by TUMF revenues; and

WHEREAS, the TUMF Nexus Study currently allocates 1.47% of TUMF revenues to RCA ("RCA's TUMF Share") for the purpose of implementing the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), which is an amount equal to 5% of the construction cost for new TUMF network lanes, bridges, and railroad grade separations. This does not include TUMF Network interchanges, as detailed in the TUMF Nexus Study and letter distributed by RCA to WRCOG on January 24, 2006. The January 24, 2006, letter is attached hereto as Exhibit "B". The current calculation for RCA's TUMF Share of the fee imposed in Western Riverside County is attached hereto as Exhibit "C;" and

WHEREAS, the Parties entered into an MOU dated December 3, 2007, for the transfer of TUMF Funds for use under the MSHCP; and

WHEREAS, WRCOG has completed a reconciliation of executed TUMF Credit Agreements since inception of the Program and determined that approximately \$2.0 million in revenues for RCA have not been collected due to Credit Agreements. The calculation for RCA's TUMF Share of fees not collected through Credit Agreements is attached hereto as Exhibit "D;" and

WHEREAS, the purpose of this MOU is to set forth a process for WRCOG to distribute RCA's TUMF Share to RCA.

NOW, THEREFORE, in consideration of the foregoing facts and mutual understandings, the Parties to the MOU agree as follows:

1. **Allocation of Funds on Hand.** WRCOG shall allocate RCA's TUMF Share currently held by WRCOG as of the Effective Date of this MOU to RCA in two equal installments. The first installment shall be allocated within six months of the date of this MOU. The second installment shall be allocated within 12 months of the date of this MOU.

2. **Allocation of Future Funds.** WRCOG shall allocate RCA's TUMF Share collected after Effective Date quarterly, on or about January 31, April 30, July 31, and October 31 of each year.
3. **Annual Reporting.** RCA shall provide WRCOG with a written report on or about August 15 of each year starting in 2019 with the following information.
 - a. The total expenditure made by RCA of RCA's TUMF Share made in the prior fiscal year.
 - b. A list of all projects funded in whole or part by RCA's TUMF Share and the amount of TUMF revenues expended on each project.
 - c. The balance of unexpended RCA's TUMF Share held by RCA as of the close of the preceding fiscal year.
4. **Compliance with TUMF Rules.** Accounting and expenditure of RCA's TUMF Share shall be in conformance with the TUMF Nexus Study, the then current TUMF Administrative Plan, and applicable state laws, including Government Code sections 66000, et seq.
5. **Administrative Plan.** The current version of the TUMF Administrative Plan is attached hereto as Exhibit "A." Any changes to the TUMF Administrative Plan shall be automatically incorporated into this MOU when adopted by WRCOG Executive Committee; provided, however, that any changes to the calculation of RCA's TUMF Share shall be approved by RCA prior to becoming effective.
6. **Amendment.**
 - a. This MOU maybe amended in writing by mutual agreement of the Parties.
 - b. In the event that WRCOG approves a new Nexus Study, the percentage allocation of RCA's TUMF Share shall, upon written notice from WRCOG's Executive Director, be adjusted to that set forth in the most recent Nexus Study.
7. **Termination.** This MOU may be terminated by either party hereto as follows:
 - a. The party seeking termination shall send written notice of its intent to terminate this MOU and shall request a meeting with the other party to discuss. Executive staff of each party shall meet in good faith to resolve outstanding disputes.
 - b. Should the parties not resolve outstanding disputes within 30 days of the written notice of intent provided for subsection 7.a, the party seeking termination may provide written notice of its termination of the MOU. The notice of termination shall specify a date at least 180 days in the future as its effective date.
 - c. In the event this MOU is terminated, RCA's TUMF Share of TUMF revenues received after the date of termination shall be held by WRCOG and made available to RCA in accordance with Section 2 of the MOU between RCA and WRCOG dated December 3, 2007. Any TUMF revenues allocated prior to the date of the termination shall be retained by RCA and shall be accounted for and expended in accordance with the terms of this MOU.
8. **Prior Agreements.** This MOU supplements, but does not replace, the MOU between RCA and WRCOG dated December 3, 2007. Except as set forth herein, all provisions of the 2007 MOU shall remain in full force and effect and shall govern the actions of the Parties hereto.

**SIGNATURE PAGE FOR THE
MEMORANDUM OF UNDERSTANDING BETWEEN THE
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AND THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY**

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be signed as of the date first written above.

**WESTERN RIVERSIDE COUNCIL OF
GOVERNMENTS**

**WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY**

By: _____
Bonnie Wright, Chair

By: _____
Jonathan Ingram, Chairman

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Exhibit "A"

Transportation Uniform Mitigation Fee

ADMINISTRATIVE PLAN

August 5 , 2019



PREPARED BY THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
3390 UNIVERSITY AVENUE, SUITE 450
RIVERSIDE, CALIFORNIA, 92501
PHONE (951) 405-6700

Western Riverside Council of Governments (WRCOG)

***Administrative Plan for the Western Riverside County
Transportation Uniform Mitigation Fee (TUMF) Program***

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***Administrative Plan for the
Western Riverside County Transportation Uniform Mitigation Fee
(TUMF) Program***

Preamble

Future development within Western Riverside County will result in traffic volumes exceeding the capacity of the Regional System of Highways and Arterials (RSHA or Regional System) as it presently exists. The Regional System needs to be expanded to accommodate anticipated future growth; current funds are inadequate to construct the Regional System needed to avoid the unacceptable levels of traffic congestion and related adverse impacts.

The TUMF Program provides significant additional funds from new development to make improvements to the Regional System, complementing funds generated by Measure A, local transportation fee programs, and other potential funding sources. By establishing a fee on new development in the sub-region, local agencies have established a mechanism by which developers effectively contribute their “fair share” toward sustaining the regional transportation system. This is a twenty-five year program and is influenced by a variety of market factors that could cause a shortfall or surplus in the revenue projections. WRCOG shall review the TUMF Program no less than every four (4) years after the effective date of the 2016 TUMF Program Ordinance. Additionally, WRCOG will bring forward, on an annual basis, a Construction Cost Index Adjustment to the TUMF in effect at the time for review and action by the WRCOG Executive Committee. The Program is not designed to be the only source of revenue to construct the identified facilities, and it will be necessary for matching funds from a variety of available sources to be provided.

It is the intent that TUMF requirements may be met by paying cash, building eligible facilities or through public financing, such as Community Facility Districts and Assessment Districts, or private financing vehicles consistent with local jurisdiction policies.

General TUMF Program parameters, definitions and procedures are described in the TUMF Program Ordinance adopted by participating Western Riverside County jurisdictions. The Western Riverside Council of Governments (WRCOG) is designated as the TUMF Program Administrator, and as such will work closely with member jurisdictions, the Riverside County Transportation Commission (RCTC), the Riverside Transit Agency (RTA), and Riverside County Regional Conservation Authority (RCA) to coordinate the TUMF expenditures to maximize the effectiveness of future transportation investments. As the Program Administrator, WRCOG, agrees to indemnify, defend and hold harmless any TUMF Program participant, and its respective agents, officers, members, officials, employees, and attorneys, whose TUMF Ordinance is challenged in court, from and against all claims, liabilities, damages, or costs of any kind whatsoever, including attorneys’ fees and court costs; provided, however, that such indemnity and defense shall not extend or apply to challenges alleging procedural defects in the adoption and implementation of the TUMF Ordinance.

“TUMF Administrative Plan” means the Administrative Plan for the Western Riverside County TUMF Program prepared by WRCOG dated March 24, 2003, in substantially the form approved by the WRCOG Executive Committee on April 7, 2003, as may be amended from time to time, provided that, any material amendments to the TUMF Administrative Plan shall be approved by WRCOG Executive Committee.”

This Administrative Plan serves as the guideline to implement the TUMF Program and will be amended as needed to address changing conditions over the life of the Program.

- I. **Purpose** - The Purpose of this Administrative Plan is to provide those jurisdictions and agencies that are participants in TUMF Program with guidelines and policies for implementation of the TUMF Program. This Administrative Plan specifies implementation and responsibilities for the TUMF Program.

TUMF Program funds may only be used for capital expenditures associated with the Regional System of Highways and Arterials and for capital expenditures for transit system improvements consistent with the TUMF Nexus Study. These purposes include expenditures for the planning, environmental review, engineering and design costs, right of way acquisition, and administrative costs.

- II. **Authority** - The TUMF Program applies to those jurisdictions in Western Riverside County (County of Riverside and the Cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar and the March Joint Powers Authority (JPA)) that have adopted and are implementing the TUMF Program Ordinance. The TUMF Program has been developed pursuant to and consistent with authority provided in the requirements of California Government Code Chapter 5 Section 66000-66008 Fees for Development Projects also known as California Assembly Bill 1600 (AB 1600 or the Mitigation Fee Act), which governs the assessment of development impact fees in California. The Mitigation Fee Act requires that all local agencies in California, including cities, counties, and special districts follow three basic rules when instituting impact fees as follows:

- A. Establish a nexus or reasonable relationship between the development impact fee's use and the type of project for which the fee is required;
- B. The fee must not exceed the project's proportional "fair share" of the proposed improvement; and
- C. The fee cannot be used to correct current problems or to make improvements for existing development.

- III. **Imposition of and Participation in the TUMF Program** - Participating jurisdictions in Western Riverside County are responsible for adopting and enforcing all provisions of the TUMF Ordinance and calculating and collecting fees on new development within their jurisdictions. However, participating jurisdictions may adopt the amendment to the TUMF Ordinance (Amendment) which shall designate and authorize WRCOG to calculate and collect the TUMF on such participating jurisdiction's behalf.

To be considered a participant in the TUMF Program, WRCOG Member Agencies which existed in 2003 must have an effective date for the TUMF Ordinance of no later than June 1, 2003. Any Member Agency formed after 2003 must enact the TUMF Model Ordinance and any amendments thereto upon incorporation. All Member Agency must adopt any amendment of the TUMF Ordinance within ninety (90) days of approval by the WRCOG Executive Committee unless otherwise directed by the WRCOG Executive Committee. Participating jurisdictions shall not repeal or modify the Model TUMF Ordinance, except that modifications are permitted to meet local municipal codes and references. Further, in order to be considered a participating jurisdiction, local jurisdictions shall collect the full TUMF and transmit the fee to WRCOG as provided

herein, or shall authorize WRCOG to collect TUMF on its behalf pursuant to the Amendment. To be a participating jurisdiction of the TUMF Program, a jurisdiction must be a party to the Joint Powers Agreement establishing WRCOG and a member of, and in good standing with, WRCOG.

Those jurisdictions that have ordinances with an effective date after June 1, 2003, or opt out of the TUMF Program and decide to participate at a later date must remit to WRCOG the amount of TUMF Program revenue for new development that was not collected by the jurisdiction. In order to verify the amount of revenue that would have been collected during the period in which a jurisdiction did not participate, said jurisdiction shall provide WRCOG with an annual report of building permit activity by the land uses identified in the Nexus Study. The remittance of the fee shall be accomplished in a lump sum payment unless other arrangements are agreed to in writing by WRCOG Executive Committee. Those jurisdictions that are not considered participants in the TUMF Program shall not be eligible to participate in the TUMF Program or the decision-making processes as more fully described in this document.

Non-participating jurisdictions will be ineligible to vote on any TUMF Program item and to receive their share of an estimated \$1.02 billion in local streets and roads funds that will be allocated from the Reauthorized Measure A.

- A. Calculation of the TUMF** - Each participating jurisdiction shall calculate and collect the TUMF from new development projects as outlined in the Fee Calculation portion of the Transportation Handbook as well as the most recent TUMF Ordinances and Fee Resolutions. For residential development projects, the fee is based on the number of units and for non-residential, the fee is based on the square footage. For non-residential development projects not included in the TUMF Fee Calculation Handbook, a traffic analysis acceptable to WRCOG is required to determine the fee based on the traffic impact of the proposed project. This method of calculation may be different from how the local development impact fee is determined.

The TUMF shall be calculated using the most current fee schedule in effect at the time the fee is due. Participating jurisdictions are prohibited from freezing TUMF by such means as “locking” a fee rate by paying a deposit or a portion of the fee prior to the date the fee is due or by entering into a Development Agreement or other agreement with a developer that freezes the fee at a certain level.

Partial Payments or Deposits: WRCOG discourages the use of deposits and partial payments as it will create additional reporting requirements for the jurisdictions and may give the developer the impression that the fees are not subject to change. However, if a jurisdiction allows for deposits or partial payments, it will transmit the partial payment/deposit to WRCOG in accordance with the TUMF ordinance along with a remittance report. In the variance column of the Remittance report, the jurisdiction shall indicate that the fee collected is a portion of the total due. When the balance is paid, the jurisdiction shall calculate the total fee for the project based on the TUMF fee schedule in place at the time the balance is paid and deduct the partial payment against the total. The balance will be transmitted in accordance with the TUMF ordinance and this Administrative Plan. The variance column of the Remittance report shall indicate that the balance is paid. If there is a fee adjustment between the deposit/partial

payment and the payment of the balance, the fee that is required to be paid will be based on the most current TUMF fee schedule.

For the purpose of calculating the TUMF obligation for non-residential development the applicable land use category for a non-residential development is determined based on the predominate authorized use of the building or structure permitted by the underlying zoning associated with the new development. Projects could be subject to higher fee if the land use intensifies during the development process from what was originally proposed to the jurisdiction.

As an alternative to the above-described procedures, and at the option of each participating jurisdiction (subject to the written consent of WRCOG and evidenced by adoption of the Amendment), a participating jurisdiction may elect for WRCOG to calculate and collect the TUMF on behalf of the participating jurisdiction. Should a participating jurisdiction make such an election, the participating jurisdiction shall submit all information related to the development project that, in WRCOG's determination, is necessary for making such calculation, which shall generally include (without limitation) TUMF land use, type of development, number of units for residential development, square footage for non-residential development, and any additional pertinent information as requested by WRCOG. WRCOG will typically require 2 business days to review the information and make a determination once all required information has been provided to WRCOG. In cases where an outside consultant review of the information is necessary, the review period may be extended.

In submitting a development project to WRCOG for TUMF calculation, the participating jurisdiction certifies and warrants that all information related to the development project (i.e., square footage, TUMF land use, type of development, etc.) is true, accurate, and complete. WRCOG shall be entitled to rely on such information, and shall not be responsible for any harm resulting from any error, inaccuracy, or otherwise. Any balance in TUMF obligation due to incorrect development project information will be the responsibility of the participating jurisdiction.

In the event a participating jurisdiction makes the election to have WRCOG calculate and collect TUMF, WRCOG shall take full responsibility for calculating the TUMF obligation and any shortfall in the calculation shall not be the responsibility of the participating jurisdiction.

In order to elect for WRCOG to calculate and collect TUMF on its behalf, a participating jurisdiction shall adopt the Amendment to the TUMF Ordinance in the form prepared by WRCOG. WRCOG will consult with each participating jurisdiction on a yearly basis to confirm if WRCOG or the participating jurisdiction is the responsible party for TUMF calculation and collection for the ensuing year. However, in the event WRCOG does not consult with a participating jurisdiction for any reason in a given year, TUMF for such participating jurisdiction shall continue to be calculated and collected in the ensuing year in the same manner as it was collected in the current year.

Exemptions to the Payment of TUMF - The TUMF Ordinance sets forth exemptions to the payment of TUMF. Those exemptions are summarized in Exhibit "G," attached hereto.

- B. Refunds** – Under certain circumstances, such as double payment, expiration of a building permit, or fee miscalculation, an applicant may be entitled to a TUMF refund. Refunds will be reimbursed by the end of the fiscal year on a first come, first served basis, depending upon the net revenue stream. Refunds will only be considered reimbursable if requested within 3 years of the original TUMF payment. In all cases, the applicant must promptly submit a refund request with proof of TUMF payment to WRCOG if WRCOG collected the TUMF, or if collected by a local jurisdiction, the refund request shall be submitted to that local jurisdiction, which will subsequently forward the request to WRCOG for verification, review and possible action.

1. **Expiration Of Building Permits** - If a building permit should expire, is revoked, or is voluntarily surrendered and is, therefore voided and no construction or improvement of land has commenced, then the applicant may be entitled to a refund of the TUMF collected which was paid as a condition of approval, less administration.

The applicant shall pay the current TUMF in effect at the time in full if he reapplies for the permit.

If a development project is partially under construction at the time of the effective date of the TUMF Ordinance, the TUMF shall be paid only on that portion of the development for which a building permit is next issued.

2. **Double Payments** – on occasion due to a clerical error, a developer has paid all or a portion of the required TUMF for project twice. In such cases, a refund of the double payment may be required. If, however, it is determined that the developer paid the fees to the jurisdiction to expedite the project with the intent of entering into a credit agreement at a later time the refund process is different and is more fully described in section VI of this document.
3. **Balance Due** – when TUMF is incorrectly calculated due to City/County clerical error, it is the City's/County's responsibility to remit the balance due to WRCOG. The error must be discovered within 3 years for the City to be held accountable. The amount due can be remitted through alternate methods agreed to by the WRCOG Committees, including but not limited to deduction from reimbursement requests submitted to WRCOG for eligible expenses on TUMF projects. If first vetted through WRCOG staff in writing, the calculation is not subject to additional review.

- C. March Joint Powers Authority** - The March JPA shall not have a separate vote at the WRCOG Executive Committee as it has representation by elected officials from the County of Riverside and Cities of Moreno Valley, Perris, and Riverside. The Executive Director of the March JPA shall be a voting member of the WRCOG Technical Advisory Committee (WRCOG TAC) for TUMF Program items only. The March JPA is a unique partner in the TUMF Program in that it

has land use authority and therefore will need to adopt and implement the TUMF Program in the same manner as the cities and county.

- IV. **Allocation of Funds** – After the administrative costs and MSHCP are allocated (as specified in Section IX herein), TUMF funds shall be distributed in accordance with WRCOG Executive Committee actions, the Nexus Study, this Administrative Plan and any future amendments thereto.
 - A. **Allocation to Regional Transit Improvements** - Of the TUMF funds received by WRCOG, 3.13% shall be allocated to the RTA for making regional transit improvements.
 - B. **Allocation to Regionally Significant Transportation Improvements** - Of the TUMF funds received by WRCOG, 45.7% shall be allocated to the RCTC for programming improvements to the arterials of regional significance on the Regional System of Highways and Arterials.
 - C. **Allocation to Zones** - Of the TUMF funds received by WRCOG, 45.7% shall be allocated to the five Zones for programming improvements to the Regional System of Highways and Arterials as determined by the respective Zone Committees. The amount of TUMF funds allocated to each Zone shall be proportionate to the amount of TUMF revenue generated from the zone.
 - D. **Allocation to Mitigate TUMF Construction Projects** – Of the TUMF funds received by WRCOG, 1.47% shall be allocated to the RCA to purchase habitat for the MSHCP, to mitigate the impacts of TUMF construction projects.
- V. **Administration of the Program** - WRCOG shall administer the TUMF Program as described in the enabling Ordinance adopted by participating jurisdictions and further defined in this Administrative Plan.
- VI. **Administration of Credits** – The TUMF Ordinance has a provision that if a developer constructs a TUMF facility, the developer will receive credit against the TUMF obligation for the project improvements. Please refer to the WRCOG TUMF Credit/Reimbursement Manual attached hereto as Exhibit F and incorporated in full as if set forth herein for the procedures in which credits are administered and issued for developers constructing TUMF improvements.
- VII. **Administration of Reimbursements** –Local jurisdictions/agencies and developers are eligible for reimbursement for construction of TUMF facilities in certain instances. The process for local agencies is different than for landowners/developers; the processes are described in the WRCOG TUMF Credit/Reimbursement Manual, attached hereto as Exhibit F and incorporated in full as if set forth herein.
- VIII. **Administrative Responsibilities**
 - A. **Program Administration** - As set forth in Section II, WRCOG is designated as the TUMF Program Administrator. As Administrator, WRCOG shall receive all fees generated from the TUMF as collected by WRCOG or local jurisdictions and review permits for correct land-use type assessment and proper remittance of TUMF. This may include review of site plans and building permits to confirm

correct land-use type assessment. WRCOG shall invest, account for and expend such fees in accordance with the TUMF Ordinance and applicable state laws.

For jurisdictions that are not participating in the TUMF Program, the representative for that jurisdiction shall not be eligible to vote on any matter related to the TUMF Program that goes before the WRCOG TAC and WRCOG Executive Committee.

1. **The WRCOG Executive Director** - Reporting to the WRCOG Executive Committee, the Executive Director shall be responsible for the following TUMF Program activities:
 - a. Administration of the TUMF Program, including development of model credit and reimbursement agreements, fee collection process and processing Program appeals;
 - b. Conduct an audit to report on the evidence that the collection and expenditure of funds collected is in accordance with the Mitigation Fee Act. The audit shall be presented to the WRCOG Executive Committee and made available to the public;
 - c. Establishment and management of the “TUMF Program Trust Fund” for the purposes of depositing TUMF revenues and income interest earned on Trust Fund deposits;
 - d. Preparation of an Annual Report for consideration by the WRCOG Executive Committee detailing the status of the TUMF Program including but not limited to fees collected and disseminated, capital projects planned for, prioritized, and built;
 - e. Preparation of periodic comprehensive TUMF Program review and required by the California Mitigation Fee Act. The review of the TUMF Program will include a review of the various Nexus Study inputs and assumptions, and preparation of recommendations on potential TUMF Program revisions for consideration by the WRCOG Executive Committee. Such reviews and updates may include, but are not limited to recommended fee adjustments based on changes in the facilities required to be constructed, and revenues received pursuant to the Ordinance;
 - f. Preparation of technical studies/analysis required to select and prioritize Regionally Significant Arterial projects;
 - g. Development of a five-year TIP that identifies projects that are scheduled and funded for construction over a specified period of time and is reviewed on an annual basis;
 - h. Development of a 5-year Expenditure Report that documents the expenditure of funds that identifies the purpose to which the fee is to be put, demonstrates a relationship and purpose for which the fee is being collected and identifies all sources and amount of funding anticipated to complete the financing of incomplete infrastructure facilities in accordance with California Government Code Sections 66000 et seq. for consideration by the WRCOG Executive Committee;
 - i. Staff support to and coordination with each of the TUMF Zone Committees as necessary;

- j. Other related activities as directed by the WRCOG Executive Committee;
- k. Approve Zone and RTA TIP Administrative Amendments; and
- l. Execute amendments to TUMF reimbursement agreements.

2. The WRCOG Executive Committee - The WRCOG Executive Committee shall be responsible for reviewing and acting on the following:

- a. Recommendations for project selection and prioritization of the Regionally Significant Arterials, and the TIP;
- b. Review and possible approval of recommendations on projects from the Public Works Committee (PWC) and WRCOG TAC;
- c. The approval of the TUMF Program Administrative Plan, Technical Transportation Manual and any subsequent amendments thereto; and
- d. Recommendation of changes to the TUMF model Ordinance for consideration by participating jurisdictions.

In developing recommendations on Regionally Significant Arterials for consideration by the WRCOG Executive Committee, WRCOG staff and the Committee structure shall work with RCTC to coordinate compatibility with Measure A project priorities and schedules of area transportation improvements. WRCOG staff and the WRCOG Executive Committee shall also work with WRCOG jurisdictions and each Zone Committee for the same purposes.

For jurisdictions that are not participating in the TUMF Program, the WRCOG Executive Committee representative for that jurisdiction shall not be eligible to vote on any matter related to the TUMF that goes before the WRCOG Executive Committee.

3. The WRCOG Technical Advisory Committee - The WRCOG TAC shall review and make recommendations to the WRCOG Executive Committee on the following:

- a. Program updates and reviews and all supporting technical documentation;
- b. Revisions to the Administration Plan, Technical Transportation Manual, Fee Calculation Handbook and any other Program document;
- c. Ordinance revisions; and
- d. Annual fee adjustments.

The WRCOG TAC shall also provide additional assistance to the TUMF Program as requested by the WRCOG Executive Committee. For jurisdictions that are not participating in the TUMF Program, the WRCOG TAC representative for that jurisdiction shall not be eligible to vote on any matter related to the TUMF Program that goes before the WRCOG Executive Committee or WRCOG TAC.

- 4. The Public Works Committee/TUMF PWC** - The PWC shall be comprised of the Public Works Director or designee from each participating jurisdiction of WRCOG, RCTC, RTA and WRCOG and shall be responsible for the following:
- a. Providing technical assistance and guidance for program updates;
 - b. Developing objective criteria for project selection and prioritization including but not limited to the following factors: traffic safety issues potentially created by growth, regional significance, availability of matching funds, mitigation of congestion created by new development, system continuity, geographic balance, project readiness, and completed projects with reimbursement agreements;
 - c. Providing additional assistance to the TUMF Program as requested by the WRCOG Executive Committee, RCTC and/or the WRCOG TAC and/or the Zone TAC;
 - d. Overseeing the reparation of the Technical Transportation Manual;
 - e. Preparing the 5-Year TIP, which will be reviewed and amended annually and fully adjusted every two years as members of the Zone TAC;
 - f. Providing recommendations on the RCTC Regional Arterial TUMF Program of Projects every four years along with the Nexus Study update to the WRCOG TAC, WRCOG Executive Committee and RCTC;
 - g. Selecting a lead agency for each of the projects on the TIP;
 - h. Reviewing the Annual Report prepared by WRCOG;
 - i. Revising the RSHA as may be necessary (at a minimum every 4 years); and
 - j. Review and revise Unit Cost Assumptions to the RSHA as may be necessary (at a minimum every 4 years).

B. Regional Arterial Administration - RCTC through an MOU with WRCOG (effective October 1, 2008) is the responsible agency for programming and delivering the Regionally Significant Arterials designed under Measure A and defined in the Nexus Study. WRCOG and RCTC have established a committee structure that incorporates the Public Works Directors, City Managers the WRCOG Executive Committee, and the RCTC Board for the development, review and approval of the Regional Arterial TUMF Program of projects.

- 1. The RCTC Executive Director** - The Executive Director shall be responsible for the following TUMF Program activities:
- a. Establishment and management of the "TUMF Program Trust Fund" for the purposes of depositing TUMF revenues and income interest earned on Trust Fund deposits;
 - b. Development of the RCTC Regional Arterial TUMF Program that identifies Regional projects for reimbursement that are scheduled and funded for construction by jurisdictions and developers over a specified period of time and is reviewed on an annual basis;

- c. Staff support to and coordination with the TUMF Committees as necessary; and
- d. Other related activities as directed by the RCTC Board.

2. The Riverside County Transportation Commission - RCTC shall be responsible for reviewing and acting on recommendations for project selection and prioritization of the RCTC Regional Arterial TUMF Program. RCTC shall review and consider recommendations on the RCTC Regional Arterial TUMF Program project on TUMF Regional Arterial projects from the TUMF Public Works Committee, WRCOG TAC, and WRCOG Executive Committee.

C. Zone Administration - Each Zone shall establish a committee structure, similar to Exhibit "A", for the purpose of preparing a Zone Transportation Improvement Program (TIP) with the TUMF revenue that has been returned to the Zone and develop policies that impact the Zone, such as how to close a funding shortfall in the Zone. The Executive Committee has determined that the 5-Year TIP shall be balanced to the most reasonable extent possible and that program shortfalls will need to be closed or projects could be reduced or eliminated from the TIP. The Zone TAC shall be responsible for prioritization of projects, selection of the lead agency for each project, and to review all the projects for consistency within the Zone.

All Zones shall approve their TIP by consensus and forward their recommendations to Executive Committee for review and approval to ensure compatibility with the other Zones and the Technical Transportation Manual.

Zone dollars are to be allocated by the Zone TAC only and cannot be utilized or borrowed for projects located outside the zone unless such projects are: 1) proposed and approved by the Zone Committee and have a direct benefit to the Zone and 2) are consistent with the Nexus Study. In furtherance of this Section VIII.B, each Zone shall abide by the Guidelines set forth in Exhibit "C".

The Riverside County Transportation Improvement Plan approved by Riverside County voters on November 5, 2002 states "Funding which is not allocated to a city or county because it is not a participant in the TUMF Program in the Coachella Valley area and the TUMF and MSHCP in the Western County area shall be allocated to the Regional Arterial Program in the geographic area in which the city or portion of the county is located".

Each City and a portion of the unincorporated area of Riverside County are assigned to each of the zones. The five Zones are as follows:

- 1. Northwest Zone – The Cities of Corona, Eastvale, Jurupa Valley, Norco, Riverside and the County of Riverside, and the March JPA;
- 2. Southwest Zone – The Cities of Canyon Lake, Lake Elsinore, Murrieta, Temecula, Wildomar, and the County of Riverside;
- 3. Central Zone – The Cities of Menifee, Moreno Valley and Perris, and the County of Riverside, and the March JPA;

4. Pass Zone – The Cities of Banning, Beaumont and Calimesa, and the County of Riverside;
5. Hemet/San Jacinto Zone – The Cities of Hemet and San Jacinto and the County of Riverside.

D. Local Administration – Participating jurisdictions that have not opted to elect that WRCOG calculate and collect the TUMF on their behalf, are responsible for collecting the TUMF, as provided in the TUMF Ordinance. Fees collected and a corresponding Remittance Report are required to be transmitted to the Executive Director of WRCOG. In accordance with the TUMF Ordinance, the Amendment, and the Mitigation Fee Act, WRCOG shall deposit, invest, and expend the transmitted fees. Participating jurisdictions that have not opted for WRCOG to calculate and collect the TUMF on their behalf, are required to transmit reports as set forth below to WRCOG which will include, but not be limited to the following information regarding the TUMF Program status.

1. **Monthly Remittance Reports** – Participating jurisdictions are required to submit the standard Remittance Reports to WRCOG by the tenth (10th) day of the month end for the previous month's activity, for example; June's Remittance report is due July 10. The report shall contain information necessary for WRCOG to determine the total amount of fees collected within each fee category as it relates to the number of building permits, certificates of occupancy, or final inspections issued during the same period of time. Remittance reports are required even when no fees have been collected, and will show building permits or certificates of occupancy have been issued. This shall also include building permits for which TUMF payment was exempt per Exhibit "E" of the TUMF Administrative Plan. In addition the participating jurisdiction shall provide WRCOG the following information: the name of the developer or payee, project address, APN, total square feet, credits issued, exemptions, variance in the fee assessed, and such other information as requested by WRCOG, which may include building permits or site plans. As an example, the variance column needs to be filled out for any issue that will lead to a fee other than the standard calculation. This information will assist WRCOG in tracking new development, total revenue received and revenue projections for purposes of Program audits and program updates.
2. **Remittance Delays** - If a participating jurisdiction does not transmit the fees along with a corresponding Remittance Report by the tenth (10th) day of the close of the month for the previous month in which fees were collected, the following fiscal policy shall be applied:

On the eleventh (11th) day after the close of the month WRCOG staff shall notify, in writing, the delinquent jurisdiction of the delinquency and request that said jurisdiction remit by the fifteenth (15th), the fees and the required Remittance Report;

If fees and Remittance Report have not been received, by the fifteenth (15th) day, WRCOG staff will invoice the jurisdiction for the approximate

amount owed plus interest and penalties which is calculated at the current interest rate earned by the Riverside County Investment Pool plus thirty-five basis parts beginning from the first day of the month following the closing of the month being reported;

WRCOG staff will continue this notification until sixty (60) days after the close of the month. At which time, WRCOG will determine if an audit is necessary of the jurisdiction's TUMF account, general ledger and any other financial data. If an audit is conducted, WRCOG will investigate the amount owed and the cause of delay. Upon completion of the audit, WRCOG staff shall make any recommendations to resolve any outstanding issues; and

If an audit is required due to reporting and remittance irregularities, the jurisdiction shall incur the cost of the audit.

3. **Accruals** - the TUMF Program utilizes the five Zone 5-Year TIPs to allocate projects, which are based on the amount of available revenue to each Zone as determined by carryover and projected funds. At fiscal year-end, any unspent funds remaining on the TIPs that are not identified and accrued do not automatically roll over and may not be available for programming the following fiscal year. It is necessary for jurisdictions to identify those unused programmed funds so that they can be carried over to the next fiscal year. If the funds are not accrued, WRCOG cannot release the funds to the jurisdiction until the following year when the TIPs are officially adopted.
4. **Annual Reviews** – On an annual basis, after the close of the Fiscal Year, WRCOG will conduct reviews of TUMF collections by participating jurisdictions. For participating jurisdictions that have not delegated fee calculation and collection to WRCOG, this review will include, but not be limited to, accounting of TUMF collections, building permit review, exemptions and credits awarded in addition to supplemental banking-related information to document that TUMF fees are correctly being collected and remitted to WRCOG. For exemptions or credits awarded by participating jurisdictions, supplemental support documentation will be required to demonstrate that the development project was correctly awarded an exemption or credit.

- E. Information From Participating Jurisdictions Electing For WRCOG To Calculate And Collect TUMF** – Participating jurisdictions that have elected for WRCOG to calculate and collect the TUMF are responsible for providing WRCOG all necessary materials/information to calculate the TUMF prior to TUMF collection. WRCOG will conduct an annual review, which will consist of verification to WRCOG that calculation worksheets were completed for all building permits issued within a given time period. This will require member agency staff to submit a list of building permits issued during the time period requested. Participating jurisdictions that have delegated fee calculation and collection to WRCOG will not be required to submit monthly remittance reports to WRCOG.

F. Riverside Transit Agency – In accordance with the Nexus Study 3.13% of funds received will be made available to the RTA to make capital facilities improvements for transit purposes as identified in the Nexus Study. The RTA shall provide a report to the WRCOG Executive Director each year, detailing its expenditures of TUMF Program funds received, as well as future commitments for transit facilities using TUMF Program revenues as determined by the RTA Board of Directors.

IX. Administrative Costs. The TUMF Ordinance, as amended from time to time, authorizes WRCOG to expend funds generated from TUMF that are necessary and reasonable to carry out its responsibilities to implement the Program. The WRCOG Executive Committee adopted a series of policies that clarify the expenditure and retention of program funds for the Administration of the Program and they are as follows:

1. WRCOG will retain no more than one percent (1%) of the total TUMF Program revenue for administration salaries and benefits;
2. Administration costs will be budgeted at whatever is reasonable and necessary, but not to exceed four percent (4%) of the TUMF revenues collected (inclusive of the one percent administrative salaries and benefit cap) unless otherwise directed by the Executive Committee.
3. Beginning July 1, 2006, WRCOG will take the administrative component from the revenue collected based on the total fee obligation inclusive of executed credit agreements.
4. Beginning July 1, 2006, all CFD's, SCIP and other financing mechanisms will pay the maximum (4%) administrative component in cash to WRCOG. When the administrative component is less than 4% then the surplus revenue will be allocated in accordance to their adopted percentages to the Multi-species Habitat Conservation Plan, RCTC, RTA and the Zones.
5. For refunds, whether it is because the project is no longer going forward or expiration of building permits (where no construction has commenced), the applicant is entitled to a refund less the administrative component. Refunds will be processed based on available cash and will not take precedence over the projects identified as funded on the approved TIP. Refunds will however take precedence over the addition of new projects to the TIP.

X. Appeals. Appeals shall only be made in accordance with the provisions of this Section X.

A. Persons or Entities Who Have Standing to Appeal. No person or entity shall have standing to avail themselves of this Section X, except those persons or individuals who are responsible for paying the TUMF and have an unresolved appealable issue or matter.

B. Appealable Issues and Matters. No issue or matter shall be heard or reviewed under this Section X unless the issue or matter is appealable. An issue or matter is appealable, if a qualified person or entity ("Appellant") has a good-faith dispute directly related to Appellant's Property ("TUMF Dispute") regarding (i) the amount of Appellant's TUMF obligation; (ii) the administration of TUMF Credits; (iii) exemption of Appellant's property from the TUMF Program; or (iv) administration of TUMF reimbursements.

C. Appeal Process.

1. If a qualified person or entity has a TUMF Dispute, he or she shall first attempt to resolve the dispute informally with WRCOG staff. The staff of the local jurisdiction may also participate in such discussions. If the TUMF Dispute remains unresolved after a reasonable attempt to address it at the local level, the qualified person or entity may submit a written appeal to the WRCOG Executive Director. The Appellant and the WRCOG Executive Director, or designee, shall attempt to resolve the issue within thirty (30) days of the WRCOG Executive Director's receipt of the appeal. At the conclusion of the thirty (30) day period, the WRCOG Executive Director shall render a written decision on the appeal. If the Appellant desires further review from WRCOG, the Appellant may submit a written request for review to the WRCOG Executive Committee chair.
2. After the written appeal is received by the WRCOG Executive Committee chair, the item shall be presented to the WRCOG Administration & Finance Committee for review. At the request of either WRCOG staff or the Appellant, the decision of the WRCOG Administration & Finance Committee shall be forwarded to the WRCOG Executive Committee for review and action. The decision of the WRCOG Executive Commission shall be final.

- XI. Arbitration.** When there is a dispute among the Zone members that cannot be resolved and prevents the adoption of a project prioritization schedule, the matter shall be forwarded to the WRCOG TAC and WRCOG Executive Committee for a determination. Once the WRCOG Executive Committee takes action on the issue the decision is final.

If there is a dispute at the WRCOG Executive Committee level regarding project prioritization of a specific project(s) and a consensus cannot be reached, that project shall be tabled until such time as new information is presented and the matter can be resolved.

- XII. TUMF Program Amendments.** WRCOG shall undertake a review of all components of the TUMF Program in accordance with Government Code Section 66000 et seq. and other applicable laws, and, if necessary, recommend Program amendments and/or adjustments. Amendments to the Administrative Plan will be subject to the approval of the WRCOG Executive Committee. Amendments required to the TUMF Program Ordinance shall be approved by each participating jurisdiction, acting on recommendations provided by the WRCOG Executive Committee. The review shall consider whether future administration costs to participating jurisdictions are needed.

1. **TUMF Network Revisions:** The TUMF Network is reviewed and revised at regular Nexus Study updates, with minor adjustments such as name changes, distances, and other errors that may be found from time to time occurring on a more frequent basis. However, there could be instances when certain assumptions were made during a Nexus Update that did not come to fruition that should be addressed. The primary cause is when a new city is incorporated and inherits the TUMF Network, which may not reflect the new jurisdiction's General Plan or priorities; another example is if a jurisdiction needs to "trade" a facility on

the Network due to a rapid change in development patterns that should not wait for the normal revision cycle.

For new cities there would be an opportunity to review the TUMF Network with WRCOG staff to ensure that the Network identifies their priorities and allows them to make recommendations and to have the ability to swap out facilities. Any revision request must meet the criteria to be on the Network before the PWC will consider the request.

Jurisdictions that are not part of the above mentioned group that need to swap out facilities, must justify the swap by demonstrating that it provides continued regional circulation, meets the criteria to be on the TUMF Network, and does not provide an advantage to a specific land-use, community, developer/project for the purposes of TUMF credits or reimbursements. These jurisdictions must also demonstrate that the impacts mitigated in the swapped facilities are substantially similar to those impacts that would have been mitigated in the abandoned facilities.

This process is intended to be applied on an annual basis during interim years between revisions to the TUMF Nexus Study that would inherently include a revision to the TUMF Network. The deadline to submit any revision is June 30th. The focus of this process is the ability to shift projects on the TUMF Network with the intent to incur minimal fiscal impacts to the Program fee and Nexus determination, rather than adding new projects that would have a far more significant effect on the Program fee and therefore would be more appropriately addressed during the regular Nexus Study reviews. The exception to this policy is the ability for newly incorporated cities to request new additions during the initial cycle of this adjustment process to ensure appropriate facilities are designated to address their individual city's needs.

The process requires the jurisdiction to submit a written justification of the requested TUMF Network facility shift. Elements to be addressed in the written justification should include an explanation of the rationale for the proposed facility shift specifically explaining why the facility should be addressed as part of the TUMF Program and cannot be addressed as part of an equivalent local program, and verification that the proposed shift in facility does not unduly favor or disadvantage a specific developer or development interest. Proximity to areas of significant recent development activity (i.e. shifts in development patterns resulting in changes in transportation system impacts to be mitigated) and the net cost differential to the program following the facility adjustment are key elements to be addressed in the written justification. The written justification must also demonstrate that the impacts mitigated in the proposed facility shift are substantially similar to those impacts that would have been mitigated in the abandoned facilities.

The existing criteria contained in the TUMF Nexus Study for identifying facilities to be included in the TUMF Network was refined for the purposes of evaluating requests for TUMF Network Amendments. All requested Network adjustments will be evaluated and scored using a point system based on key performance indicators consistent with the existing criteria contained in the TUMF Nexus Study. The scoring criteria is "Exhibit C" of this Plan. Only facilities defined in a

participating jurisdiction's General Plan Circulation Element (or equivalent document) as an arterial highway facility with a minimum four (4) lanes at build-out will be evaluated for inclusion in the TUMF Network.

- XIII. CEQA.** The TUMF Program currently is a financing mechanism dependent on future actions of the WRCOG Executive Committee for improvements to the RSHA. WRCOG and its associated committees will be prioritizing and scheduling improvements on the RSHA, as such, the appropriate environmental documentation, shall be completed before a project can commence construction.

The TUMF Program was developed to mitigate the cumulative impacts of future growth on the RSHA. It was not developed to mitigate project-specific traffic impacts. Accordingly the program does not relieve any development project of the responsibility to mitigate project-specific impacts identified in the environmental analysis prepared for the project. When a development project is required to construct RSHA facilities as project-specific mitigation, it shall be eligible for credit and or reimbursement.

EXHIBIT "A"

TUMF Decision Making Process

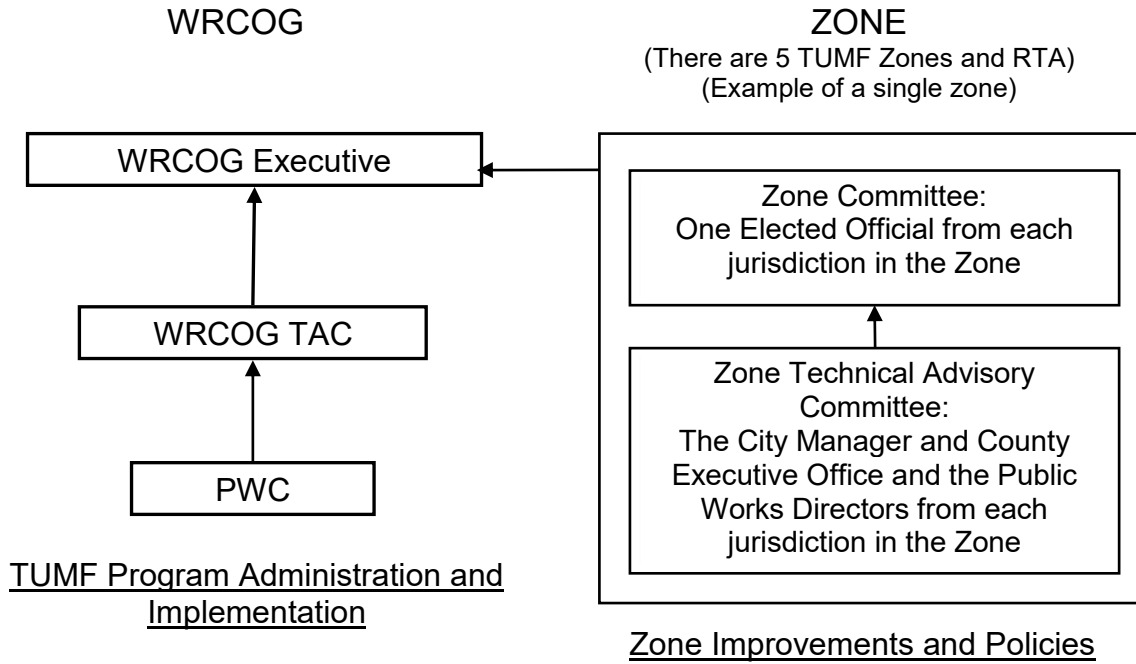


EXHIBIT “B”

Guidelines for the Administration of the Programmed Projects in the Zone’s Adopted 5-Year TIP

Once each Zone’s 5-Year Transportation Improvement Program (TIP) is adopted by the WRCOG Executive Committee, said TIPs shall be incorporated into and governed by these guidelines, the Administrative Plan, and Technical Transportation Manual in accordance with AB 1600. Annually, WRCOG staff meets with the Zone Technical Advisory Committees to review the status of all programmed projects on the 5-Year TIPs and bring the subsequent project adjustment requests to the Zone Committees for approval. The goals of the annual review process are as follows: (i) to update project cost estimates; (ii) to review project status; (iii) to determine the continued viability of projects; (iv) review the backlog of reimbursement projects; (v) to address local jurisdiction issues; and (vi) address compliance with AB 1600.

Adjustments:

In accordance with the Technical Transportation Manual and the original reimbursement agreement entered into with the lead jurisdiction, all approved projects’ funding and schedules are directly tied to critical milestones. As such, requests to change a project’s funding or schedule shall necessitate an amendment to the original agreement and the adopted TIP. Annual 5-Year TIP adjustments could include, but are not limited to:

- Scope of work reductions or additions;
- Project or phase delays;
- Project or phase cancellations;
- New shelf-ready network projects being added as replacement projects;
- Project or phase advances; and
- Request to transfer funding beyond a programmed project’s limits within a Zone.

Levels of Approval:

A. Zone Committee/WRCOG Executive Committee

The following shall be approved by the Zone Committee and adopted by the WRCOG Executive Committee as required in the Administrative Plan:

1. Annual updates to the Zone TIP.
2. Requests to increase total TUMF funding allocations to projects on the Zone TIP. These requests may be made by the local jurisdiction administratively outside of the annual TIP update cycles if deemed necessary by one of the Zone participating jurisdictions and WRCOG management due to unforeseen circumstances that necessitate immediate action. Such unforeseen circumstances shall include, but not be limited to, higher than expected bid prices, TUMF as a Federal or State match, etc. WRCOG staff will obtain action from the Zone Committee in these cases either by calling for a Special Zone Committee meeting or through individual consultation.

3. Administrative requests to advance funds or adjust project schedules on TIP approved projects, upon the recommendation of the Public Works Committee. Such advancements are subject to:
 - Jurisdiction's proof of readiness to move forward with project, and
 - Zone's current cash flow can support the advancement or change.

B. WRCOG Executive Director

The WRCOG Executive Director shall be responsible for the review and approval of the following changes to an approved Zone TIP, including the review and approval of any agreements, for:

1. Change in Lead Jurisdiction, with the written consent of the transferring and accepting Lead Jurisdiction.
2. Cancellation of project upon request of the local jurisdiction. In the event of cancellation, all funds shall revert to the Zone TIP Trust account.
3. Approval of final completion of the project. Upon notification from the Jurisdiction that the Project has been completed, all unused funds programmed for that Project shall revert to the Zone TIP Trust account.
4. All other administrative requests, upon consultation with the Public Works Committee.

C. Public Works Committee

The Public Works Committee shall be responsible for the review and approval of the following:

1. Requests to move funds within project categories (environmental, design, etc.) administratively, contingent upon participating jurisdiction's certification of viability of all phases.
2. Provide recommendations to the WRCOG Executive Director on any other requests that are deemed administrative in nature by the Director.

All administrative adjustments will be submitted to the WRCOG Executive Committee as part of the next Annual Review Report for final adoption.

D. Obligor Programmed Funds

The TUMF Program has established the policy that construction projects take priority, and therefore, WRCOG limits the obligation of TUMF dollars. WRCOG has two options by which to obligate TUMF. In both options, steps 1, 2, and 3 (Option A) or 6 (Option B) must be completed by the local jurisdiction to ensure TUMF funding can be made available for use on an eligible project. Since TUMF project funds are generally obligated on a first come first served basis, failure to follow the prescribed steps for either option may preclude a project sponsor from receiving TUMF payments for completed work until sufficient funds are available to be obligated.

Option A:

Funding for a project programmed on Zone 5-Year TIPs is not considered obligated by WRCOG until certain steps outlined below have been accomplished by the local jurisdiction.

1. Ensure that funding for the project phase is **programmed in the current year** of an adopted 5-Year TIP.
2. Ensure that there is a **signed (executed) reimbursement agreement** that matches the funding amount with the funding amount of the project phase in the adopted TIP.
3. Submit **an invoice for TUMF eligible work** prior to the end of the fiscal year to obligate the project phase funding. At the time of submitting the first invoice, the project sponsor will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.
4. WRCOG will obligate the entire phase of the project if there is available revenue at the time the invoice is submitted.

Option B:

Funding for a project programmed on Zone 5-Year TIPs is not considered obligated by WRCOG until the steps outlined below have been accomplished by the local jurisdiction.

1. Ensure that funding for the project phase is **programmed in the current year** of an adopted 5-Year TIP.
2. Ensure that there is a **signed (executed) reimbursement agreement** that matches the funding amount with the funding amount of the project phase in the adopted TIP.
3. Send WRCOG a letter of **notice of intent** to issue RFP, solicit bids, make offer to purchase ROW or other similar action to verify that sufficient funding is available and that funds are obligated and reserved exclusively for the particular project phase.
4. Receive a **notice of obligation** from WRCOG within fourteen working days of receipt of the notice of intent confirming the amount of funding that is obligated and reserved exclusively for the particular project phase. Alternatively, the project sponsor will receive a notice of deferred obligation if WRCOG determines that insufficient funds are currently available for the project phase to be obligated.
5. Award the project and execute a contract within four months of receipt of the notice of obligation from WRCOG and send a letter of **confirmation of award** to WRCOG including evidence of a Board/Council action relating to the project award and contract execution.
6. Commence project work and submit the **first invoice** for payment within nine months of receipt of letter of obligation by WRCOG to preserve fund obligation. At the time of submitting the first invoice, the project sponsor will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.

If a contract has not been executed within four months of receipt of the notice of obligation from WRCOG (step 5), there will be a review of the project status. Based on the review of project status, WRCOG will either:

- i. extend the fund obligation for up to a total of nine months from the notice of obligation if the project sponsor can demonstrate a realistic expectation that the project will be awarded and a confirmation of award can be provided to WRCOG within that time frame; or
- ii. de-obligate the funds.

Similarly, if the first invoice has not been submitted to WRCOG within nine months of receipt of the letter of obligation (step 6), there will be a review of the project status. Based on the review of project status, WRCOG will either:

- i. extend the fund obligation for up to an additional nine months if the project sponsor can demonstrate a realistic expectation that the project work will commence and a first invoice is submitted within that time frame; or
- ii. de-obligate the funds.

E. Programming the Cost Assumption's 10 Percent Contingency

The TUMF Program has established the policy allowing local jurisdictions the ability to choose how to apply the available 10 percent Contingency costs historically assigned to the construction phase of a project when it is programmed on a TUMF 5-Year Transportation Improvement Program (TIP). The Contingency fund is 10 percent of the sum of the new lane, right-of-way, bridge, interchange, and railroad costs.

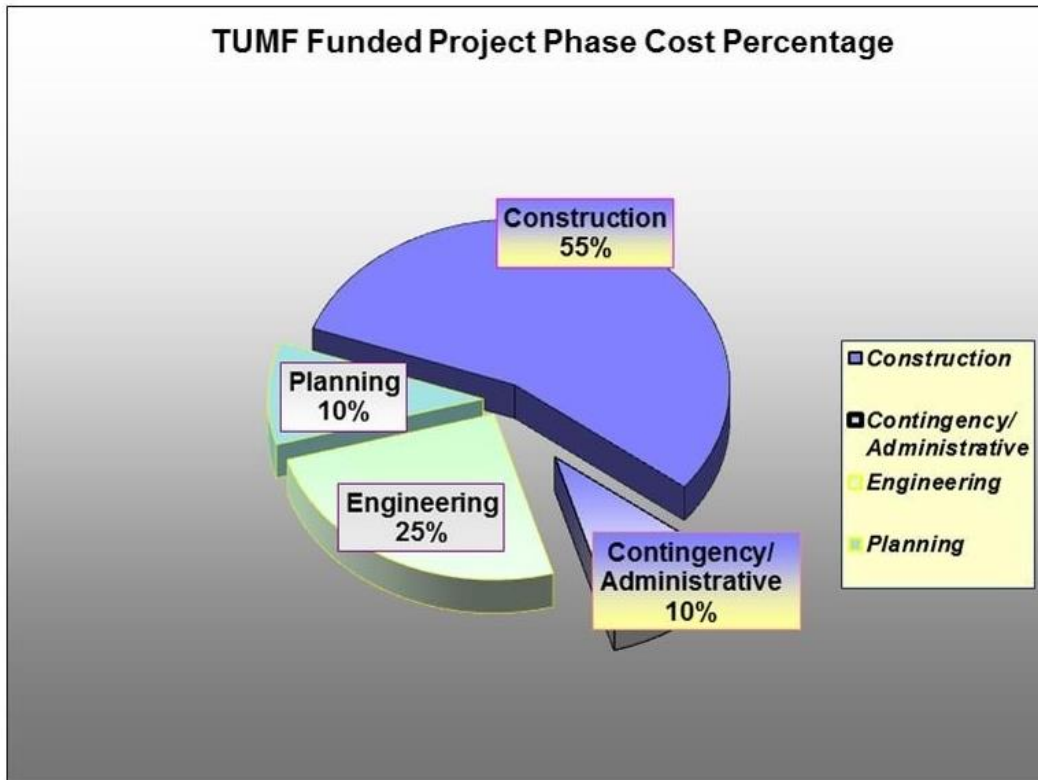
Under this new policy, some jurisdictions may opt to continue applying the 10 percent Contingency to the construction costs, while others may choose to apply a portion of the 10 percent Contingency to help defray their administrative costs incurred during the planning and engineering phase delivery.

Since currently programmed construction funds already reflect the eligible 10 percent Contingency, the policy only applies to those projects that have not obligated or received payments on their construction phases.

For those jurisdictions who wish to recapture administrative costs of ongoing projects programmed on the TIP that do not involve an obligated construction phase, up to 10 percent of each of the programmed planning and engineering phases would be eligible for administrative costs and would be deducted from the available 10 percent contingency (leaving the remaining balance to be applied to construction costs or construction administration costs.)

Scenario –

Construction costs	= \$1,000,000
Contingency	= \$ 100,000 (or 10%)
Planning costs	= \$ 100,000
Engineering costs	= \$ 250,000
Admin costs (PA&ED)	= \$ 10,000 (or 10% of \$100k)
Admin costs (ENG)	= \$ <u>25,000</u> (or 10% of \$250k)
Balance Contingency	= \$ 65,000 (for construction admin or contingency costs)



Jurisdictions may apply a portion or all of the available 10 percent Contingency to reimburse accrued administration costs for all three phases by requesting the amount to be programmed as a separate line item on the TIP during a biennial TIP review or amendment as any other project adjustment.

All existing and future reimbursement agreements, cost estimates, and scopes of work will need to be amended to include specific language covering the jurisdiction's individual contingency use option.

EXHIBIT “C”

The following table summarizes the criteria, evaluation thresholds and point values for evaluating TUMF Network adjustment requests for approval. For each evaluation measure, the maximum point value has been highlighted in **bold** font for easy reference.

Criteria	Evaluation Thresholds	Points
Minimum number of lanes at build-out	Less than 4 lanes	not eligible
	4 or 5 lanes	5
	6 or more lanes	15
Jurisdictions served	1 jurisdiction	0
	2 jurisdictions	5
	3 or more jurisdictions	10
Future forecast traffic volumes	Less than 20,000 vehicles per day	0
	20,000 to 24,999 vehicles per day	5
	25,000 to 29,999 vehicles per day	10
	30,000 to 34,999 vehicles per day	15
	35,000 to 39,999 vehicles per day	20
	40,000 or more vehicles per day	25
Future forecast volume to capacity ratio	< 0.80 (LOS A/B/C)	0
	0.81 – 0.90 (LOS D)	5
	0.91 – 1.00 (LOS E)	10
	> 1.00 (LOS F)	15
Regional fixed route transit services accommodated	No service	0
	1 or more services	10
Net fiscal impact of TUMF Network adjustment	More than \$1,000,000 cost addition	-15
	\$200,000 to \$1,000,000 cost addition	-5
	\$199,999 cost addition to \$199,999 cost savings	5
	\$200,000 to \$1,000,000 cost savings	15
	More than \$1,000,000 cost savings	25
Maximum Possible Score		100

EXHIBIT “D”

TUMF Program Definitions

For the purpose of the TUMF Administrative Plan, the following words, terms and phrases shall have the following meanings:

A. **“Class ‘A’ Office”** means an office building that is typically characterized by high quality design, use of high end building materials, state of the art technology for voice and data, on site support services/maintenance, and often includes full service ancillary uses such as, but not limited to a bank, restaurant/office coffee shop, health club, printing shop, and reserved parking. The minimum requirements of an office building classified as Class ‘A’ Office shall be as follows: (i) minimum of three stories (exception will be made for March JPA, where height requirements exist); (ii) minimum of 10,000 square feet per floor; (iii) steel frame construction; (iv) central, interior lobby; and (v) access to suites shall be from inside the building unless the building is located in a central business district with major foot traffic, in which case the first floor may be accessed from the street to provide entrances/ exits for commercial uses within the building.

B. **“Class ‘B’ Office”** means an office building that is typically characterized by high quality design, use of high end building materials, state of the art technology for voice and data, on site support services/maintenance, and often includes full service ancillary uses such as, but not limited to a bank, restaurant/office coffee shop, health club, printing shop, and reserved parking. The minimum requirements of an office building classified as Class ‘B’ Office shall be as follows: (i) minimum of two stories; (ii) minimum of 15,000 square feet per floor; (iii) steel frame, concrete or masonry shell construction; (iv) central, interior lobby; and (v) access to suites shall be from inside the building unless the building is located in a central business district with major foot traffic, in which case the first floor may be accessed from the street to provide entrances/exits for commercial uses within the building.

C. **“Development Project”** or **“Project”** means any project undertaken for the purposes of development, including the issuance of a permit for construction.

D. **“Gross Acreage”** means the total property area as shown on a land division of a map of record, or described through a recorded legal description of the property. This area shall be bounded by road rights of way and property lines.

E. **“Habitable Structure”** means any structure or part thereof where persons reside, congregate or work and which is legally occupied in whole or part in accordance with applicable building codes, and state and local laws.

F. **“Industrial Project”** means any development project that proposes any industrial or manufacturing use allowed in the following Ordinance No. _____ zoning classifications: I-P, M-S-C, M-M, M-H, M-R, M-R-A, A-1, A-P, A-2, A-D, W-E, or SP with one of the aforementioned zones used as the base zone.

G. **“Low Income Residential Housing”** means “Residential Affordable Units”: (A) for rental housing, the units shall be made available, rented and restricted to “lower income households” (as defined in Health and Safety Code Section 50079.5) at an “affordable rent” (as defined in Health and Safety Code Section 50053),). Affordable units that are rental housing shall be made available, rented, and restricted to lower income households at an affordable rent

for a period of at least fifty-five (55) years after the issuance of a certificate of occupancy for new residential development. (B) for for-sale housing, the units shall be sold to “persons or families of low or moderate income” (as defined in Health and Safety Code Section 50093) at a purchase price that will not cause the purchaser’s monthly housing cost to exceed “affordable housing cost (as defined in Health and Safety Code Section 50052.5) Affordable units that are for-sale housing units shall be restricted to ownership by persons and families of low or moderate income for at least forty-five (45) years after the issuance of a certificate of occupancy for the new residential development.

H. **“Multi-Family Residential Unit”** means a development project that has a density of greater than eight (8) residential dwelling units per gross acre.

I. **“Non-Residential Unit”** means retail commercial, service commercial and industrial development which is designed primarily for non-dwelling use, but shall include hotels and motels.

J. **“Recognized Financing District”** means a Financing District as defined in the TUMF Administrative Plan as may be amended from time to time.

K. **“Residential Dwelling Unit”** means a building or portion thereof used by one (1) family and containing but one (1) kitchen, which is designed primarily for residential occupancy including single-family and multi-family dwellings. “Residential Dwelling Unit” shall not include hotels or motels.

L. **“Retail Commercial Project”** means any development project with the predominant use that proposes any retail commercial activity use not defined as a service commercial project allowed in the following Ordinance No. _____ classifications: R-1, R-R, R-R-O, R-1-A, R-A, R-2, R-2-A, R-3, R-3-A, R-T, R-T-R, R-4, R-5, R-6, C-1/C-P, C-T, C-P-S, C-R, C-O, R-V-C, C-V, W-2, R-D, N-A, W-2-M, W-1, or SP with one of the aforementioned zones used as the base zone, which can include any eating/dinning facility residing on the retail commercial development premises.

M. **“Service Commercial Project”** means any development project that is predominately dedicated to business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal, and medical offices, which can include a stand-alone eating/dining facility residing on the service commercial development premises.

N. **“Single Family Residential Unit”** means each residential dwelling unit in a development that has a density of eight (8) units to the gross acre or less.

O. **“TUMF Participating Jurisdiction”** means a jurisdiction in Western Riverside County which has adopted and implemented an ordinance authorizing participation in the TUMF Program and complies with all regulations established in the TUMF Administrative Plan, as adopted and amended from time to time by the WRCOG.

P. **“Disabled Veteran”** means any veteran who is retired or is in process of medical retirement from military service who is or was severely injured in a theatre of combat operations and has or received a letter of eligibility for the Veterans Administration Specially Adapted Housing (SAH) Grant Program.

Q. Government/public buildings, public schools, and public facilities that are owned and operated by a government entity in accordance with Section G. subsection Iv of the model TUMF Ordinance. A new development that is subject to a long-term lease with a government agency for government/public buildings, public schools, and public facilities shall apply only if all of the following conditions are met:

(a) The new development being constructed is subject to a long-term lease with a government agency.

(b) The project shall have a deed restriction placed on the property that limits the use to government/public facility for the term of the lease, including all extension options, for a period of not less than 20 years. Any change in the use of the facility from government shall trigger the payment of the TUMF in effect at the time of the change is made.

(c) No less than ninety percent of the total square footage of the building is leased to the government agency.

(d) The new development is constructed at prevailing wage rates.

(e) A copy of the lease is provided to the applicable jurisdiction and to WRCOG.

(f) Based on the facts and circumstances, the intent of the lease is to provide for a long-term government use, and not to evade payment of TUMF.

R. **“Non-profit Organization”** means an organization operated exclusively for exempt purposes set forth in section 501(c)(3) of the Internal Revenue Code, and none of its earnings may inure to any private shareholder or individual. In addition, it may not be an action organization, i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates. For the purposes of the TUMF Program, the non-profit may be a 501(c) (3) charitable organization as defined by the Internal Revenue Service.

S. **“Long-Term Lease”** as used in the TUMF Program, a “long-term lease” shall mean a lease with a term of no less than twenty years.

T. **“Mixed-Use Development”** as used in the TUMF Program, means Developments with the following criteria: (1) three or more significant revenue-producing uses, and (2) significant physical and functional integration of project components.

U. **“Guest Dwellings”** and **“Detached Second Units”** according to the State of California legal definition as following: 1) The second unit is not intended for sale and may be rented; 2) The lot is zoned for single-family dwellings; 3) The lot contains an existing single-family dwelling; 4) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling; and 5) Are ministerially amended by each jurisdiction’s local codes.

V. **“Transitional Housing”** according to the State of California legal definition as following: Housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development’s requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.

EXHIBIT “E”

TUMF Program Exemptions

The following types of new development shall be exempt from the provisions of the TUMF Administration Plan:

1. Low income residential housing and transitional housing to serve the homeless population as defined in Exhibit E, Section G of the Administrative Plan.
2. Government/public buildings, public schools, and public facilities that are owned and operated by a government entity in accordance with Section Q of Exhibit E of the Administrative Plan and Section G. subsection Iv of the model TUMF Ordinance. Airports that are public use airports and are appropriately permitted by Caltrans or other state agency.
3. Development Projects which are the subject of a Public Facilities Development Agreement entered into pursuant to Government Code section 65864 *et seq*, prior to June 30, 2003, wherein the imposition of new fees are expressly prohibited, provided that if the term of such a Development Agreement is extended by amendment or by any other manner after June 30, 2003, the TUMF shall be imposed.
4. The rehabilitation and/or reconstruction of any habitable structure in use on or after January 1, 2000, provided that the same or fewer traffic trips are generated as a result thereof.
5. “Guest Dwellings” and “Detached Second Units” As defined in Exhibit E of the Administrative Plan and the TUMF Ordinance.
6. Additional single-family residential units located on the same parcel pursuant to the provisions of any agricultural zoning classifications set forth in the Municipal Code.
7. Kennels and Catteries established in connection with an existing single family residential unit.
8. Any sanctuary, or other activity under the same roof of a church or other house of worship that is not revenue generating and is eligible for a property tax exemption (excluding concert venue, coffee/snack shop, book store, for-profit pre-school day-care, etc.)
9. Any nonprofit corporation or nonprofit organization offering and conducting full-time day school at the elementary, middle school or high school level for students between the ages of five and eighteen years.
10. “New single-family homes, constructed by non-profit organizations, specially adapted and designed for maximum freedom of movement and independent living for qualified Disabled Veterans.”



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EXECUTIVE STAFF
Tom Mullen
Interim Executive Director

Joseph Richards
Deputy Executive Director

Western Riverside County Regional Conservation Authority

Exhibit "B"

RECEIVED

JAN 26 2006

BEST BEST & KRIEGER

January 24, 2006

Mr. Rick Bishop, Executive Director
Western Riverside County Council of Governments
4080 Lemon Street, 3rd Floor
Riverside, CA 92502

RE: MSHCP Component of TUMF -- Freeway Interchanges

Dear Rick:

WRCOG's proposed TUMF update includes a five percent set aside for MSHCP funding as mitigation for improvements financed by the fee. As proposed, the MSHCP set aside formula takes into account the construction of freeway interchanges funded by TUMF funds. It is our understanding there is a question regarding the validity of including interchanges in the calculation of the set aside, given that CALTRANS, which maintains and operates freeways, is a Permittee, and responsible for a specific mitigation program under the Plan. In other words, by including interchanges, is there a "double counting" of mitigation.

The MSHCP identifies three transportation related funding sources:

1. One hundred and twenty-one million dollars from Measure A.
2. Two hundred and fifty million dollars from new roads, a portion of which is to be generated through the TUMF program.
3. To mitigate for state freeway improvements, CALTRANS, under the MSHCP Implementation Agreement, is obligated to acquire 3,000 acres (estimated at 36 million dollars) and provide an endowment for the ongoing management of the conserved land (estimated at 9.6 million dollars). The applicable freeways are illustrated and described in the MSHCP.

According to Section 7 of the Plan, state freeways, including interchanges that connect to highways and local roads, are "covered activities" and improvements to these facilities are mitigated by the CALTRANS conservation and management commitment. Therefore, **the MSHCP portion the TUMF update should not include mitigation for interchanges.** We believe, however, there may be instances when TUMF funds are used to expand an interchange beyond the original planned configuration. In those cases, the 5% set aside would be appropriate.

Let me close by stating plainly that the RCA will never "double dip." On the other hand, the agency should receive all funds intended for the implementation of the MSHCP.

I hope this letter addresses the issue at hand, and please feel free to contact Joe Richards or myself if you have any questions.

Sincerely,


Tom Mullen
Executive Director (Interim)

cc: Michelle Ouellette

Exhibit "C"

New Lane CON cost	\$602M
New Bridge CON cost	\$148M
<u>New Grade Separation CON cost</u>	<u>\$158M</u>
Total New Lane, Bridge, Grade Separation CON cost	\$908M
MSHCP Share (at 5% of Total CON cost)	\$45.4M
<u>MSHCP Existing Need</u>	<u>\$2.1M</u>
Total MSHCP Share	\$43.3M
Total TUMF Network Cost	\$3B
<u>Total MSHCP Share</u>	<u>\$43.3M</u>
MSHCP % of TUMF	1.47%

Exhibit “D”

Total Obligation of Credit Agreement Projects:	\$136 million
<u>MSHCP % of TUMF Obligation:</u>	<u>1.47%</u>
MSHCP Share of Credit Agreement Obligations:	\$2 million

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Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: Approval of First Amendment to Professional Services Agreement with Twintel Solutions for Agency IT / AV Support

Contact: Andrew Ruiz, Interim Chief Financial Officer, aruiz@wrcog.us, (951) 405-6741

Date: September 11, 2019

The purpose of this item is to request authorization to enter into a First Amendment of the Professional Services Agreement with TWINTEL Solutions, Inc.

Requested Action:

1. Recommend that the Executive Committee authorize the Executive Director to enter into a First Amendment of the Professional Services Agreement between WRCOG and TWINTEL Solutions, Inc., to provide continued Information Technology and Audio / Visual services in an amount not to exceed \$114,000 annually for two additional years.

Background

On July 9, 2018, WRCOG entered into an annual contract with TWINTEL Solutions for all-inclusive services for both Information Technology (IT) and Audio Visual (AV). Since working with TWINTEL, staff has been pleased with TWINTEL's work and is seeking a recommendation to the Executive Committee to allow the Executive Director to enter into a multi-year contract (2 years) for the continuation of IT and AV services.

Prior Action:

None.

Fiscal Impact:

The contract amount of \$114,000 is currently programmed in the Fiscal Year 2019/2020 Agency Budget under the Administration Program's Consulting line item.

Attachment:

1. First Amendment to the Professional Services Agreement between WRCOG and TWINTEL Solutions, Inc.

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Item 4.E

Approval of First Amendment to
Professional Services Agreement
with Twintel Solutions for Agency IT /
AV Support

Attachment 1

First Amendment to the Professional
Services Agreement between
WRCOG and TWINTEL Solutions,
Inc.

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FIRST AMENDMENT TO
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
PROFESSIONAL SERVICES AGREEMENT FOR
INFORMATION TECHNOLOGY AND AUDIO-VISUAL SERVICES

1. PARTIES AND DATE.

This First Amendment is made and entered into this ____ day of _____, 2019, by and between the Western Riverside Council of Governments, a California public agency ("WRCOG") and TWINTEL Solutions, Inc. ("Consultant"). WRCOG and Contractor are sometimes individually referred to as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Master Agreement.

WRCOG and Contractor have entered into that certain Professional Services Agreement dated July 1, 2019 ("Master Agreement").

2.2 First Amendment.

WRCOG and Contractor desire to enter into this First Amendment for the purpose of extending the term of the Master Agreement.

3. TERMS.

3.1 Term.

The term of the Master Agreement shall be extended to June 30, 2021 (the "First Extended Term"), unless earlier terminated as provided in the Master Agreement.

3.3 Compensation.

The total maximum compensation each year (July to June) shall not exceed \$114,000 without written approval of WRCOG's Executive Committee.

3.5 Continuation of Existing Provisions.

Except as amended by this First Amendment, all provisions of the Master Agreement including without limitation the indemnity and insurance provisions, shall remain in full force and effect and shall govern the actions of the Parties under this First Amendment.

3.6 Counterparts.

This First Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute one instrument.

[signatures on following page]

**SIGNATURE PAGE TO FIRST AMENDMENT TO
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
PROFESSIONAL SERVICES AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment as of the date first written above.

WESTERN RIVERSIDE COUNCIL
OF GOVERNMENTS

TWINTEL Solutions, Inc.

By: _____
Rick Bishop
Executive Director

By: _____
William Scogin
Chief Information Officer

APPROVED AS TO FORM:

By: _____
Steve DeBaun
Best Best & Krieger

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Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: California Public Employees Retirement System Unfunded Accrued Liability Update

Contact: Andrew Ruiz, Interim Chief Financial Officer, aruiz@wrcog.us, (951) 405-6741

Date: September 11, 2019

The purpose of this item is to provide an update on WRCOG's Unfunded Accrued Liability and options to increase plan funding.

Requested Action:

1. Direct staff to establish a Section 115 Trust with PARS for WRCOG's Unfunded Accrued Liability.

Background

At the June 21, 2019, Executive Committee meeting, Committee member Jeff Hewitt requested information regarding where WRCOG stands with its Unfunded Accrued Liability (UAL) and how much of WRCOG's pension is currently covered. Committee member Hewitt noted that the Riverside County Transportation Commission (RCTC) recently took action to pay off its UAL of \$8.1 million, which would save RCTC approximately \$7.5 million in interest payments over 30 years.

Per the most recent actuarial valuation, WRCOG's pension plan is approximately 76% funded. The estimated present value of the unfunded liability is approximately \$3.4 million. The valuation at the time assumes a 30-year payback period and if it were to be paid out over 30 years, WRCOG would pay close to \$6.8 million in total payments.

Unfunded Liability Options

During the Fiscal Year (FY) 2019/2020 budget development process, staff noted that one goal would be to reduce the PERS Unfunded Liability through either additional payment to CalPERS or other options, which would significantly reduce the total amount paid out to CalPERS over time.

Staff has identified the following options to increase the funded status of its plan and to minimize the volatility of changes in required contributions:

1. Make additional advance contributions to CalPERS;
2. Establish a Section 115 irrevocable trust that could only be used to pay directly to CalPERS or reimburse WRCOG for its pension costs;
3. Accumulate funds in a reserve account for future pension funding purposes;
4. Maintain current approach.

1. Additional Advance Contribution

WRCOG can consider making additional advance contributions to CalPERS in excess of annual required contributions. Additional contributions will have the effect of accelerating funding based on various

amortization. CalPERS or an actuary may help determine the impact of partial additional contributions to pay down the entire liability.

Pros:

- Reduces interest cost of carrying unfunded liabilities at CalPERS
- Reduces ongoing pension contributions

Cons:

- Reduces budget flexibility by reducing the amount of available cash
- Amortized over time, so impact would need to be analyzed

2. Establish a Section 115 Trust

The United States Internal Revenue Service has determined that trusts established for the exclusive purpose of funding public agencies' employee benefit obligations are entitled to certain tax benefits, particularly exemption from income tax. These trusts (referred to as "Section 115 trusts") were historically used for funding other post-employment benefits (OPEB) obligations, but since 2015, they have become popular vehicles to fund retirement benefit obligations in recent years, particularly in response to increased CalPERS required contributions.

Section 115 trusts have two main characteristics that make them attractive mechanisms for setting aside funds to offset pension costs. The trusts are irrevocable, meaning that the resources deposited into the trust become the property of the trust and cannot be withdrawn and used for another purpose. Also, assets in the trust can be placed in a broader range of investments, with possibly greater returns than is permitted with other general governmental funds.

Since 2015, hundreds of California public agencies have established or joined Section 115 trusts. Assets in an agency's trust account can only be used to make payments directly to a pension system (such as CalPERS) or to reimburse the agency for its pension contributions. PARS, our current OPEB trust administrator, pioneered the concept of a local controlled Section 115 trust for pension pre-funding and has the majority of the market with over 200 participating CA local governments including the County of Riverside and other WRCOG cities and special districts.

Pros:

- WRCOG oversight of investments and risk control
- Investment flexibility with Section 115 Trust compared to restrictions on general fund investments (Govt. Code 53216)
- Increased flexibility on use of trust assets (i.e., trust assets can be accessed at any time if the assets are used to fund the City's pension obligations and defray reasonable expenses associated therewith)
- Can earn a greater return over time than general funding vesting.
 - The funds depending on the strategy can earn a return closer to that earned by CalPERS
 - Unlike the funds that have been forwarded to CalPERS, these funds will be controlled by the WRCOG, including establishing the risk tolerance level
- Credit rating agencies perceive pre-funding into a trust more favorably than earmarking funds within the pooled cash and investments
- Increased risk diversification of plan assets through different asset management
- Assets can be used to offset contribution rate increases
- Significant flexibility in deciding how much to contribute and when to make payments out of the trust
- May address Net Pension Liability on financial statements
- Can be used in conjunction with other options outlined
- Can use current OPEB trust provider, PARS

Cons:

- Funds must be used for pension costs only
- Still market volatility depending on how conservative the investment strategy

3. Separate Reserve Account

Additional funds can be set aside and would remain in an internal reserve account to be earmarked for paying future pension costs. Once a predetermined amount has been achieved, the money would be used to make singular and significant contributions to CalPERS, when WRCOG deems prudent.

Pros:

- Greater budget flexibility
- Preserves cash reserves

Cons:

- Can be diverted for other uses in a way that is not permitted with a Section 115 irrevocable trust
- Limited investment flexibility – restricted to general fund investing
- Would earn a much lower rate of return over time due to investment restrictions
- Would not be applied to the “Net Pension Liability” presented in future Financial Statements

4. Maintain Current Status

A “do-nothing” scenario under the current amortization schedules will pay off WRCOG’s UAL in 30 years, which would result in interest charges of nearly the same amount as the unfunded liability itself. As noted, WRCOG’s current UAL is approximately \$3.4 million, and if paid out over the standard 30-year term, total payments would amount to nearly \$6.8 million. Compared to the other options, there are no advantages to pursuing this option.

Analysis

At the direction of this Committee, staff presented the aforementioned options to the Finance Directors Committee and also polled the Finance Directors to see what, if anything, the jurisdictions are currently doing to reduce its UAL. Most jurisdictions are unable to make additional principal payments to PERS but are making annual lump-sum payments rather than monthly payments, which saves the jurisdictions some money. Jurisdictions that do have funds available are opening a Section 115 Trust.

Staff also worked with PERS and PARS to create scenarios using a 15-year term, rather than paying it out over the remaining 25 years left on the current term. The scenarios include:

1. Normal payment schedule
2. 15-year term and not paying any additional principal
3. 15-year term and paying \$1M in principal directly to PERS
4. 15-year term and paying \$1M to PARS to establish a Section 115 Trust and drawing down on the trust on an annual basis to pay PERS
5. 15-year term and paying \$500K in principal directly to PERS and \$500K to PARS to establish a Section 115 Trust.

The following table illustrates the scenarios and the savings that WRCOG would anticipate.

Schedule	Total Payments	Savings	Interest	Notes
CalPERS Normal Payment Schedule	\$ 5,561,904		\$ 2,519,422	Paid off 06/30/2044
CalPERS 15-year	\$ 4,995,948	\$ 565,956	\$ 1,953,466	Paid off 06/30/2034
CalPERS 15-year \$1M down	\$ 4,297,384	\$ 1,264,520	\$ 1,254,902	Paid off 06/30/2034
CalPERS 15-year \$500K down / \$500K to PARS	\$ 4,261,711	\$ 1,300,193	\$ 1,219,229	Paid off 06/30/2034
CalPERS 15-year / \$1M to PARS	\$ 4,226,038	\$ 1,335,866	\$ 1,183,556	Paid off 06/30/2034

Based on the analysis, the option that saves the most money, based on the anticipated returns, is to establish a Section 115 Trust. As noted in the pros and cons above, a Section 115 Trust provides more flexibility to the Agency, but it is also a separate account that would be managed by a separate entity. The idiom to not “put all your eggs in one basket” applies well in this case, as PERS would continue to invest the money paid into the

UAL, and PARS would separately invest money for the UAL, and would draw down a portion on an annual basis to pay to PERS.

Staff is requesting that the Administration & Finance Committee direct staff to pursue Scenario 3, since it provides the most savings to the Agency.

Prior Actions:

July 25, 2019: The Finance Directors Committee received and filed.

July 10, 2019: The Administration & Finance Committee requested that the Finance Directors Committee provide a recommendation and directed staff to return with an analysis on what each scenario could potentially save compared to maintaining the current approach.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachment:

None.



Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: PACE Programs Activities Update: Annual Delinquency Report and Request to Enter Into a Purchase and Sales Agreement with First National Assets

Contact: Casey Dailey, Director of Energy & Environmental Programs, cdailey@wrcog.us, (951) 405-6720

Date: September 11, 2019

The purpose of this item is to provide an update on delinquent parcels and seek authorization to enter into a Purchase and Sales Agreement with First National Assets.

Requested Actions:

1. Recommend that the Executive Committee defer the judicial foreclosure proceedings on delinquent residential parcels of the 2018/2019 Tax Year and assign WRCOG's collection rights to a third party for 630 delinquent parcels totaling \$1,790,780.64.
2. Recommend that the Executive Committee authorize the Executive Director to enter in a Purchase and Sales Agreement with a third party, First National Assets, as to form, for the purchase of the delinquent assessment receivables.

WRCOG's PACE Programs provide financing to property owners to implement energy saving, renewable energy, water conservation, and seismic strengthening improvements to their homes and businesses. Financing is paid back through a lien placed on the property tax bill. The Program was initiated in December 2011 and was expanded in 2014 to allow jurisdictions throughout the state to join WRCOG's Program and allow property owners in these jurisdictions to participate. WRCOG now offers HERO, CaliforniaFIRST, PACE Funding, and Ygrene as residential PACE providers and Greenworks, CleanFund, and Twain as commercial PACE providers.

PACE Delinquencies

On September 14, 2015, the Executive Committee adopted a policy to review, on an annual basis, the number and amount of delinquencies and determine the assignment of collection rights, or to begin the judicial foreclosure process.

Under WRCOG's Master Bond Indentures, it is stated that any property owner that is delinquent in his or her tax bill on October 1 of each year will be subject to WRCOG initiating a judicial foreclosure process. However, WRCOG may elect to defer the judicial foreclosure proceedings if WRCOG has received or advances funds to cover the delinquent amounts. Previous actions by the Executive Committee include:

- 2014/2015 Tax Year – deferred 44 of 9,125 parcels totaling \$97,687.67
- 2015/2016 Tax Year – deferred 155 of 21,811 parcels totaling \$401,909.87
- 2016/2017 Tax Year – deferred 237 of 38,367 parcels totaling \$697,431.96
- 2017/2018 Tax Year – deferred 386 of 51,395 parcels totaling \$1,126,270.20

2018/2019 Tax Year Delinquencies: David Taussig & Associates (dta), the HERO Program Assessment Administrator, issues a preliminary report that details the delinquencies for the tax year (Attachment 1). For the 2018/2019 Tax Year, WRCOG enrolled 53,938 assessments on parcels totaling \$166,634,067.16. As of July 31, 2019, the preliminary total delinquency rate is 1.07%, or \$1,790,780.64. In order to provide some context, the County of Riverside delinquency rate for property taxes levied for 2018/2019 Tax Year is 1.36%.

A delinquency means that the property owner(s) did not make timely payment of his and/or her property taxes (including the HERO Assessment installment(s)) for the past tax year and did not pay the delinquent HERO Assessment installments and any accrued penalties and interest prior to the date of the November Executive Committee meeting.

On November 5, 2018, the Executive Committee approved deferral of judicial foreclosure on residential delinquencies and authorized the Executive Director to enter into a multi-year Purchase and Sales Agreement with First National Assets. First National Assets has offered to purchase the delinquencies from residential and commercial parcels of all PACE providers for Tax Year 2018/2019. Staff is seeking the deferral of judicial foreclosures on residential delinquencies and authorization for the Executive Director to enter into Purchase and Sales Agreement (Attachment 2).

Prior Action:

November 5, 2018: The Executive Committee 1) deferred the judicial foreclosure proceedings on delinquent residential parcels of the 2017/2018 Tax Year and assigned WRCOG's collection rights to a third party for 400 delinquent parcels totaling \$1,162,811.03; 2) authorized the Executive Director to enter in a Purchase and Sales Agreement with the third party, First National Assets, for the purchase of the delinquent assessment receivables; and 3) adopted Resolution Number 41-18; A Resolution of the Executive Committee of the Western Riverside Council of Governments Ordering the Initiation of Judicial Foreclosure Proceedings Pursuant to the Improvement Bond Act Of 1915 of Certain Property for Which the Payment of Assessment Installments Are Delinquent.

Fiscal Impact:

The sale of the delinquent assessments will add approximately \$134k in PACE revenues in Fiscal Year 2019/2020.

Attachments:

1. WRCOG Residential Delinquency Summary Report (FY 2018/2019).
2. Draft Purchase and Sales Agreement between WRCOG and First National Assets.

Item 5.B

PACE Programs Activities Update:
Annual Delinquency Report and
Request to Enter Into a Purchase
and Sales Agreement with First
National Assets

Attachment 1

WRCOG Residential Delinquency
Summary Report (FY 2018/2019)

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**Western Riverside Council of Governments
Residential Delinquency Summary Report (Both Installments)
Fiscal Year 2018/2019**

Program	Fiscal Year	County	Total Levy	Delinquent Amount	Parcels Levied	Parcels Delinquent	DQ Rate on \$s	DQ Rate on #s
WRCOG Residential	2018/2019	Alameda	\$ 2,009,778.54	\$ 11,177.67	571	5	1.11%	0.88%
WRCOG Residential	2018/2019	Amador	\$ 74,589.24	\$ -	27	0	0.00%	0.00%
WRCOG Residential	2018/2019	Butte	\$ 229,671.70	\$ 3,357.76	82	1	2.92%	1.22%
WRCOG Residential	2018/2019	Colusa	\$ 11,674.82	\$ -	5	0	0.00%	0.00%
WRCOG Residential	2018/2019	Contra Costa	\$ 5,951,956.42	\$ 37,597.01	1776	19	1.26%	1.07%
WRCOG Residential	2018/2019	Del Norte	\$ 3,449.18	\$ -	3	0	0.00%	0.00%
WRCOG Residential	2018/2019	El Dorado	\$ 1,026,803.02	\$ 7,053.86	297	4	1.37%	1.35%
WRCOG Residential	2018/2019	Fresno	\$ 9,309,824.50	\$ 100,951.87	3515	51	2.17%	1.45%
WRCOG Residential	2018/2019	Glenn	\$ 16,478.62	\$ -	7	0	0.00%	0.00%
WRCOG Residential	2018/2019	Humboldt	\$ 11,486.00	\$ -	4	0	0.00%	0.00%
WRCOG Residential	2018/2019	Imperial	\$ 1,262,585.40	\$ 13,560.99	630	10	1.07%	1.59%
WRCOG Residential	2018/2019	Kern	\$ 7,878,893.50	\$ 72,592.63	2930	31	0.92%	1.06%
WRCOG Residential	2018/2019	Kings	\$ 925,873.40	\$ 5,601.05	404	4	0.60%	0.99%
WRCOG Residential	2018/2019	Los Angeles	\$ 4,739,784.71	\$ 79,542.30	1360	23	1.68%	1.69%
WRCOG Residential	2018/2019	Madera	\$ 1,170,528.78	\$ 15,484.13	447	6	1.32%	1.34%
WRCOG Residential	2018/2019	Marin	\$ 479,244.00	\$ 7,063.18	107	2	1.47%	1.87%
WRCOG Residential	2018/2019	Mariposa	\$ 31,852.22	\$ 505.62	15	1	1.59%	6.67%
WRCOG Residential	2018/2019	Mendocino	\$ 13,047.76	\$ -	5	0	0.00%	0.00%
WRCOG Residential	2018/2019	Merced	\$ 1,866,229.52	\$ 35,569.79	725	10	1.91%	1.38%
WRCOG Residential	2018/2019	Mono	\$ 20,628.12	\$ -	7	0	0.00%	0.00%
WRCOG Residential	2018/2019	Monterey	\$ 446,295.54	\$ -	129	0	0.00%	0.00%
WRCOG Residential	2018/2019	Napa	\$ 630,090.42	\$ 2,123.49	163	1	0.34%	0.61%
WRCOG Residential	2018/2019	Nevada	\$ 15,777.98	\$ -	4	0	0.00%	0.00%
WRCOG Residential	2018/2019	Orange	\$ 15,375,938.69	\$ 156,860.64	4171	41	1.02%	0.98%
WRCOG Residential	2018/2019	Riverside	\$ 46,512,269.14	\$ 634,820.89	16112	232	1.36%	1.44%
WRCOG Residential	2018/2019	Sacramento	\$ 6,020,525.62	\$ 20,883.02	2331	12	0.35%	0.51%
WRCOG Residential	2018/2019	San Diego	\$ 34,147,456.28	\$ 348,055.62	9125	87	1.02%	0.95%
WRCOG Residential	2018/2019	San Francisco	\$ 368,439.14	\$ 9,853.72	80	3	2.67%	3.75%
WRCOG Residential	2018/2019	San Joaquin	\$ 6,784,128.16	\$ 88,485.98	2487	35	1.30%	1.41%
WRCOG Residential	2018/2019	San Luis Obispo	\$ 123,038.64	\$ -	34	0	0.00%	0.00%
WRCOG Residential	2018/2019	San Mateo	\$ 842,813.86	\$ 7,257.52	169	2	0.86%	1.18%
WRCOG Residential	2018/2019	Santa Barbara	\$ 6,371.18	\$ -	2	0	0.00%	0.00%
WRCOG Residential	2018/2019	Santa Clara	\$ 2,545,984.20	\$ 8,984.35	688	3	0.35%	0.44%
WRCOG Residential	2018/2019	Santa Cruz	\$ 328,990.30	\$ 9,297.80	80	2	2.83%	2.50%
WRCOG Residential	2018/2019	Shasta	\$ 50,368.84	\$ 696.98	18	1	1.38%	5.56%
WRCOG Residential	2018/2019	Solano	\$ 3,201,323.98	\$ 14,706.59	1006	5	0.46%	0.50%
WRCOG Residential	2018/2019	Sonoma	\$ 1,065,248.40	\$ -	304	0	0.00%	0.00%
WRCOG Residential	2018/2019	Stanislaus	\$ 4,515,671.48	\$ 35,590.19	1831	15	0.79%	0.82%
WRCOG Residential	2018/2019	Sutter	\$ 139,290.12	\$ -	59	0	0.00%	0.00%
WRCOG Residential	2018/2019	Tehama	\$ 70,649.70	\$ 5,529.80	25	2	7.83%	8.00%
WRCOG Residential	2018/2019	Tulare	\$ 1,820,587.18	\$ 10,793.44	801	9	0.59%	1.12%
WRCOG Residential	2018/2019	Ventura	\$ 3,868,389.88	\$ 40,389.30	1149	11	1.04%	0.96%
WRCOG Residential	2018/2019	Yolo	\$ 538,283.08	\$ 1,947.15	177	1	0.36%	0.56%
WRCOG Residential	2018/2019	Yuba	\$ 181,755.90	\$ 4,446.30	76	1	2.45%	1.32%
		Total	\$ 166,634,067.16	\$ 1,790,780.64	53938	630	1.07%	1.17%
Amount of Non-Teeter Delinquencies to be Purchased:				\$ 1,699,285.89				

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Item 5.B

PACE Programs Activities Update:
Annual Delinquency Report and
Request to Enter into a Purchase
and Sales Agreement with First
National Assets

Attachment 2

Draft Purchase and Sales Agreement
between WRCOG and First National
Assets

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PURCHASE AND SALE AGREEMENT

between

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS,

as Seller

and

FNA CALIFORNIA, LLC,

as Purchaser

**Regarding
Assessment Installment Receivables
for the 2018-19 Tax Year**

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of October 7, 2019, between Western Riverside Council of Governments, a joint exercise of powers authority and existing under the Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California and a Joint Exercise of Powers Agreement originally made and entered into as of April 1, 1991, as further amended to date ("WRCOG"), and FNA California, LLC, an Illinois limited liability company ("Company").

BACKGROUND

1. WRCOG has levied assessments under Chapter 29 (as defined below) payable in installments under the 1915 Act (defined below) on residential and commercial properties participating in the WRCOG Program (as defined below) which are collected on the secured property tax roll of the County (as defined below) in which the participating properties are located.

2. Certain installments of such assessments are delinquent (the "Assessment Installment Receivables") as of the Cut-off Date (as defined below).

3. WRCOG has determined that it is in the best interests of WRCOG at this time to sell to the Company the Assessment Installment Receivables it is entitled to receive arising from the collection of certain delinquent Assessments for the Tax Years specified in this Agreement, upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Article I

Definitions

Section 1.01. Definitions. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

“1915 Act” means the Improvement Bond Act of 1915. Division 10 of Part I (commencing with Section 8500) of the California Streets and Highways Code.

“Agreement” means this Purchase and Sale Agreement, as originally executed or as it may from time to time be supplemented, modified or amended in accordance with the provisions hereof.

“Assessment” means each “Assessment” as defined in an Assessment Contract and levied pursuant to such Assessment Contract against a Property to which such Assessment Contract is subject.

“Assessment Administrative Fee” means, as to each Property, the assessment administrative fee due and payable pursuant to the applicable Assessment Contract that shall be collected on the property tax bill pertaining to such Property.

“Assessment Administrator” means dta, and its successors, or any financial consultant or firm of such financial consultants judged by WRCOG to have experience in the administration for and on behalf of public agencies of assessments similar to the Assessments levied by such public agencies in the State of California.

“Assessment Contract” shall have the meaning given such term in the applicable Master Indenture.

“Assessment Installment” means, as to each Property, the portion of the principal amount of an Assessment, together with the interest on the Assessment, due and payable pursuant to an Assessment Contract that shall be collected on the property tax bill for a particular Tax Year pertaining to such Property.

“Assessment Installment Receivable” means, with respect to a Property for a particular Tax Year, the Assessment Installment and the related Assessment Administrative Fee on the secured tax roll of the County that:

(i) was levied by WRCOG on one of the Properties listed on the Assessment Installment Receivables Schedule for such Tax Year in accordance with the Chapter 29, the 1915 Act and the applicable Assessment Contract and is payable to WRCOG if and when collected,

(ii) was levied on account of the applicable Purchased Tax Year, was delinquent as of the Cut-off Date and was shown as such on the Delinquent Tax Roll maintained by the County for the applicable Purchased Tax Year,

(iii) had not been received by WRCOG or the Trustee, on behalf of WRCOG, as of the Cut-off Date,

(iv) is due and owing to WRCOG in an amount equal to the amount of such Assessment Installment and Assessment Administrative Fee, penalties and accrued interest set forth on the Assessment Installment Receivables Schedule,

(v) includes, to the extent permitted by law and the terms of the applicable Master Indenture, all penalties and accrued interest thereon to the date of collection, and

(vi) has not become a Defective Assessment Installment Receivable.

“Assessment Installment Receivable Balance” means, with respect to an Assessment Installment Receivable as of a particular date, the sum of

(A) an amount equal to the delinquent Assessment Installments and Assessment Administrative Fees levied by or on behalf of WRCOG and payable to the WRCOG with respect to such Assessment Installment Receivable as shown on the Assessment Installment Receivables Schedule,

(B) to the extent permitted by law and the applicable Master Indenture, the 10% penalty payable on the Assessment Installment Receivable in accordance with Sections 2617 and 2618 of the California Revenue and Taxation Code, and

(C) to the extent permitted by law and the applicable Master Indenture, interest accrued on the amount in clause (A) from the July 1 of the Tax Year following the Tax Year in which such Assessment Installment Receivable first became delinquent through the date of determination at the rate of 1.5% per month in accordance with Section 4103 of the California Revenue and Taxation Code.

“Assessment Installment Receivables Schedule” means the schedule attached as (or incorporated by reference in) EXHIBIT B hereto, as such schedule may be amended from time to time in accordance with Section 3.01(e) hereof, with respect to the Assessments levied on the Properties described on EXHIBIT B hereto.

“Assessment Lien” means any lien that attaches, by operation of Section 2187 of the California Revenue and Taxation Code, to the fee interest in real property.

“Associate Member” any Associate Member of WRCOG that is participating in the California HERO Program.

“Bond Counsel” means Best Best & Krieger LLP or any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to public financing in the State.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banking institutions in New York or California are authorized or obligated by law or executive order to be closed.

“Chapter 29” means Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.12 et seq.)

“Closing Date” means October ____, 2019.

“Collections” means, with respect to an Assessment Installment Receivable, the amount collected by the County (whether as payments by the related Property Owner in a lump sum, payments by the related Property Owner pursuant to an installment payment plan, as proceeds of sale of the related tax-defaulted Property, or otherwise) on the Assessment Installment Receivable. Collections include but are not limited to the following:

- (i) the delinquent Assessment Installments payable for the Tax Year to which the Assessment Installment Receivable is related,
- (ii) the 10% penalty payable thereon in accordance with Sections 2617 and 2618 of the California Revenue and Taxation Code,
- (iii) interest accruing at the rate of 1.5% per month in accordance with Section 4103 of the California Revenue and Taxation Code, and
- (iv) all Assessment Administrative Fees levied in connection therewith that are distributable to WRCOG, if any.

“Company” means FNA California, LLC, a limited liability company organized and existing under the laws of the state of Illinois or any successor thereto.

“County” means the County of Riverside, California, and each county of the Associate Members, which could include the unincorporated area of any county which is an Associate Member.

“Cut-off Date” means July ____, 2019.

“Defective Assessment Installment Receivable” has the meaning set forth in Section 3.01(c) hereof.

“Defective Assessment Installment Receivable Purchase Amount” means, as to any Defective Assessment Installment Receivable, an amount equal to the Purchase Price and Premium of such Defective Assessment Installment Receivable set forth on the Assessment Installment Receivables Schedule reduced by the amount, if any, of Collections on such Defective Assessment Installment Receivable which have been applied to the recovery of such Purchase Price and Premium and paid to the Company as of the date of calculation.

“Delinquent Tax Roll” means the delinquent tax roll which is delivered by the Treasurer-Tax Collector of the County to the Auditor-Controller of the County pursuant to Section 2627 of the Revenue and Taxation Code of the State, or such other report, file or data of the Treasurer-Tax Collector or Auditor-Controller of the County as may be available from the County and mutually satisfactory to WRCOG and the Company.

“Master Indenture” means, as applicable, each of the master indentures listed on Exhibit C, incorporated herein by reference.

“Opinion of Counsel” means one or more written opinions of counsel, who may be an employee of or counsel to WRCOG, which counsel shall be acceptable to the recipient of such opinion or opinions.

"Person" any individual, corporation, partnership (general or limited), limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, estate, unincorporated organization, governmental body or other entity.

"Premium" has the meaning set forth in Section 2.01(a) hereof.

"Property" means, with respect to an Assessment Installment Receivable, either a residential or commercial parcel of real property that is encumbered by the Assessment Lien of such Assessment Installment Receivable.

"Property Owner" means, with respect to an Assessment Installment Receivable, the fee owner or owners of the related Property.

"Purchase Price" has the meaning set forth in Section 2.01(a) hereof.

"Purchased Tax Year" means, for a given Assessment Installment Receivable, the Tax Year ending on June 30 of the applicable calendar year, as set forth in EXHIBIT B hereto.

"Purchased Receivables" means the Assessment Installment Receivables listed on the Assessment Installment Receivables Schedule and purchased by the Company pursuant to this Agreement.

"Responsible Officer" means, with respect to WRCOG, the Executive Director, the Chief Financial Officer, the Director of Energy & Environmental Programs, or any other official of WRCOG customarily performing functions similar to those performed by any of the above designated officials, and also with respect to a particular matter, any other official of WRCOG to whom such matter is referred because of such official's knowledge of and familiarity with the particular subject.

"State" means the State of California.

"Tax Year" means the 12-month period beginning on July 1 in any year and ending on the following June 30. Whenever in this Agreement reference is made to the Tax Year of a certain year, such reference is to the Tax Year ending June 30 of that year.

"Trustee" shall mean Deutsche Bank National Trust Company, a national banking association duly organized and existing under the laws of the United States of America, acting as trustee and not in its individual capacity, its successors and assigns, and any other corporation or association which may be at any time substituted in its place, as provided in the applicable Master Indenture.

"WRCOG" means Western Riverside Council of Governments, a joint exercise of powers authority organized and existing under the laws of the State, including any entity with which it may be consolidated or which otherwise succeeds to the interests of WRCOG.

"WRCOG Program" means the Energy Efficiency and Water Conservation Program for Western Riverside County and the California HERO Program established by WRCOG pursuant to Chapter 29 and the 1915 Act.

Section 1.02. Other Definitional Provisions.

(a) All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.

(b) As used in this Agreement and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, shall have the respective meanings given to them under generally accepted accounting principles. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under generally accepted accounting principles, the definitions contained in this Agreement or in any such certificate or other document shall control.

(c) The words “hereof”, “herein”, “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement; Article, Section, Schedule and Exhibit references contained in this Agreement are references to Articles, Sections, Schedules and Exhibits in or to this Agreement unless otherwise specified; and the term “including” shall mean “including without limitation.”

(d) The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms.

(e) Any agreement, instrument or statute defined or referred to herein or in any instrument or certificate delivered in connection herewith means such agreement, instrument or statute as from time to time amended, modified or supplemented and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein; references to a Person are also to its permitted successors and assigns.

Section 1.03. Term of this Agreement.

This Agreement shall remain in full force and effect for the period during which any of the Assessment Installment Receivables purchased under this Agreement remains outstanding.

Article II

Purchase and Sale of Assessment Installment Receivables

Section 2.01. Purchase and Sale of Assessment Installment Receivables; Assignment of Rights.

(a) *Purchase and Sale.* In consideration of the Company’s promise to deliver on the Closing Date to or upon the order of WRCOG the sum of \$1,699,285.89 (the “Purchase Price”), which is equal to the principal amount of the delinquent Assessment Installments included in Assessment Installment Receivables to be purchased, plus a premium equal to \$_____, or 7.5%, of the Purchase Price (the “Premium”), WRCOG does hereby sell, transfer, assign, set over and otherwise convey to the Company, without recourse (but subject to the obligations herein), all right, title and interest of WRCOG on the Closing Date, free and clear of all liens, claims and interest, whether now owned or hereinafter acquired, in and to:

- (i) the Assessment Installment Receivables;
- (ii) all Collections in respect of the Assessment Installment Receivables since the Cut-off Date; and
- (iii) the proceeds of any and all of the foregoing.

(b) *Collections.* The Company shall be entitled, from and after the Closing Date, to receive all Collections with respect to the Assessment Installment Receivables.

(c) *Payment and Application of Purchase Price.* On the Closing Date, the Company shall pay or cause to be paid the Purchase Price, together with the Premium thereon, in immediately available funds by federal funds wire to or upon the order of WRCOG. WRCOG covenants that (i) it shall treat the Purchase Price as Assessments or Assessment Administrative Fees, as applicable, for all purposes under the terms of the applicable Master Indenture or other document by which any bonds, notes or other evidences of indebtedness were issued and secured by the Assessments to which the Assessment Installment Receivables relate, and (ii) it shall apply the Purchase Price to the payment of the bonds secured by the Assessments to which the Assessment Installment Receivables relate, and to the other authorized purposes to which the Assessments or the Assessment Administrative Fees may be applied (including without limitation replenishment of reserve funds and payment of administrative expenses), to the same extent that the proceeds of the Assessments and Assessment Administrative Fees constituting the Assessment Installment Receivables would have been required to be applied had they been paid by the respective property owner before delinquency and received by WRCOG.

Section 2.02. Closing Conditions. The obligation of the Company to purchase the Assessment Installment Receivables and pay the Purchase Price, together with the Premium thereon, will be subject to the accuracy of the representations and warranties of WRCOG herein, to the accuracy of statements to be made by or on behalf of WRCOG, to the performance by WRCOG of its obligations hereunder and to the following additional conditions precedent:

(a) *Executed Agreement.* At the Closing Date, this Agreement must have been authorized, executed and delivered by the respective parties thereto, and this Agreement and all official action of WRCOG relating thereto must be in full force and effect and not have been amended, modified or supplemented.

(b) *Closing Documents.* The Company must receive the following opinions and certificates (which may be consolidated into a single certificate for convenience), dated the Closing Date and acceptable to the Company:

(i) *Legal Opinion of Bond Counsel.* An approving opinion of Bond Counsel to the effect that the obligations of WRCOG under this Agreement are valid, binding and enforceable, and as to certain other matters, addressed to, and in form and substance satisfactory to, WRCOG and the Company.

(ii) *Certificate of WRCOG.* A certificate signed by an appropriate official of WRCOG to the effect that:

(A) WRCOG is duly organized and validly existing as a joint exercise of powers authority under the Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of

California and a Joint Exercise of Powers Agreement originally made and entered into as of April 1, 1991, as further amended to date,

(B) the representatives of WRCOG who executed this Agreement have been duly authorized to do so on behalf of WRCOG,

(C) the representations, agreements and warranties of WRCOG herein are true and correct in all material respects as of the Closing Date,

(D) WRCOG has complied with all the terms of this Agreement which are required to be complied with by WRCOG prior to or concurrently with the Closing Date, and

(E) the execution and delivery of this Agreement have been approved by the governing board of WRCOG, which approval was duly and regularly adopted in accordance with all applicable legal requirements.

Section 2.03. Right to Terminate. If WRCOG is unable to satisfy the conditions set forth in Section 2.02(a) and (b) hereof, as reasonably determined by the Company, this Agreement may be canceled either in part or in its entirety by the Company at any time. Notice of such cancellation shall be given to WRCOG in writing, or by telephone confirmed in writing. Upon receipt of a notice of cancellation pursuant to this Section 2.03, WRCOG shall remit the full Purchase Price, together with the Premium thereon, to and upon the order of the Company.

Section 2.04. Pledge.

Although the parties hereto intend that the sale of the Assessment Installment Receivables by WRCOG to the Company be characterized as an absolute sale rather than a secured borrowing, if the sale of the Assessment Installment Receivables is deemed to be a secured borrowing, then in order to secure WRCOG's obligations to the Company hereunder, WRCOG takes the actions set forth below.

(a) WRCOG hereby pledges, assigns and grants a lien to the Company on the following (the "Collateral"):

- (i) the Assessment Installment Receivables;
- (ii) the Collections; and
- (iii) all proceeds of the foregoing.

(b) WRCOG represents and warrants to the Company that:

(i) this Agreement creates a valid and continuing lien on the Collateral in favor of the Company, which is prior to all other liens, and is enforceable as such as against creditors of and purchasers from WRCOG;

(ii) WRCOG owns and has good and marketable title to the Collateral free and clear of any lien, claim or encumbrance of any person subject to the provisions of the applicable Master Indenture;

(iii) other than the lien granted to the Company pursuant to this Agreement, WRCOG has not pledged, assigned, sold, granted a lien on, or otherwise conveyed any of the Collateral; and

(iv) WRCOG is not aware of any judgment or tax lien filings against WRCOG.

These representations and warranties shall survive the Closing and may not be waived.

Section 2.05. Release of Collateral upon Repurchase of Assessment Installment Receivables. Any Assessment Installment Receivable that is repurchased by WRCOG in accordance with this Agreement shall be released from the Collateral when the required payment is made pursuant to Section 3.01(e) of this Agreement. Promptly upon such release, the Company shall amend the Assessment Installment Receivables Schedule to reflect the release of such Assessment Installment Receivable from the terms of this Agreement. Such Assessment Installment Receivable shall cease to be a part of the Collateral and be released from, and no longer be subject to, the pledge of this Agreement. The Company agrees to take or cause to be taken such actions and to execute, deliver and record such instruments and documents as may be set forth in a written request of WRCOG to release such Assessment Installment Receivable from the lien of this Agreement.

Article III

The Assessment Installment Receivables

Section 3.01. Representations, Warranties and Covenants as to the Assessment Installment Receivables.

(a) *Representations and Warranties.* WRCOG hereby represents and warrants to the Company that to WRCOG's knowledge (1) as of the Closing Date for the Assessment Installment Receivables, the information set forth in the Assessment Installment Receivables Schedule will be correct in all material respects, and (2) as to each Assessment Installment Receivable transferred hereunder, as of the Closing Date:

(i) WRCOG was the sole owner of such Assessment Installment Receivable;

(ii) WRCOG had full right and authority to sell such Assessment Installment Receivable as provided in this Agreement;

(iii) WRCOG sold such Assessment Installment Receivable free and clear of any and all liens, pledges, charges, security interests or any other statutory impediments to transfer created by or imposed upon WRCOG encumbering such Assessment Installment Receivable (but subject to the right of redemption by the related Property Owner), except for liens that will be discharged by the application of the proceeds of the sale thereof;

(iv) the sale of such Assessment Installment Receivable by WRCOG did not contravene or conflict with any laws, rules or regulations applicable to WRCOG;

(v) the Assessment Installments and Assessment Administrative Fees of which the Assessment Installment Receivable constitutes a portion were validly levied by

WRCOG and, to the best knowledge of WRCOG and its agents and representatives, also validly levied and collected by the County on the secured property tax roll on behalf of WRCOG, in accordance with all applicable provisions of the laws, rules and regulations of the State, the County and of the United States;

(vi) the amount of the Assessment Installment Receivable includes Assessment Installments and Assessment Administrative Fees on the secured tax roll which have been levied by WRCOG and by the County on the secured property tax roll on behalf of WRCOG during the applicable Purchased Tax Year which were delinquent as of the Cut-off Date;

(vii) the Assessment Installment Receivable was secured by a legal, valid, binding and enforceable lien on the related Property;

(viii) the lien of the Assessment Installment Receivable represented a valid, proper and enforceable lien on the related Property, the priority of which was subject only to other Assessment Liens on such Property and to certain other priorities prescribed by statute;

(ix) the amount of such Assessment Installment Receivable includes a 10% penalty imposed pursuant to Revenue & Taxation Code Section 2617 and/or 2618 on the portion of such Assessment Installment Receivable consisting of the delinquent Assessment Installment(s) and the delinquent Assessment Administrative Fee(s);

(x) interest payable by the related Property Owner has accrued and will continue to accrue on the delinquent Assessment Installments and Assessment Administrative Fees of which the Assessment Installment Receivable constitutes a portion from July 1 of the Tax Year following the Tax Year in which such Assessment Installment Receivable first became delinquent to the date of payment of such Assessment Installments Receivable at the rate of 1.5% per month (not compounded) as provided in California Revenue and Taxation Code Section 4103;

(xi) such Assessment Installment Receivable had not been discharged or disallowed (in whole or in part) in a bankruptcy proceeding;

(xii) such Assessment Installment Receivable had not been compromised, adjusted or modified (including by the granting of any discounts, allowances or credits, but not including installment payment plans in accordance with law);

(xiii) such Assessment Installment Receivable was not subject to a foreign government's diplomatic immunity from enforcement or treaty with the United States of America;

(xiv) there existed no fact, condition or circumstance that would prevent the County from being able to sell the related Property in a tax sale upon the expiration of a period of five years from July 1 of the Tax Year after the Tax Year in which the Assessment Installments became delinquent;

(xv) no right of rescission, setoff, counterclaim or defense had been asserted with respect to such Assessment Installment Receivable;

(xvi) WRCOG has not received notice that such Assessment Installment Receivable relates to a Property owned by a Property Owner that is subject to any bankruptcy proceeding commenced prior to the Closing Date;

(xvii) such Assessment Installment Receivable does not relate to a Property owned by a federal, state, or local governmental entity;

(xviii) WRCOG has not waived any penalties or interest with respect to such Assessment Installment Receivable;

(xix) each of the requirements included in the definition of "Assessment Installment Receivable" is satisfied with respect to such Assessment Installment Receivable; and

(xx) none of the exclusion criteria set forth in EXHIBIT A are applicable to such Assessment Installment Receivable unless, as of the Closing Date, any such criteria has been expressly waived in writing by the Company.

(b) *Survival of Representations and Warranties; Liability of WRCOG.*

(i) It is understood and agreed that the representations and warranties set forth in this Section 3.01, Section 2.04 Section 4.01 and Section 4.02 shall survive the consummation of the sale of the Assessment Installment Receivables on the Closing Date and shall inure to the benefit of the Company.

(ii) It is understood and agreed that the representations and warranties made by WRCOG in Section 3.01(a) hereof are made solely for the purpose of determining the existence of a Defective Assessment Installment Receivable, and in no case shall WRCOG or any of its officers or employees have any liability if it was subsequently discovered that such representations and warranties were in fact false at the time they were made, other than the obligation of WRCOG to repurchase Defective Assessment Installment Receivables as provided in this Agreement.

(c) *Defective Assessment Installment Receivables.* Upon discovery by WRCOG or the Company (based on information provided by the County, examination of the Delinquent Tax Roll, or otherwise) of a breach of any of the foregoing representations and warranties (without regard to any knowledge qualifier) that materially and adversely affects the value of any Assessment Installment Receivable (such Assessment Installment Receivable, a "Defective Assessment Installment Receivable"), the party making such discovery shall immediately notify WRCOG or the Company of such discovery and describe in reasonable detail the representations and warranties that were breached.

The Company may, at its option, require WRCOG to repurchase the Defective Assessment Installment Receivable. Under no circumstances will WRCOG have the right to require the resale of a Defective Assessment Installment Receivable to the Company. WRCOG shall have no right to substitute another Assessment Installment Receivable for a Defective Assessment Installment Receivable.

If the Company elects to require WRCOG to repurchase a Defective Assessment Installment Receivable, the Company shall give written notice to WRCOG. Such notice must (i) identify the Defective Assessment Installment Receivable, (ii) if the Assessment Installment Receivable Balance as of the Closing Date is determined to be less than the amount thereof

shown on the Assessment Installment Receivables Schedule, state the amount of such deficiency and (iii) be accompanied by documentation from the County which reasonably establishes the factual basis for the determination of the breach. WRCOG shall fully cooperate (at its own expense) or utilize all reasonable efforts to cause the County to cooperate, as reasonably requested by the Company in the investigation and reporting of the foregoing matters.

For purposes of clause (ii) of the preceding paragraph, if the adjustments to the Assessment Installment Receivable Balance result from adjustments to the Delinquent Tax Roll provided by the County, the Company will use its best reasonable efforts to obtain the reason(s) for the adjustments from the County, but if the Company is unable to obtain such reasons despite using its best reasonable efforts to do so, such inability shall not be grounds for rejection or disallowance of the adjustment.

(d) *Effect of Reduced Assessment Installment Receivable Amount.* If any Assessment Installment Receivable becomes a Defective Assessment Installment Receivable solely as a result of the determination that the Assessment Installment Receivable Balance as of the Closing Date (or applicable Repurchase Date) was less than the amount set forth on the Assessment Installment Receivables Schedule, then only the amount of the reduction of such Assessment Installment Receivable shall be deemed to be repurchased and such Assessment Installment Receivable, at its reduced Assessment Installment Receivable Balance, shall continue to be an Assessment Installment Receivable for all purposes of this Agreement.

(e) *Cure or Purchase of Defective Assessment Installment Receivables.* As to any Defective Assessment Installment Receivable, on or prior to the next date on which WRCOG receives the normal payments of Assessment Installments and Assessment Administrative Fees from the County following the day on which it is discovered that what was supposed to be an Assessment Installment Receivable is, in fact, a Defective Assessment Installment Receivable, WRCOG shall, at its option, either (A) cure or cause to be cured such breach or (B) pay to the Company, in immediately available funds, the Defective Assessment Installment Receivable Purchase Amount.

If any Assessment Installment Receivable is determined to be a Defective Assessment Installment Receivable prior to the Closing Date, the Defective Assessment Installment Receivable Purchase Amount shall be subtracted from the Purchase Price and Premium payable to WRCOG on the Closing Date.

The obligations of WRCOG under this Section 3.01(e) shall constitute the sole remedies available to the Company with respect to a Defective Assessment Installment Receivable and WRCOG shall not incur any other liability to the Company or any other Person because of any inaccuracy of any representation or warranty made under this Section 3.01 with respect to the Assessment Installment Receivables. Upon the repurchase of a Defective Assessment Installment Receivable by WRCOG, the Company shall cause the Assessment Installment Receivables Schedule to be amended to delete the Defective Assessment Installment Receivable, and WRCOG shall have no further liabilities or obligations with respect to such Defective Assessment Installment Receivable.

(f) *Company's Calculation of Defective Assessment Installment Receivables.* The Company shall cause the Company's calculations and/or recalculations of any adjustments made under this Section 3.01 (herein, "Adjustments") to be delivered to WRCOG. WRCOG shall have 10 Business Days after delivery thereof to review the Adjustments and submit to the Company any objections and deliver revised Adjustments to WRCOG. If WRCOG does not respond to any

such Adjustments (as they may be revised) within 10 Business Days after delivery, such Adjustments shall be deemed final and binding on WRCOG, and WRCOG shall remit any payment required by Section 3.01(e).

Section 3.02. Enforcement and Collection; Assignment of Rights.

(a) *Enforcement Rights of the Company.* Except as provided herein, the Company shall be entitled to assert all right, title, and interest of WRCOG in the enforcement and collection of the Purchased Receivables, including but not limited to WRCOG's lien priority, and WRCOG's right to receive the Collections on the Purchased Receivables. Notwithstanding the foregoing, the Company acknowledges that Streets & Highways Code Section 5898.28(b)(2) provides that (i) the Company is not authorized to initiate and prosecute a judicial foreclosure action upon the Properties securing the payment of the Purchased Receivables and (ii) prosecution of such a judicial foreclosure action remains the responsibility of WRCOG.

From and after the receipt by WRCOG of the Purchase Price on the Closing Date, WRCOG shall have no rights whatsoever in and to the Purchased Receivables, including but not limited to the right to receive any Collections in respect of the Purchased Receivables, except with respect to Defective Assessment Installment Receivables repurchased by WRCOG in accordance with Section 3.01 hereof.

WRCOG shall cooperate fully with the Company as may be reasonably required by the Company to exercise any enforcement rights granted to the Company under this Agreement. WRCOG shall take all actions as may be reasonably required by law, including but not limited to the initiation of judicial foreclosure proceedings upon the request of the Company upon the Properties securing the payment of the Purchased Receivables upon behalf of the Company as provided for herein, fully to preserve, maintain, defend, protect and confirm the interests of the Company in the Purchased Receivables and the Collections. Any such enforcement actions, including judicial foreclosure proceedings, required to be undertaken by WRCOG at the Company's request shall be at the sole expense of the Company. If the cost of any such enforcement action is recovered by WRCOG such funds shall first be used to reimburse WRCOG for any such costs that have not been paid by the Company and, upon reimbursement of WRCOG for all such costs, such remaining funds shall be used to reimburse the Company for such costs as have been paid by the Company.

The Company and WRCOG agree that the primary means of enforcement of the payment of a Purchased Receivable shall be a tax sale by the County in which the Property securing such Purchased Receivable is located pursuant to the applicable provisions of Part 6 of Division 1 of the California Revenue and Taxation Code (the "R&T Code"). The Company shall initially forebear from requesting WRCOG to initiate judicial foreclosure proceedings upon any Property securing the payment of a Purchased Receivable for a period of four (4) years from the date of the original delinquency of the Purchased Receivable. If the County in which such Property is located fails to attempt to sell such Property within two (2) years from the date such Property can be sold at a tax sale pursuant to R&T Code Section 3691, the Company may request that WRCOG initiate judicial foreclosure proceedings to secure the payment of the Purchased Receivable and WRCOG shall be obligated to initiate such proceedings.

(b) *Change of Records; Further Actions and Assurances.* On or before the Closing Date, WRCOG shall mark its appropriate records so that, from and after the Closing Date, records of WRCOG shall indicate that such Purchased Receivables have been sold. WRCOG hereby agrees to (i) execute, deliver and cause to be approved and/or recorded all documents, and take

all actions, as may be required to assign the Purchased Receivables and the Collections to the Company under this Agreement, and to notify the County of the assignments made under this Agreement, and (ii) execute, deliver and cause to be approved all amendments to any documents under which bonds or other debt secured by the Purchased Receivables were issued as may be required to assign the Purchased Receivables and the Collections to the Company under this Agreement, and to notify any applicable bond trustee, fiscal agent or payment agent of the assignments made under this Agreement.

(c) *Administration and Remittances of Collections.* WRCOG shall take all commercially reasonable best efforts as may be required to cause the Collections, when remitted by the County to WRCOG, to be remitted as soon as reasonably possible, and in any event not less frequently than once per calendar year, by or on behalf of WRCOG to the Company by federal funds wire transfer to the following account:

CIBC Bank USA
ABA 071006486
Acct Number: 2202292
Acct Name: ELM LIMITED LLC

If the Company becomes aware of Collections that have been remitted by the County to WRCOG and not paid to the Company, the Company may notify WRCOG in writing and WRCOG agrees to take all actions required to remit those Collections to the Company as soon as reasonably possible. If any Collections received by WRCOG from the County are not remitted to the Company within 10 business days of such notice, WRCOG agrees to pay to the Company upon demand interest on the amount of such unpaid Collections at the rate of 10% per annum for each day such Collections remain unpaid after such date.

WRCOG shall cause all notices and reports relating to the Purchased Receivables to be provided to the Company as and when they are available from WRCOG, the Trustee or the Assessment Administrator. In addition, WRCOG shall provide, or cause the Assessment Administrator to provide monthly reporting to the Company on the status of Assessment Installment Receivables, cash reconciliations, and such other similar reports as the Company may reasonably request to enable the Company to account for the Assessment Installment Receivables. The costs of providing such notices and reports as described in this paragraph shall be borne by WRCOG.

(D) *Covenant Not to Waive Penalties.* WRCOG agrees not to waive all or any portion of delinquency penalties and redemption penalties as permitted by any provision of applicable law with respect to any delinquent Assessment Installments included within the Purchased Receivables.

Article IV

WRCOG

Section 4.01. Representations of WRCOG. WRCOG makes the following representations on which the Company is deemed to have relied in acquiring the Assessment Installment Receivables. The representations speak as of the Closing Date and shall survive the sale of the Assessment Installment Receivables to the Company and the pledge thereof to the Company pursuant to this Agreement.

(a) *Due Organization, Existence and Company.* WRCOG is a joint exercise of powers authority, duly organized and validly existing under the Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California and a Joint Exercise of Powers Agreement originally made and entered into as of April 1, 1991, as further amended to date, has full legal right, power and authority under the Constitution and laws of the State to enter into this Agreement, to sell the Assessment Installment Receivables and the Collections to the Company, and to carry out and consummate all transactions contemplated hereby.

(b) *Due Execution.* By all necessary official action of the governing board of WRCOG, WRCOG has duly authorized and approved the execution and delivery of, and the performance by it of the obligations contained in this Agreement, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(c) *Valid, Binding and Enforceable Obligations.* This Agreement constitutes the legal, valid and binding obligation of WRCOG, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights, generally.

(d) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of WRCOG or of the voters of WRCOG's member jurisdictions, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental agency, is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(e) *No Conflicts.* The authorization, execution and delivery of this Agreement and compliance with the provisions of this Agreement do not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which WRCOG (or any of its officers in their respective capacities as such) are subject, or by which it or any of its properties are bound; nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by this Agreement.

(f) *No Litigation.* No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, is pending with service of process accomplished or, to the knowledge of WRCOG, pending or threatened, that:

(i) in any way questions the legal existence of WRCOG or the titles of the officers of WRCOG to their respective offices that would have any material likelihood of affecting the obligations of WRCOG under this Agreement;

(ii) contests the validity or the power and authority of WRCOG to sell or pledge the Assessment Installment Receivables to Company;

(iii) affects, contests or seeks to prohibit, restrain or enjoin the execution and delivery of this Agreement, the sale or pledge of the Assessment Installment Receivables by WRCOG to Company, or the payment of Collections on the Assessment Installment Receivables to the Company;

(iv) in any way contests or affects the validity of this Agreement, the power or authority of WRCOG to enter into this Agreement and perform its obligations hereunder or the consummation of the transactions contemplated hereby; or

(v) may result in any material adverse change relating to WRCOG's ability to comply with its obligations under this Agreement or to the Assessment Installment Receivables.

Section 4.02. Additional Representations and Agreements. WRCOG makes the following additional representations and agreements as of the Closing Date, on which the Company is deemed to have relied in acquiring the Assessment Installment Receivables:

(a) WRCOG has transferred the Assessment Installment Receivables to the Company pursuant to this Agreement for the Purchase Price, together with the Premium thereon, specified in this Agreement in cash. The consideration paid to WRCOG represents the fair market value of the Assessment Installment Receivables. This consideration was agreed upon as the result of arm's length negotiations. WRCOG has determined that the transactions contemplated by this Agreement and the related documents provide the maximum available financial benefits to WRCOG consistent with other objectives and requirements of WRCOG.

(b) WRCOG properly treats the transfer of the Assessment Installment Receivables to the Company as a sale pursuant to generally accepted accounting principles.

(c) There are no other agreements between WRCOG and the Company relating to or affecting the Assessment Installment Receivables, other than this Agreement.

(d) WRCOG does not receive any payments with respect to the Assessment Installment Receivables, except pursuant to this Agreement.

(e) WRCOG will mark its appropriate records so that they indicate the Assessment Installment Receivables have been sold and that the Company is the owner of such Assessment Installment Receivables. Such records of WRCOG may be in the form of a computer tape, microfiche, or other electronic or computer media.

(f) Sales of assets to the Company by WRCOG, including but not limited to the Assessment Installment Receivables, at all times have constituted and will constitute absolute transfers and conveyances, for fair and reasonably equivalent consideration, of all of the seller's right, title and interest in, to and under those assets for all purposes.

(g) WRCOG at no time has taken or will take any action that is inconsistent with any of the foregoing assumptions and that has given or will give (a) any creditor or future creditor of the Company cause to believe mistakenly that any obligation incurred by WRCOG has been or will be not only the obligation of WRCOG, but also of the Company, or (b) any creditor or future creditor of either WRCOG or the Company cause to believe mistakenly that WRCOG and the Company have not been or will not continue to remain separate and distinct entities.

Section 4.03. Representations of Company. Company makes the following representations as of the Closing Date on which the WRCOG is deemed to have relied in selling the Assessment Installment Receivables to Company.

(a) *Due Organization, Existence and Company.* Company is a limited liability company, duly organized and validly existing under the laws of the State of Illinois, has full legal right, power and authority under the Constitution and laws of the State to enter into this Agreement, to purchase the Assessment Installment Receivables and the Collections from WRCOG, and to carry out and consummate all transactions contemplated hereby.

(b) *Due Execution.* By all necessary official action of Company, Company has duly authorized and approved the execution and delivery of, and the performance by it of the obligations contained in this Agreement, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(c) *Valid, Binding and Enforceable Obligations.* This Agreement constitutes the legal, valid and binding obligation of Company, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights, generally.

(d) *No Conflicts.* The authorization, execution and delivery of this Agreement and compliance with the provisions of this Agreement do not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which Company (or any of its officers in their respective capacities as such) are subject, or by which it or any of its properties are bound; nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by this Agreement.

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of Company and no consent, permission, authorization, order or license of, or filing or registration with, any governmental agency, is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation.* No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, is pending with service of process accomplished or, to the knowledge of Company, pending or threatened, that:

(i) in any way questions the legal existence of Company or the titles of the officers of Company to their respective offices that would have any material likelihood of affecting the obligations of Company under this Agreement;

(ii) contests the validity or the power and authority of Company to purchase the Assessment Installment Receivables from WRCOG;

(iii) affects, contests or seeks to prohibit, restrain or enjoin the execution and delivery of this Agreement, the purchase of the Assessment Installment Receivables by Company from WRCOG, or the payment of Collections on the Assessment Installment Receivables to the Company;

(iv) in any way contests or affects the validity of this Agreement or the consummation of the transactions contemplated hereby; or

(v) may result in any material adverse change relating to Company's ability to comply with its obligations under this Agreement.

Article V

Miscellaneous

Section 5.01. Amendment. This Agreement may be amended by an instrument in writing signed by WRCOG and the Company.

Section 5.02. Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto and is made solely for the benefit of the parties hereto. No other person shall acquire or have any right hereunder by virtue hereof, except as provided herein.

Section 5.03. Notices. All notices or communications to be given under this Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon actual receipt after deposit in the United States mail, postage prepaid, or (b) in the case of personal delivery to any person, upon actual receipt. The Company or WRCOG may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Company:

FNA California, LLC
c/o First National Assets
120 N. LaSalle, Suite 1220
Chicago, IL. 60602
Attn: General Counsel

If to WRCOG:

Western Riverside Council of Governments
3390 University Ave. Suite 450
Riverside, California 92501
Attn: Executive Director

Section 5.04. No Assignment by WRCOG. Notwithstanding anything to the contrary contained herein, this Agreement may not be assigned by WRCOG.

Section 5.05. Limitations on Rights of Others. The provisions of this Agreement are solely for the benefit of WRCOG and the Company, and nothing in this Agreement, whether express or implied, shall be construed to give to any other Person any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

Section 5.06. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 5.07. Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 5.08. Headings. The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 5.09. Governing Law and Venue. (a) This Agreement shall be construed in accordance with the laws of the State, without reference to its conflict of law provisions, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

(b) To the extent permitted by law, the parties hereto agree that any and all claims asserted against the Company arising under this Agreement or related thereto shall be heard and determined either in the courts of the United States located in Riverside, California or in the California State Courts located in Riverside, California.

(c) If WRCOG commences any action against the Company in a court located other than in Riverside, California, upon request of the Company, WRCOG shall either consent to a transfer of the action to a court of competent jurisdiction located in Riverside, California or, if the court where the action is initially brought will not or cannot transfer the action, WRCOG shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in Riverside, California.

(d) To the extent permitted by law, the parties hereto agree that any and all claims asserted against WRCOG arising under this Agreement or related thereto shall be heard and determined either in the courts of the United States located in Riverside County, California or in the California State Courts located in Riverside County, California.

(e) If the Company commences any action against WRCOG in a court located other than in Riverside County, California, upon request of WRCOG, the Company shall either consent to a transfer of the action to a court of competent jurisdiction located in Riverside County, California or, if the court where the action is initially brought will not or cannot transfer the action, the Company shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in Riverside County, California.

(f) With respect to any action between WRCOG and the Company in California State Court brought in accordance with the provisions of this Section, WRCOG and the Company each hereby expressly waives and relinquishes any rights either might otherwise have (A) to move to dismiss on grounds of forum non conveniens; (B) to remove to Federal Court; and (C) to move for a change of venue to a California State Court outside the county in which it is pending.

(g) With respect to any action between WRCOG and the Company in Federal Court brought in accordance with the provisions of this Section, WRCOG and the Company each hereby expressly waives and relinquishes any right either might otherwise have to move to transfer the action to another United States Court.

Section 5.10. Nonpetition Covenants. Notwithstanding any prior termination of this Agreement, WRCOG shall not, prior to the date which is one year and one day after the termination of this Agreement with respect to the Company, acquiesce, petition or otherwise invoke or cause the Company to invoke the process of any court or government Company for the purpose of commencing or sustaining a case against the Company under any Federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Company or any substantial part of its property, or ordering the winding up or liquidation of the affairs of the Company.

Section 5.11. Successor Is Deemed Included in All References to Predecessor. Whenever in this Agreement either WRCOG or the Company is named or referred to, such reference shall be deemed to include the successors thereof, and all the covenants and agreements in this Agreement by or for the benefit of WRCOG and Company shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 5.12. Waiver of Personal Liability. No member, officer, agent or employee of the Company or WRCOG shall be individually or personally liable for the payment of any amount due hereunder or be subject to any personal liability or accountability by reason of the transactions described herein; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Agreement.

Section 5.13. Exclusive Right of First Refusal. WRCOG hereby grants to the Company an exclusive right of first refusal to purchase, upon the same terms as are set forth in this Agreement, *mutatis mutandi*, Assessment Installment Receivables that become delinquent with respect to the Tax Years ending on June 30, 2020, June 30, 2021, and June 30, 2022, as follows:

(a) With respect to Assessment Installment Receivables secured by Properties that also secure Assessment Installment Receivables that were previously purchased by the Company, such purchases shall be documented by the execution of an agreement in the form of this Agreement, *mutatis mutandi*, with the purchase price and premium calculated in the same manner as the Purchase Price and Premium in this Agreement; and

(b) With respect to all other Assessment Installment Receivables, such purchases shall be documented by the execution of an agreement in the form of this Agreement, *mutatis mutandi*, with the purchase price and premium calculated in the same manner as the Purchase Price and Premium in this Agreement, modified as the parties mutually agree.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

WESTERN RIVERSIDE COUNCIL OF
GOVERNMENTS

FNA CALIFORNIA, LLC

By: _____
Rick Bishop
Executive Director

By: _____
Name:
Title:

Approved as to Form:

By: _____
Bond Counsel
Best Best & Krieiger

EXHIBIT "A"

EXCLUSION CRITERIA

1. On the Closing Date, an Assessment Installment Receivable that is not lawfully collectable or no longer constitutes a valid and existing lien on the subject Property.
2. On the Closing Date, an Assessment Installment Receivable where the subject Property (i) has been or is expected to be designated as a CERCLA or government designated environmental cleanup site or (ii) is subject to environmental contamination that could materially decrease the market value thereof.
3. On the Closing Date, a subject Property that is described as, owned by, or used for (a) vacant land, (b) a church or religious organization, (c) orphanages or other non-profit or charitable services, (d) sanitariums, convalescent and rest homes, (e) military properties, (f) forests parks or recreational areas, (g) public schools, (h) public colleges (i) public hospitals, (j) county properties, (k) state properties, (l) federal properties, (m) municipal properties, (n) utility properties (e.g., gas, electric, telephone, water, sewage, railroads, pipelines, canals, radio/tv/mobile communications towers), (o) subsurface rights, (p) right-of-way, streets, roads, irrigation channels and ditches, (q) rivers, lakes or other submerged lands, (r) sewage, disposal, solid waste disposal, borrow pits, drainage reservoirs, waste lands, marshes, sand dunes, or swamps or (s) heavy manufacturing or mineral processing.
4. At the time of origination, a subject Property, including improvements thereon, has an assessed value or market value of not less than \$75,000.
5. Except for those Assessment Installment Receivables for commercial properties and certain residential properties administered by program administrators other than Renovate America for the 2015-16 Tax Year, 2016-17 and 2017-18 Tax Year, an Assessment Installment Receivable where the original date of delinquency is greater than 365 days prior to the Cut-off Date.
6. An Assessment Installment Receivable that was not originated by a WRCOG or any of its authorized program administrators.
7. On the Closing Date, an Assessment Installment Receivable that has been (a) challenged as to amount, enforceability or validity, (b) the subject of litigation, (c) subject to right of rescission, right of setoff or counterclaim, or (d) subjected to the assertion of defenses with respect to any of the foregoing.
8. At the time of origination, an Assessment Installment Receivable where (a) the loan to value ratio of the existing mortgage is greater than 90% or (b) the ratio of the aggregate amount of debt secured by any lien on the related Property to the market value of the Property is greater than 95%.
9. On the Closing Date, an Assessment Installment Receivable that is subordinate to other valid claims on the subject Property or that otherwise does not have a first lien priority.

EXHIBIT "B"

LIST OF ASSESSMENT INSTALLMENT RECEIVABLES SCHEDULE

EXHIBIT "C"

LIST OF MASTER INDENTURES

- a. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2013, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (Energy Efficiency and Water Conservation Program for Western Riverside County) (First Residential Property Tranche – Phase Three), as amended by the First Amendment to the Master Indenture dated as of February 1, 2014.
- b. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of February 1, 2014, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (First Residential Property Tranche – Phase One)
- c. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of August 1, 2014, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Second Residential Property Tranche – Phase One)
- d. Amended and Restated Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of March 1, 2015, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Second Residential Property Tranche – Phase One)
- e. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of March 1, 2015 relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Third Residential Property Tranche – Phase One)
- f. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of July 1, 2015, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Fourth Residential Property Tranche – Phase One);
- g. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of October 1, 2015, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Fifth Residential Property Tranche – Phase One)
- h. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of January 1, 2016, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds

(WRCOG Program and California HERO Program) (Sixth Residential Property Tranche – Phase One)

- i. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of May 1, 2016, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Seventh Residential Property Tranche – Phase One)
- j. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of June 1, 2016, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Lifestyle Residential Property Tranche – Phase One)
- k. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2016, relating to the Western Riverside Council of Governments Limited Subordinate Obligation Improvement Bonds (WRCOG HERO Program) (First Residential Property Tranche – Phase One)
- l. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2016, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Eighth Residential Property Tranche – Phase One)
- m. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of January 1, 2017, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Ninth Residential Property Tranche – Phase One)
- n. Amended and Restated Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of March 1, 2017, relating to the Western Riverside Council of Governments Limited Subordinate Obligation Improvement Bonds (WRCOG HERO Program) (First Residential Property Tranche – Phase One)
- o. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of May 1, 2017, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG HERO Program) (Tenth Residential Property Tranche – Phase One)
- p. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2013, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (Energy Efficiency and Water Conservation Program for Western Riverside County) (First Commercial Property Tranche)

- q. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of January 1, 2015, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (First Commercial Property Tranche)
- r. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2017, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG HERO Program) (Eleventh Residential Property Tranche – Phase One)
- s. Amended and Restated Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of November 1, 2017, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG HERO Program) (Eleventh Residential Property Tranche – Phase One)
- t. Master Indenture by and between WRCOG and Deutsche Bank National Trust Company, as Trustee, dated as of January 1, 2018, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Twelfth Residential Property Tranche – Phase One)
- u. Master Indenture by and between WRCOG and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of July 1, 2018, relating to the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG Program and California HERO Program) (Thirteenth Residential Property Tranche – Phase One)
- v. Master Indenture by and between WRCOG and Wilmington Trust, National Association, as Trustee, dated as of June 1, 2017, relating to the CaliforniaFIRST Limited Obligation Improvement Bonds (M4WR)
- w. Amended and Restated Master Indenture by and between WRCOG and Wilmington Trust, National Association, as Trustee, dated as of July 27, 2017, relating to the CaliforniaFIRST Limited Obligation Improvement Bonds (M4WR)
- x. Amended and Restated Master Indenture by and between WRCOG and Wilmington Trust, National Association, as Trustee, dated as of July 27, 2017, relating to the CaliforniaFIRST Limited Obligation Improvement Bonds (M4WR)
- y. Master Indenture by and between WRCOG and Wilmington Trust, National Association, as Trustee, dated as of November 16, 2017, relating to the CaliforniaFIRST Limited Obligation Improvement Bonds (M5WR)
- z. Amended and Restated Master Indenture by and between WRCOG and Wilmington Trust, National Association, as Trustee, dated as of May 10, 2018, relating to the CaliforniaFIRST Limited Obligation Improvement Bonds (M5WR)

- aa. Master Indenture by and between WRCOG and Wilmington Trust, National Association, as Trustee, dated as of July 27, 2018, relating to the CaliforniaFIRST Limited Obligation Improvement Bonds (M6WR)
- bb. Master Indenture by and between WRCOG and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of March 1, 2018, relating to the Western Riverside Council of Governments PACEfunding Limited Obligation Improvement Bonds
- cc. Amended and Restated Master Indenture by and between WRCOG and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of September 1, 2018, relating to the Western Riverside Council of Governments PACEfunding Limited Obligation Improvement Bonds
- dd. Second Master Indenture by and between WRCOG and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of January 1, 2019, relating to the Western Riverside Council of Governments PACEfunding Limited Obligation Improvement Bonds
- ee. Third Master Indenture by and between WRCOG and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of January 1, 2019, relating to the Western Riverside Council of Governments PACEfunding Limited Obligation Improvement Bonds



Western Riverside Council of Governments

Administration & Finance Committee

Staff Report

Subject: Consideration of Resolution Regarding Balanced Energy Choices

Contact: Rick Bishop, Executive Director, rbishop@wrcog.us, (951) 405-6702

Date: September 11, 2019

The purpose of this item is to seek direction from the Committee as to whether to take a position on a resolution supporting balanced energy choices in California.

Requested Action:

1. Discuss and provide direction, if necessary.

Background

Staff was recently approached by representatives from the Southern California Gas Company (SoCalGas) to discuss whether WRCOG would consider supporting a resolution that looks to preserve local control when it comes to energy solutions for its community, as well as for the state. Since July, a number of jurisdictions throughout the state (Attachment 1) have adopted such a Resolution; this includes WRCOG member jurisdictions of the Cities of Banning, Beaumont, Canyon Lake, Lake Elsinore, Murrieta, Perris, Riverside, San Jacinto, and Wildomar.

Southern California Edison (SCE) has also reached out to WRCOG regarding the adoption of this resolution; SCE staff is not in favor of adopting the Resolution in its current form. We understand that some member jurisdictions have revised the resolution at the request of SCE; however, other member jurisdictions took the SoCalGas resolution as is.

Because of this unique situation, where there appears to be some conflict between our two utilities, staff is bringing this item forward for discussion on whether it would like WRCOG to proceed with adopting a resolution (Attachment 2).

California's Energy Goals

In an effort to reduce the state's carbon footprint, the state Legislature and energy agencies have been pursuing ambitious goals for statewide carbon neutrality. California has made significant strides to combat climate change, including the following:

Senate Bill (SB) 100: 100 Percent Clean Energy Act of 2018 (Chaptered 2018), mandates that the electrical providers must rely entirely on eligible renewable energy resources and zero-carbon resources supply for its electricity by the year 2045.

Since natural gas is carbon-based, its use would be inconsistent with the requirements of SB 100. However, SoCalGas has begun producing renewable natural gas, which is considered to be carbon-neutral and as such may meet the intent of SB 100. State agencies are continuing to work on the implementation of SB 100. On September 5, 2019, there will be a joint workshop between the California Energy Commission (CEC), the

California Public Utilities Commission CPUC, and the California Air Resources Board (CARB) to kick off the process for developing the joint-agency report required by SB 100, the “100 Percent Clean Energy Act of 2018.”

Assembly Bill (AB) 3232: Zero-emissions Buildings and Sources of Heat Energy (Chaptered 2018), provides a goal to reduce greenhouse gas emissions by 40% below 1990 levels by the year 2030. According to SCE representatives, the bill does not contain a ban on natural gas. However, the bill does articulate that “decarbonizing California’s buildings is essential to achieve the state’s greenhouse gas emission reduction goals at the lowest possible cost.”

SB 1477, Low-emissions Buildings and Sources of Heat Energy (Chaptered 2019), requires the CEC to develop a statewide market transformation initiative to transform the state’s market for low-emission space and water heating equipment for new and existing residential and nonresidential buildings and to develop an incentive program to fund near-zero emission technology for new residential and commercial buildings.

According to SCE representatives, there is no mention in either of these about taking away a local jurisdiction’s local control or mandating a ban on natural gas. SB 1477 would develop an incentive program for near-zero emission technology. The pilot programs SCE would offer would be voluntary. SB 1477 does state that, “It is the intent of the Legislature to build on the success of the New Solar Homes Partnership Program by providing incentives to builders to design innovative, low-emission buildings, and to make low-emission heating equipment readily available and affordable in California.” In January 2019, the CPUC has undertaken rulemaking (R.19-01-011) that includes: 1) implementing SB 1477; 2) potential pilot programs to address new construction in areas damaged by wildfires; 3) coordinating CPUC policies with Title 24 Building Energy Efficiency Standards and Title 20 Appliance Efficiency Standards developed at the Energy Commission; and 4) establishing a building decarbonization policy framework.

Recently, the CPUC released “Building Decarbonization: Fact vs. Fiction.” The fact sheet mainly focuses on two new voluntary incentive programs established by SB 1477 (Stern, 2018) to help decarbonize the state’s building stock and achieve our leading climate goals. These programs are currently under development at the CPUC (Attachment 3). The Fact sheet was in response to recent news article claims made by several advocacy organizations about the continuation of natural gas use in buildings. The fact sheet is intended to dispel these inaccuracies and “myths.”

Should WRCOG take a position? WRCOG’s 2019/2020 Legislative Platform (Section 4) already contains language that supports the protection of local control related to energy decisions (such as community choice programs). In addition, WRCOG administers several Programs that look to keep local control to energy programs and to remain fuel neutral. These include the Western Riverside Energy Partnership, the Western Riverside Clean Cities Coalition, as well as Western Community Energy. Thus, it would seem that adopting the resolution would be somewhat redundant in this regard.

Staff also notes that there is increasing interest in gathering more information. For example, staff recently learned about an upcoming workshop being hosted by area realtors (SRCAR) on September 10 called “The Electrification of California” and will feature staff from SoCalGas and SCE as presenters.

Staff’s perspective at this time is that it should examine this issue more comprehensively and return with additional information for the Committee’s consideration.

Prior Action:

None.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachments:

1. BizFed News article, "San Joaquin Valley County Supervisors join BizFed Central Valley, C4BES, and SoCalGas to Announce Resolutions in Support of More Inclusive State Energy Policies."
2. Model Resolution supporting maintaining local control of energy solutions.
3. CPUC Building Decarbonization Fact vs. Fiction sheet.

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Item 5.C

Consideration of Resolution
Regarding Balanced Energy Choices

Attachment 1

BizFed News article, “San Joaquin Valley
County Supervisors join BizFed Central
Valley, C4BES, and SoCalGas to
Announce Resolutions in Support of
More Inclusive State Energy Policies”

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MEDIA CONTACT

Lois Henry
Advocacy Director, BizFed
661-204-3635
lois.henry@bizfed.org

FOR IMMEDIATE RELEASE

San Joaquin Valley County Supervisors join BizFed Central Valley, C4BES, and SoCalGas to Announce Resolutions in Support of More Inclusive State Energy Policies

Two-thirds of voters oppose eliminating the use of natural gas. Building electrification could cost single family homes \$4.3 to \$6.1 billion more each year.

Using renewable natural gas to reduce emissions from buildings is 3 times more cost effective than any all-electric solution

Fresno, CA, June 27, 2019 – [BizFed Central Valley Business Federation](#), and [Californians for Balanced Energy Solutions](#), today joined County Supervisors from Fresno, Kings, and Tulare counties, as well as leaders from [SoCalGas](#) to advocate for more inclusive state energy policies. In response to state regulators' efforts to eliminate natural gas use in homes and businesses in favor of electricity only, Kings, Tulare and Kern counties all recently passed resolutions supporting a more balanced approach that preserves local control, promotes consumer choice, and keeps utility bills affordable. Fresno County is also considering a resolution in support of more balanced, inclusive energy policies.

More than 90 percent of homes in Central and Southern California use natural gas for home space and water heating or cooking. Poll data show consumers favor natural gas for those uses because it is more affordable than electricity. State policymakers at the California Energy Commission and California Public Utilities Commission are considering the adoption of new regulations that would eliminate natural gas use in new and existing homes and replace it with more expensive electric-only energy.

If natural gas is eliminated as an affordable fuel option, homeowners could see major increases in utility bills, according to the [California Building Industry Association](#) (CBIA). A 2018 CBIA study found that in homes with natural gas appliances, swapping those appliances for all-electric alternatives could cost the average homeowner:

- \$7,200 to upgrade wiring and electrical panels and to purchase new appliances.
- \$877 per household each year in increased energy costs.

Across Southern California's 7 million single-family homes, the total cost increase is \$4.3 to \$6.1 billion per year.

A separate, poll conducted by CBIA last year found that only one in ten would choose electric-only appliances, **two-thirds of voters oppose eliminating the use of natural gas**, and 82 percent oppose eliminating the use of natural gas if consumers' monthly energy bills would increase.

"When so many in our state are struggling to find affordable housing and the number of homeless continues to increase, it is shocking that the state of California to impose billions of dollars in what amounts to new taxes without legislative approval, and without the input of local governments," said

Steve Worthley, Board Member at Californians for Balanced Energy Solutions. "Clean, safe, affordable and reliable natural gas and renewable natural gas can help us reach our environmental goals without the unnecessary burdens associated with new mandates."

"We need balance. A one-size-fits-all solution to the complex issue of emissions reductions is not realistic for anyone. Many business owners who rely on natural gas on a daily basis will not be able to afford switching their operations to all-electric and the same goes for homeowners with natural gas appliances," said Tara Lynn Gray, CEO of the Fresno Metro Black Chamber of Commerce and Ambassador for BizFed Central Valley business federation.

"I was shocked to learn of the CPUC's decision to potentially electrify all homes and buildings and eliminate natural gas" said Nathan Magsig, Chairman of the Fresno County Board of Supervisors. "The cost of living in California is going up by the day, and so are electricity rates, which in California are the 6th most expensive in the nation. We need to seriously consider and pursue other cost-effective energy alternatives in conjunction with RNG."

"RNG has changed the game for our local dairymen. What had been a liability in a challenging industry, has now become an asset," said Kuyler Crocker, Chairman of the Tulare County Board of Supervisors. "Not only are greenhouse gases reduced by using RNG, but we also have the economic benefits of additional investments coming to our region."

"People are going to want to continue to use natural gas, and RNG allows folks to keep their gas but have more of it come from renewable sources," said Joe Neves, Chair of the County Board of Supervisors for Kings County. "This clean energy solution works with people's preferences rather than against them. We should have that right to decide."

Recent research shows there are less expensive and disruptive alternatives to electrifying buildings in California. A 2018 study by Navigant consulting showed that replacing just 20 percent of California's natural gas supply with renewable natural gas (RNG) produced from the methane emissions at landfills, farms, and wastewater treatment plants would reduce emissions equal to converting 100 percent of buildings in California to run on more expensive electric only energy by 2030.

Using RNG to reduce emissions in buildings is also up to three times less expensive than any all-electric solution and it allows families to keep enjoying natural gas cooktops, fireplaces, and their other gas appliances, all while helping California meet its ambitious environmental goals.

In addition, a 2016 law already requires 40 percent of methane from California's landfills and farms to be captured, with provisions to deliver that energy to customers. This will bolster the supply of RNG that is already growing rapidly as cities and towns across the country look to divert organic waste from landfills.

SoCalGas recently committed to replace 20 percent of its traditional natural gas supply with renewable natural gas (RNG) by 2030.

"Achieving California's ambitious climate goals will require business leaders, non-governmental organizations, and policymakers to work together to re-imagine how California's energy infrastructure can operate as one, integrated system that maximizes emissions reductions and minimizes waste," said Sharon Tomkins, SoCalGas vice president for strategy and engagement. "Implementing a balanced approach that promotes advanced energy technologies will allow California to keep energy affordable and reliable and preserve consumer choice."

To view the resolutions passed by Kern, Kings and Tulare counties, please visit [here](#).

For more information on how you or your organization can support a balanced and affordable approach to energy visit www.c4bes.org.

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Item 5.C

Consideration of Resolution
Regarding Balanced Energy Choices

Attachment 2

Model Resolution supporting maintaining
local control of energy solutions

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Model Resolution for Maintaining Local Control of Energy Solutions

Whereas California's energy policies are critical to reducing greenhouse gas emissions and reducing the impact of climate change on our citizens; and

Whereas the state legislature and state agencies are increasingly proposing new legislation and regulations eliminating choice of energy by mandating technologies to power buildings and public and private fleets, including transit and long-haul trucking, as a strategy to achieve the state's climate goals; and

Whereas clean, affordable and reliable energy is crucial to the material health, safety and well-being of [CITY NAME] residents, particularly the most vulnerable, who live on fixed incomes, including the elderly and working families who are struggling financially; and

Whereas the need for clean, affordable and reliable energy to attract and retain local businesses, create jobs and spur economic development is vital to our city's success in a highly competitive and increasingly regional and global marketplace; and

Whereas [CITY NAME], its residents and businesses value local control and the right to choose the policies and investments that most affordably and efficiently enable them to comply with state requirements; and

Whereas building and vehicle technology mandates eliminate local control and customer choice, suppress innovation, reduce reliability and unnecessarily increase costs for [CITY NAME] residents and businesses; and

Whereas the City understands that relying on a single energy delivery system unnecessarily increases vulnerabilities to natural and man-made disasters, and that a diversity of energy delivery systems and resources contribute to greater reliability and community resilience; and

Whereas [CITY NAME] understands the need to mitigate the impacts of climate change and is committed to doing its part to help the state achieve its climate goals, but requires the flexibility to do so in a manner that best serves the needs of its residents and businesses. NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of [CITY NAME], as follows:

That the City supports balanced energy solutions that provide it with the decision-making authority and resources needed to achieve the state's climate goals, and opposes proposed state legislation and policy that eliminate local control by mandating technologies that can be used to power buildings and fuel vehicles, and also meet or exceed emissions reductions regulations.

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Item 5.C

Consideration of Resolution
Regarding Balanced Energy Choices

Attachment 3

CPUC Building Decarbonization Fact vs.
Fiction sheet

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Building Decarbonization: Fact vs. Fiction

The California Public Utilities Commission (CPUC) is in the process of implementing Senate Bill (SB) 1477 (Stern, 2018), which directs the Commission to create two new voluntary incentive programs to promote the use of highly efficient building appliances. The first program, the Building Initiative for Low Emissions Development (BUILD) program, will offer up to \$20 million per year for four years to promote the construction of new residential housing that utilizes near-zero-emission building technologies. The second program, the Technology and Equipment for Clean Heating (TECH) program, will offer up to \$30 million per year for four years to promote purchases of low-emission space and water heating equipment.

Recent false and misleading claims made by groups advocating for the continued use of natural gas have caused confusion among elected officials, the media, and the general public regarding what actions the CPUC and other state agencies are currently taking to help decarbonize California's buildings. Below are a few of these "myths", countered by reality.

Myth #1: The CPUC is mandating that all buildings stop using natural gas

Reality: There is no such mandate. The BUILD and TECH programs create incentives for utility customers to invest in new low carbon-emitting building technologies. The programs will be created in accordance with state statute and do not include any mandate to dismantle or diminish California's existing natural gas pipeline infrastructure. The tens of millions of natural gas appliances currently operating in homes and businesses across California represent a significant source of greenhouse gas (GHG) emissions and indoor air pollution. Collectively, buildings are responsible for approximately 12 percent of the state's overall emissions, and most of those emissions come from natural gas space and water heating. Meanwhile, electricity in California is becoming increasingly cleaner thanks to laws like the Renewables Portfolio Standard, which requires the state's electric retail providers to buy at least 60 percent of their electricity from eligible renewable resources by 2030, and for the state's electricity grid to be completely carbon-free by 2045. In California, electricity is increasingly a cleaner alternative to natural gas. BUILD and TECH are intended to increase the use of highly efficient electric appliances, thus resulting in an overall decrease in GHG emissions over time.

Myth #2: Californians will be forced to retrofit their homes

Reality: Nobody will be forced to convert any of their appliances. Both BUILD and TECH are entirely VOLUNTARY programs. If a homebuilder does not want to construct new residential housing that utilizes near-zero-emission building technologies, they do not have to. Similarly, a consumer planning to retrofit their home with a new appliance will have no obligation to purchase electric appliances instead of natural gas appliances. Consumers will continue to have the choice to purchase whatever appliance best meets their needs.

Myth #3: Consumers will see dramatically higher bills

Reality: Neither BUILD nor TECH is anticipated to increase the average cost of service. The bill impacts for individual consumers participating in the programs will depend on a variety of factors, but the highly efficient appliances promoted by BUILD should result in significantly lower energy bills. According to an April 2019 study conducted by Energy and Environmental Economics, Inc., “building electrification... can lead to consumer capital cost savings, bills savings, and lifecycle savings in many circumstances.”¹ The study adds, “The most promising near-term opportunities for consumer cost savings among low-rise residential building electrification options can be found in all-electric new construction, and high efficiency air source heat pumps in homes where air conditioning can be replaced with heat pumps.”

Myth #4: Renewable natural gas will not be a future option

Reality: The CPUC is actively working to make renewable natural gas available in greater quantity. Six dairy digester biomethane producing pilot projects were recently authorized by the CPUC to be funded by natural gas investor owned utility ratepayers. In addition, the Commission is currently considering applications from both Southern California Gas Company and San Diego Gas & Electric to introduce a new program that would allow customers to opt into purchasing renewable natural gas for their building. On August 20, 2019, the CPUC will host a workshop at its San Francisco headquarters to begin developing a process to determine whether “off specification” gas can be injected into the pipeline system and blended in the system itself. The CPUC is considering multiple ways to quickly, effectively, and efficiently decarbonize California’s energy mix, and renewable natural gas is anticipated to play a role in that process. More information related to the CPUC’s efforts to promote renewable gas can be found at https://www.cpuc.ca.gov/renewable_natural_gas/.

Myth #5: Action is not needed at this time

Reality: BUILD and TECH represent an important next step in helping California meet its climate-related goals by reducing GHG emissions and local air pollution from buildings. The two programs are anticipated to play a similar role to that of the California Solar Initiative, which brought cost-effective rooftop solar photovoltaic systems to California. Early action, market transformation programs will ensure that low- and zero-emission space and water heating technologies continue to improve in effectiveness and lower both installed costs and operating costs alike. To the extent that BUILD and TECH help incentivize the use of highly efficient electrically powered technologies for space and water heating, the two programs will help California reduce its overall GHG emissions and local air pollution more and more each passing year. Timely action is necessary for California to continue to be a leader in the fight against climate change, and both BUILD and TECH will contribute to the state’s leading and comprehensive climate policies and initiatives.

¹ https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf