Western Riverside Council of Governments
Executive Committee

AGENDA

Monday, October 1, 2018
2:00 p.m.

County of Riverside
Administrative Center
4080 Lemon Street
1st Floor, Board Chambers
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 Executive 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 Executive Committee may take any action on any item listed on the agenda, regardless of the Requested Action.

1. CALL TO ORDER / ROLL CALL (Chuck Washington, Chair)

2. PLEDGE OF ALLEGIANCE

RECESS OF THE WRCOG EXECUTIVE COMMITTEE MEETING TO CONVENE THE MEETING OF THE WRCOG SUPPORTING FOUNDATION, AND RECONVENE THE WRCOG EXECUTIVE COMMITTEE MEETING AT THE ADJOURNMENT OF THE WRCOG SUPPORTING FOUNDATION MEETING

3. PUBLIC COMMENTS

At this time members of the public can address the Executive Committee regarding any items within the subject matter jurisdiction of the Executive Committee that are not separately listed on this agenda. Members of the public will have an opportunity to speak on agendized 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 Executive Committee in writing and only pertinent points presented orally.

4. MINUTES

A. Summary Minutes from the September 10, 2018, Executive Committee Meeting are Available for Consideration. **P. 1**

Requested Action: *1. Approve the Summary Minutes from the September 10, 2018, Executive Committee meeting.*

5. 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 Executive Committee, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Executive Committee request specific items be removed from the Consent Calendar.

Action items:

A. TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements ***Christopher Gray*** **P. 9**

Requested Actions:

1. Approve a revision to the 3,000 Square Foot Reduction Policy for retail and service uses that limits this reduction to projects that are less than 20,000 square feet.
2. Direct staff to report back on implementation within one year, specifically regarding implementation changes, if any, among stakeholders and jurisdictions and the fiscal impacts from implementation of this policy.
3. Recommend that the Executive Committee approve an update to the TUMF Zone boundaries to align with County of Riverside Supervisorial Districts.
4. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Riverside for the Planning and Engineering Phases of the Van Buren Boulevard Widening, Jurupa Avenue to Santa Ana River, Project in an amount not to exceed $160,000.
5. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Riverside for the Plans, Specifications, and Estimates Phase of the Iowa Avenue Widening, University Avenue to Martin Luther King, Project in an amount not to exceed $80,000.
6. Authorize the Executive Director to execute Amendment No. 1 to the TUMF Reimbursement Agreement with the City of Perris for the Planning Phase of the Ramona Expressway Widening, I-215 to Webster Avenue, Project in an amount not to exceed $100,480.
7. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Perris for the Construction Phase of the Nuevo Road Widening, Murrieta Road to Dunlap Drive, with a 300’ Bridge Project in an amount not to exceed $4,300,000.

Information items:

B. Finance Department Activities Update ***Andrew Ruiz*** **P. 105**

Requested Action: *1. Receive and file.*

C.	**WRCOG Committees and Agency Activities Update**	***Rick Bishop***	**P. 111**

Requested Action: *1. Receive and file.*

D.	**Regional Streetlight Program Activities Update**	***Tyler Masters***	**P. 125**

Requested Action: *1. Receive and file.*

E.	**PACE Programs Activities Update**	***Casey Dailey***	**P. 129**

Requested Action: *1. Receive and file.*

F.	**Western Riverside Energy Partnership Activities Update**	***Tyler Masters***	**P. 133**

Requested Action: *1. Receive and file.*

G.	**Report from the League of California Cities**	***Erin Sasse, League of California Cities***	**P. 137**

Requested Action: *1. Receive and file.*

6. REPORTS / DISCUSSION

A.	**Proposed New TUMF Calculation Policy**	***Christopher Gray***	**P. 141**

Requested Actions:

1. *Adopt changes to the TUMF Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies that wish to enroll in this process.*
2. *Direct staff to prepare an amendment to the TUMF Ordinance to allow WRCOG to collect TUMF on behalf of its member agencies that wish to enroll in this process.*
3. *Direct staff to consult with each member agency to formally determine those that wish to enroll in this process.*
4. *Direct staff to work with legislative bodies with each agency wishing to enroll in this process to adopt an update to their TUMF Ordinance.*
5. *Direct staff to allow those agencies who do not wish at this time to enroll in this process to continue calculating and collecting TUMF.*
6. *Direct staff to contact all member agencies on an annual basis to verify enrollment status.*

7. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

8. REPORT FROM COMMITTEE REPRESENTATIVES

SCAG Regional Council and Policy Committee representatives
SCAQMD, Ben Benoit
CALCOG, Brian Tisdale

9. REPORT FROM THE EXECUTIVE DIRECTOR *Rick Bishop*

10. ITEMS FOR FUTURE AGENDAS *Members*

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

11. GENERAL ANNOUNCEMENTS *Members*

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

12. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to Section 54956.9(d)(4): One case

13. NEXT MEETING: **The next Executive Committee meeting is scheduled for Monday, November 5, 2018, at 2:00 p.m., at the County of Riverside Administrative Center, 1st Floor Board Chambers.**

14. ADJOURNMENT

Western Riverside Council of Governments

4.A

Regular Meeting

~ Minutes ~

Monday, September 10, 2018 | **2:00 PM** | **County Administrative Center**

1. CALL TO ORDER

The meeting was called to order by Chair Chuck Washington at 2:02 p.m. on September 10, 2018, at the Riverside County Administrative Center, 4080 Lemon Street, Riverside.

Jurisdiction	Attendee Name	Status	Arrived / Departed
City of Banning	Debbie Franklin	Present	1:55 PM / 2:28 PM
City of Beaumont	Nancy Carroll	Present	1:55 PM
City of Calimesa	Jeff Hewitt	Present	1:55 PM
City of Canyon Lake	Jordan Ehrenkranz	Present	1:55 PM
City of Corona	Randy Fox	Present	1:55 PM
City of Eastvale	Adam Rush	Present	1:55 PM
City of Hemet		Absent	
City of Jurupa Valley		Absent	
City of Lake Elsinore	Brian Tisdale	Present	1:55 PM
City of Menifee		Absent	
City of Moreno Valley	Victoria Baca	Present	1:55 PM
City of Murrieta	Kelly Seyarto	Present	1:55 PM
City of Norco	Kevin Bash	Present	1:55 PM
City of Perris	Rita Rogers	Present	1:55 PM
City of Riverside	Rusty Bailey	Present	1:55 PM
City of San Jacinto	Crystal Ruiz	Present	1:55 PM
City of Temecula	Maryann Edwards	Present	1:55 PM
City of Wildomar	Ben Benoit	Present	1:55 PM
District 1	Kevin Jeffries	Present	1:55 PM
District 2		Absent	
District 3	Chuck Washington	Present	1:55 PM
District 5	Marion Ashley	Present	1:55 PM
EMWD	David Slawson	Present	1:55 PM
WMWD	Brenda Dennstedt	Present	1:55 PM
Morongo Band of Mission Indians		Absent	
Office of Education (ex-officio)	Dr. Judy White	Present	1:55 PM
TAC Chair	George Johnson	Present	1:55 PM
Executive Director	Rick Bishop	Present	1:55 PM

Note: Times above reflect when the member logged in; they may have arrived at the meeting earlier.

2. PLEDGE OF ALLEGIANCE

Chair Chuck Washington led members and guests in the Pledge of Allegiance.

3. PUBLIC COMMENTS

There were no public comments.

4. MINUTES

RESULT:	**APPROVED AS RECOMMENDED**
MOVER:	City of Murrieta
SECONDER:	City of Banning
AYES:	Banning, Calimesa, Canyon Lake, Corona, Eastvale, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, Temecula, Wildomar, District 1, District 3, District 5, EMWD, WMWD
ABSTAIN:	Beaumont, San Jacinto
ABSENT:	Hemet, Jurupa Valley, Menifee, District 2, Morongo Band of Mission Indians

A. Summary Minutes from the August 6, 2018, Executive Committee Meeting are Available for Consideration

Action: 1. *Approved the Summary Minutes from the August 6, 2018, Executive Committee meeting.*

5. CONSENT CALENDAR

RESULT:	**APPROVED AS RECOMMENDED**
MOVER:	City of Wildomar
SECONDER:	District 5
AYES:	Banning, Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 1, District 3, District 5, EMWD, WMWD
ABSENT:	Hemet, Jurupa Valley, Menifee, District 2, Morongo Band of Mission Indians

A. Transportation Uniform Mitigation Fee Program Activities update: Approval of Project Reimbursement Agreements and Amendments to Reimbursement Agreements

Actions:

1. *Authorized the Executive Director to execute Amendment No. 3 to the TUMF Reimbursement Agreement with the City of San Jacinto for the Planning and Engineering Phases of the Esplanade Avenue Widening (Warren Road to State Street) Phases I and II Project in an amount not to exceed $1,170,025.*
2. *Authorized the Executive Director to execute a TUMF Reimbursement Agreement with the City of San Jacinto for the Right-of-Way Phase of the Esplanade Avenue Widening (Warren Road to State Street) Phases I and II Project in an amount not to exceed $1,000,000.*
3. *Authorized the Executive Director to execute Amendment No. 1 to the TUMF Reimbursement Agreement with March Joint Powers*

Authority (JPA) for the Construction Phase of the Van Buren Boulevard Widening (Barton Road to 1,000' West of I-215) Project in an amount not to exceed $7,222,000.

4. *Authorized the Executive Director to execute Amendment No. 1 to the TUMF Reimbursement Agreement with the County of Riverside for the Planning and Engineering Phases of the Cajalco Road Widening Project (Alexander Street to I-215) in an amount not to exceed $2,413,338.*

B. Small Cell Deployment and S. 3157

This item was pulled for discussion by Committee member Jeff Hewitt who indicated that when this came out as a state bill and was nearly identical, he supported it. Committee member Hewitt likes the fact that it keeps local jurisdictions from having too much power.

***Action*:** 1. *Adopted an "Oppose" position for Congressional Senate Bill S. 3157 (Thune) and authorize the Executive Director to transmit a letter on behalf of WRCOG indicating WRCOG's oppositions for S. 3157.*

RESULT:	**APPROVED AS RECOMMENDED**
MOVER:	City of Moreno Valley
SECONDER:	City of Banning
AYES:	Banning, Canyon Lake, Corona, Eastvale, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 1, DIstrict 3, District 5, EMWD, WMWD
NAYS:	Beaumont, Calimesa
ABSENT:	Hemet, Jurupa Valley, Menifee, District 2, Morongo Band of Mission Indians

C. Approval of Professional Services Agreements for the Regional Climate Adaptation Toolkit for Transportation Infrastructure Phase I

***Actions*:**

1. *Approved the Professional Services Agreement between the Western Riverside Council of Governments and PlaceWorks, Inc., to provide community outreach and engagement support services for the Regional Climate Adaptation Toolkit for Transportation Infrastructure Phase I, in an amount not to exceed $377,877.*
2. *Approved the Professional Services Agreement between the Western Riverside Council of Governments and WSP USA, Inc., to provide services developing the Climate Resilient Transportation Infrastructure Guidebook and components of the Community and Transportation Vulnerability Assessment for the Regional Climate Adaptation Toolkit for Transportation Infrastructure Phase I, in an amount not to exceed $127,083.*
3. *Approved the Professional Services Agreement between the Western Riverside Council of Governments and the Local Government Commission to provide community outreach and engagement support services for the Regional Climate Adaptation Toolkit for Transportation Infrastructure Phase I, in an amount not to exceed $100,000.*
4. *Authorized a budget amendment, increasing the budget by a total of $733,931, of which $683,431 will be reimbursed by Caltrans through the Adaptation grant to cover all consultant fees and a portion of staff time for the project.*

D. Finance Department Activities Update

Action: *1. Received and filed.*

E. WRCOG Committees and Agency Activities Update

Action: *1. Received and filed.*

F. Regional Streetlight Program Activities Update

Action: *1. Received and filed.*

G. PACE Programs Activities Update

Action: *1. Received and filed.*

H. Local Assistance for WRCOG Member Agencies: Grant Writing Assistance & BEYOND Program Activities Update

Action: *1. Received and filed.*

6. REPORTS / DISCUSSION

A. Report from the League of California Cities

Erin Sasse was unable to attend the meeting; therefore no report was provided.

B. Regional Homelessness Services update

Andrea Howard, WRCOG Program Manager, Government Relations, Planning, and Special Projects, reported that the Regional Homelessness Statement of Principles were developed with input from member jurisdictions using best practices and served to institute consistency and better for opportunities for collaboration between member jurisdictions. These Principles were adopted by this Committee in March 2018 with a goal of each member jurisdiction adopting them subsequently. To staff's knowledge, to date, four member jurisdictions have adopted the Principles. A joint presentation is being provided today in which each jurisdiction was funded $79,000 through the BEYOND TEAM Initiative.

Robin Gilleland, City of Temecula, reported that the Regional Homeless Alliance was created approximately four years ago in Southwest Riverside County. Team members called all providers within the area and completed surveys. The relationships were developed. It was determined that programs missing were child care, housing, and mental health services. The Alliance works with a local Church to prepare and provide welcome home baskets, which can include cleaning products, or sheets for beds. Providing coordinated homeless outreach services utilizes public, private, and non-profit sector resources. The Alliance wants to increase housing opportunities to individuals, families, and veterans who are experiencing homelessness.

Current members of the Alliance include the Cities of Lake Elsinore, Menifee, Murrieta, Temecula, and Wildomar. Based upon a recent Point in Time count, these five Cities show an increase in the number of homeless. Ms. Gilleland introduced Brad Fieldhouse of City Net, the Alliances' contracted street-level provider.

Mr. Fieldhouse indicated that City Net is based out of Orange County for the County and number Orange County cities. City Net has also worked for the City of Temecula. City Net was part of the WRCOG effort working as the referral agency with the school districts in all five Alliance cities. City Net helped 23 families, made up of 28 adults and 50 children, for a total of 78 individuals who were housed. City Net also works at the street-level.

Ms. Gilleland added that this is part of the success, the Rapid ReHousing piece in partnership with City Net, utilizing BEYOND funding,

The Alliance also partnered with Social Work Action Group (SWAG) for outreach. SWAG also provides street-level outreach.

Cheryl Marie Hansberger, City of Riverside, reported that the Western Riverside Homeless Coalition consists of the Cities of Corona, Jurupa Valley, and Riverside, the County of Riverside, and Path of Life Ministries. The Coalition has a four-part mission: to expand services to serve the homeless in the region, to increase collaboration amongst organizations, to develop a toolkit to be shared with others, and to re-frame the narrative around homelessness.

The Coalition prepared an Asset Mapping Survey to determine what is available and where the gaps are; 53 organizations returned the Survey. The information will be fed into Riverside's 2-1-1 phone system to make those services available to callers. The Coalition connected with approximately 77 Faith-Based Communities; 50 of them have committed to do more. Thirty-seven have made a financial commitment; 13 have committed land or housing development, as well as offers to embrace the community and of employment and medical / mental support. Those 13 sites can potentially generate 325 housing units.

Path of Life Ministries performed outreach. The Coalition is piloting a landlord incentive program to pick a homeless person or family over someone who is not.

Collaboration meetings are ongoing. A toolkit containing 17 policy samples, four training modules, the Asset Mapping Survey, and outreach and communication materials has been prepared.

Some lessons learned include collaboration between jurisdictions with drastically different resources is challenging; the timeframe for grants is too short to see full impacts of change; alignment between elected officials and staff is essential, to name a few.

Both the Alliance and the Coalition recommend sending a delegation to the Coachella Valley to explore a long-term WRCOG role. A recurring stream of funding is necessary. WRCOG grant writing assistance would be helpful, perhaps on a regional basis. Human resources support in hiring. A dedicated stream of funding to contract a regional program manager. State and federal advocacy. And lastly, test the reassignment of WRCOG Fellows to work on homelessness at every jurisdiction.

Chair Washington introduced Natalie Kamora, Riverside County Deputy CEO for Homeless Solutions.

Ms. Kamora indicated that she is excited to see the level on interest in assisting the homeless. Ms. Kamora has met some staff and elected officials throughout the communities and is looking forward to meeting the rest in the near future as we continue to work collaboratively toward addressing homelessness.

Committee member Rusty Bailey indicated that the intent was met regarding what was expected with the BEYOND funding. This plan is solutions-oriented. Committee member

Bailey hopes we can continue the momentum.

Committee member Adam Rush asked what the relationship with law enforcement is.

Ms. Gilleland responded that the Southwest region has four dedicated officers, who are critical to the success of this program. They know every homeless person in those streets and have relationships with each one of them. The officers will round up the homeless and bring them in to a community center to provide them with resources.

Committee member Maryann Edwards thanked WRCOG for making this possible; it has made such a difference in the Alliance, and especially in Temecula. The City of Temecula has established an agreement with the Riverside County Flood Control which allows local law enforcement the ability to enter the creeks and enforce the law without having to contact the County 72 hours in advance. Funding was also established in the agreement to clean-up those areas. It is important to enforce the law on the freeway on- and off-ramps as well. Those individuals can collect between $300 and $500 a day in Temecula. So the City has an agreement with the California Highway Patrol to allow local law enforcement to enforce the solicitation laws on those on- and off-ramps.

Committee member Dr. Judy White asked about the inclusiveness of the school districts in terms of collaboration.

Ms. Gilleland responded that one of the best ways to find a majority of homeless families is through the schools. Sadly, literally thousands within the Alliance's five cities are homeless. Initially the Alliance reach out to the Superintendent of each school district, and was then put in touch with the appropriate staff member. The Temecula Valley School District is starting a Homelessness Committee within the School District.

Dr. White indicated that there are cohorts available at the County level, as well as unfilled slots for child care. There is a way to partner with the Riverside County School District on this.

<u>Action</u>: *1. Received and filed.*

C. Understanding the Transportation Analysis Implications of Senate Bill 743

Christopher Gray, WRCOG Director of Transportation, reported that SB 743 was passed in 2013, and was intended to fundamentally change the approach in CEQA. Since that time, there has been a fundamental change in state requirements on how environmental documents are prepared, which trickles down to traffic studies.

SB 743 requires the calculation of vehicle miles traveled (VMT), as generated by project. It compares project VMT to a threshold; it should be noted that there are currently no thresholds for VMT, so this is a challenge. If the threshold is exceeded, the developer has to mitigate the impact. The problem here is that there are no typical mitigations. There is the potential for fees, the requirement for bicycle or pedestrian paths, or even the necessity to fund transit improvements.

This is problematic for the region because it's new and different. WRCOG received approximately $200,00 in funding from the Southern California Association of Governments to research which methodologies can be used, which thresholds can be used, and determine what mitigation is feasible for reducing VMT impacts.

This study should reduce implementation costs for member agencies; a set of guidelines will be developed that member jurisdictions can use. Use of the Study will be completely voluntary. Staff will be working on the Study through approximately March 2019. The WRCOG Planning Directors and Public Works Committees are receiving regular updates. Staff have also met with the Building Industry Association to share this information. Focus group meetings will be held in the fall of 2018.

Implementation of the materials prepared by WRCOG is optional. However; if jurisdictions chose to use other materials, they will have to either develop their own information or use information from other areas of the State, which may not be representative of Western Riverside County.

Action: *1. Received and filed.*

7. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

Technical Advisory Committee Chairman George Johnson reported that the County Board of Supervisors took action to declare a shelter crisis; information will be sent to each city with a reminder to prepare a declaration in order to receive state funding.

8. REPORT FROM COMMITTEE REPRESENTATIVES

Ben Benoit, South Coast Air Quality Management District (AQMD) representative for cities in Riverside County, reported that Supervisor Marion Ashley has stepped down from his position, and Supervisor Manny Perez did a great job on his first day.

9. REPORT FROM THE EXECUTIVE DIRECTOR

Rick Bishop, WRCOG Executive Director, had no report.

10. ITEMS FOR FUTURE AGENDAS

There were no items for future agendas.

11. GENERAL ANNOUNCEMENTS

Committee member Crystal Ruiz announced that she will be returning to the White House on September 20, 2018, to discuss with department heads what they can do to help Riverside County; any female Mayors from this subregion are invited to attend.

12. CLOSED SESSION

The Executive Committee authorized initiation of litigation as set forth in closed session.

RESULT:	**APPROVED AS RECOMMENDED**
MOVER:	City of Murrieta
SECONDER:	City of Moreno Valley
AYES:	Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Lake Elsinore, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 1, District 3, District 5, WMWD
ABSENT:	Banning, Hemet, Jurupa Valley, Menifee, District 2, EMWD, Morongo Band of Mission Indians

13. NEXT MEETING

The next Executive Committee meeting is scheduled for Monday, October 1, 2018, at 2:00 p.m., at the County of Riverside Administrative Center, 1st Floor Board Chambers.

14. ADJOURNMENT

The meeting adjourned at 3:04 p.m.

Item 5.A

Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements**

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

Date: **October 1, 2018**

The purpose of this item is to *request action on 1) a policy revision to limit the 3,000 square foot (SF) reduction for service and retail land uses to projects that are less than 20,000 SF; 2) a revision to the TUMF Zone boundaries; and 3) TUMF Reimbursement Agreements.*

Requested Actions:

1. Approve a revision to the 3,000 Square Foot Reduction Policy for retail and service uses that limits this reduction to projects that are less than 20,000 square feet.
2. Direct staff to report back on implementation within one year, specifically regarding implementation changes, if any, among stakeholders and jurisdictions and the fiscal impacts from implementation of this policy.
3. Recommend that the Executive Committee approve an update to the TUMF Zone boundaries to align with County of Riverside Supervisorial Districts.
4. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Riverside for the Planning and Engineering Phases of the Van Buren Boulevard Widening, Jurupa Avenue to Santa Ana River, Project in an amount not to exceed $160,000.
5. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Riverside for the Plans, Specifications, and Estimates Phase of the Iowa Avenue Widening, University Avenue to Martin Luther King, Project in an amount not to exceed $80,000.
6. Authorize the Executive Director to execute Amendment No. 1 to the TUMF Reimbursement Agreement with the City of Perris for the Planning Phase of the Ramona Expressway Widening, I-215 to Webster Avenue, Project in an amount not to exceed $100,480.
7. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Perris for the Construction Phase of the Nuevo Road Widening, Murrieta Road to Dunlap Drive, with a 300' Bridge Project in an amount not to exceed $4,300,000.

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 and the March JPA 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, the Regional Conservation Authority (RCA) and the Riverside Transit Agency (RTA).

3,000 SF Reduction for Retail and Service Land Uses

Implementation of the 3,000 SF Deduction Policy: The Policy, enacted in August 2017, provided a 3,000 SF reduction to all retail and service uses, not only to those uses that are 3,000 SF and below. As the retail and service industries go through their cycles, the need to expand an existing use occurs frequently; as such, this option also benefits existing uses that are taking a risk to expand their use and provide more economic development.

Since approval of the Policy on August 7, 2017, project applicants are not required to pay TUMF fees on the first 3,000 SF of retail and service projects. Therefore, no TUMF is paid if a retail or service project is less than 3,000 SF, and the fee is reduced if a retail or service project is more than 3,000 SF. Staff have also interpreted this Policy to include Class A and Class B office buildings.

Staff has received many questions related to applicability of the 3,000 SF reduction; however, staff has uniformly applied the deduction to all retail and service uses, whether the proposed uses are standard fee calculations or based on the unique fee calculation worksheets in the TUMF Calculation Handbook.

For multi-use projects or projects with multiple tenants, the 3,000 SF reduction would apply to each individual use or each individual tenant. Since each tenant is operating independently of one another, they are viewed as separate uses. As such, a single 12,000 SF building divided into four tenant spaces of 3,000 SF each would not be required to pay TUMF because each space would be awarded a 3,000 SF reduction. It is important to note that, in the situation of a single building divided into multiple tenant spaces, the division into multiple tenant spaces must be documented on project plans in order to be awarded the deduction per tenant space. If a developer were to pay TUMF on their whole, undivided 12,000 SF building, and later decided to divide the building, staff would not retroactively refund this developer, as this would constitute a tenant improvement.

<u>Proposed Implementation Change to the 3,000 SF Deduction Policy</u>: A study of several mid-size shopping centers in the subregion was completed by WRCOG in 2016 as part of the Nexus Study Update. Results from this study show that these shopping centers are generally anchored by a large tenant, typically occupying a space over 20,000 SF, and that these large spaces are surrounded by a number of smaller tenant spaces. The larger spaces are commonly occupied by large retailers such as grocery stores, clothing stores, and supermarkets; however, smaller tenant spaces are more commonly occupied by restaurants, beauty salons, dental offices, or electronics shops. Whereas the larger spaces may create a regional traffic draw, these smaller uses are generally more local-serving. For example, a new 200,000 SF retail super center may draw traffic from adjacent cities, as there are a limited number of these retailers in the region. However, the smaller uses, such as a beauty salon or dental office, are generally located in every jurisdiction and will not create a large regional draw. Thus, even if a smaller use does generate additional traffic, this traffic will generally be local (i.e., new drive-through coffee shop locations, as there are numerous locations throughout the region). Additionally, the fee relief from the 3,000 SF deduction makes up a larger percentage of the total TUMF for these smaller projects than the larger projects.

Therefore, staff propose that application of the 3,000 SF deduction for retail and service uses is limited to spaces that are less than 20,000 SF. This update would maintain the fee relief for smaller uses, while also recognizing that larger tenants generally create more regional traffic. As requested when this Policy was initially established in August 2017, staff would report on implementation of this updated Policy within one year.

<u>Fiscal Impact of the 3,000 SF Deduction Policy</u>: Since the first full month of implementation in September 2017 through June 2018, approximately $4.8 million has been collected from retail, service, and class A and B office uses combined. This is lower than the amount collected in the previous fiscal year, in-part due to the reduction of approximately $3/SF for the retail TUMF land use. Staff has determined that the reduction in the TUMF rate for the retail land use has resulted in revenue loss of approximately $1.6 million.

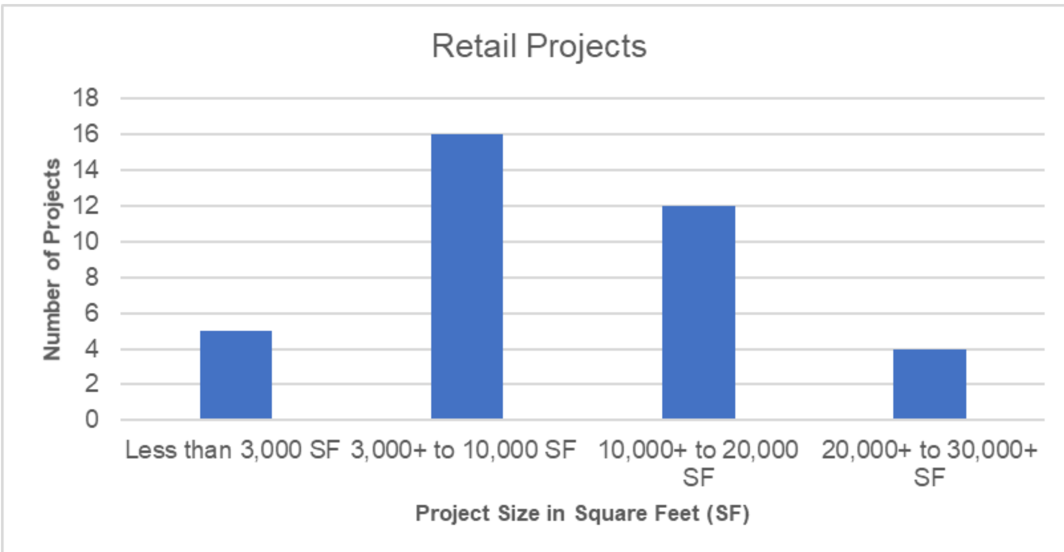
Reduction of the first 3,000 SF of all retail and service uses has resulted in a direct revenue loss of approximately $1 million. Staff will continue to monitor revenue loss and development trends.

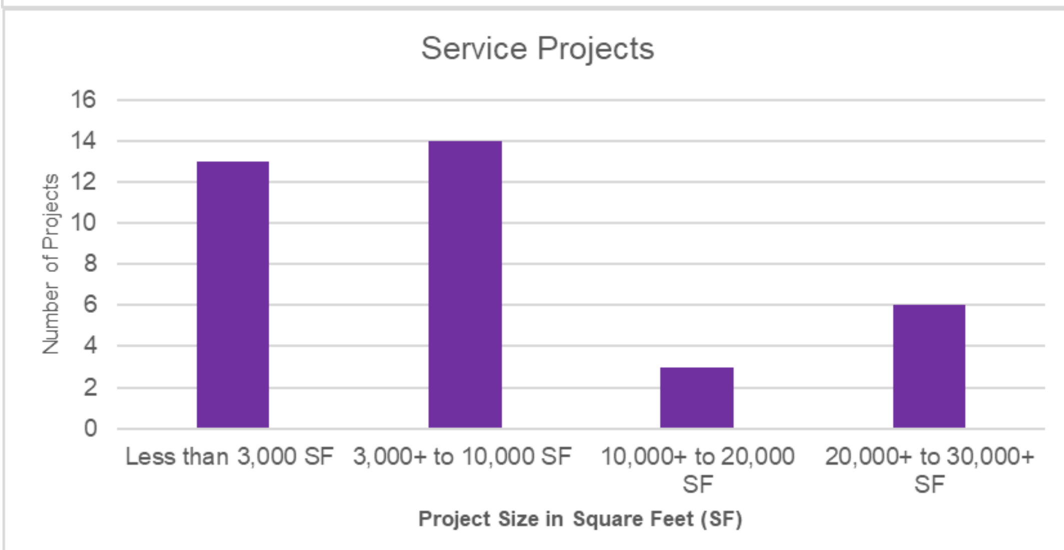
Combined, the reduction in the TUMF retail land use rate and the implementation of the 3,000 SF reduction resulted in a loss of approximately $2.6 million, or approximately 5% of all total revenue collections for Fiscal Year 2017/2018.

A total of four retail projects and six service projects larger than 20,000 SF have paid TUMF since the first full month of implementation in September 2017 through June 2018, as shown in the graphs below.

Total revenue loss from the 3,000 SF deduction for the retail projects is approximately $90,000 and the total revenue loss from these service projects is $82,080. The largest retail project during this period was approximately 64,000 SF – the revenue loss from the 3,000 SF deduction for this project represents just 5% of what the total project TUMF fees would have been without the deduction.

When this item was presented to the WRCOG Planning Directors and Public Works Committees, both overwhelmingly supported this change to the policy.





<u>TUMF Zone Boundaries</u>

There are five geographically-based zones for administration of the TUMF Program, each of which is governed by committees for the purpose of preparing a Zone Transportation Improvement Program (TIP). The TIP identifies priority projects for funding with the TUMF revenue that has been returned to the Zone. All Zones approve their respective TIPs by consensus at meetings attended by one elected official from each member agency within each respective Zone.

The Zone boundaries currently do not take into account County Supervisorial District boundaries. Staff recommends revising the Zone boundaries to better align with the County Supervisorial Districts. A revised

Zone boundary map has been prepared showing the proposed boundary changes for the Zones (Attachment 1). The proposed revision would not impact the Zone designation of any member cities; rather, proposed changes would shift Zone boundaries within unincorporated Riverside County land to match existing County Supervisorial District boundaries.

TUMF Reimbursement Agreements and Amendments

Three Reimbursement Agreements and one Amendment for TUMF projects are summarized below.

City of Riverside (two agreements):

1. Van Buren Boulevard Widening, Jurupa Avenue to Santa Ana River, *Planning and Engineering* Phases, in an amount not to exceed $160,000: This project will widen the south-bound lanes on Van Buren Avenue to provide three travel lanes.

2. Iowa Avenue Widening, University Avenue to Martin Luther King, *Plans, Specifications, and Estimates* Phase, in an amount not to exceed $80,000: This project will widen the roadway to provide two travel lanes in each direction.

City of Perris (one amendment, one agreement):

1. Ramona Expressway Widening, I-215 to Webster Avenue, *Planning* Phase, in an amount not to exceed $100,480: This project will widen 0.4 miles of Ramona Expressway to six through lanes, with additional turn pockets at major intersections.

2. Nuevo Road Widening, Murrieta Road to Dunlap Drive, with a 300' Bridge Project, Construction Phase, in an amount not to exceed $4,300,000: This project will widen the roadway to a total of four through lanes. The project will also widen the existing bridge over the Perris Valley Channel.

Prior Actions:

September 13, 2018: The Planning Directors Committee and Public Works Committee approved a revision to the 3,000 Square Foot Reduction Policy for retail and service uses that limits this reduction to projects that are less than 20,000 square feet.

September 13, 2018: The Public Works Committee approved an update to the TUMF Zone Boundaries to align with County of Riverside Supervisorial Districts.

Fiscal Impact:

Transportation activities are included in the Agency's adopted Fiscal Year 2018/2019 Budget under the Transportation Department.

Attachments:

1. Draft TUMF Zone Boundary Update.
2. TUMF Reimbursement Agreement with the City of Riverside for the Planning and Engineering Phases of the Van Buren Widening, Jurupa Avenue to Santa Ana River, Project.
3. TUMF Reimbursement Agreement with the City of Riverside for the Plans, Specifications, and Engineering Phase of the Iowa Avenue Widening, University Avenue to Martin Luther King, Project.
4. Amendment No. 1 to the TUMF Reimbursement Agreement with the City of Perris for the Planning and Engineering Phases of the Ramona Expressway Widening, I-215 to Webster Avenue, Project.
5. TUMF Reimbursement Agreement with the City of Perris for the Construction Phase of the Nuevo Road Widening, Murrieta Road to Dunlap Drive, with a 300' Bridge, Project.

Item 5.A

TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements

Attachment 1

Draft TUMF Zone Boundary Update

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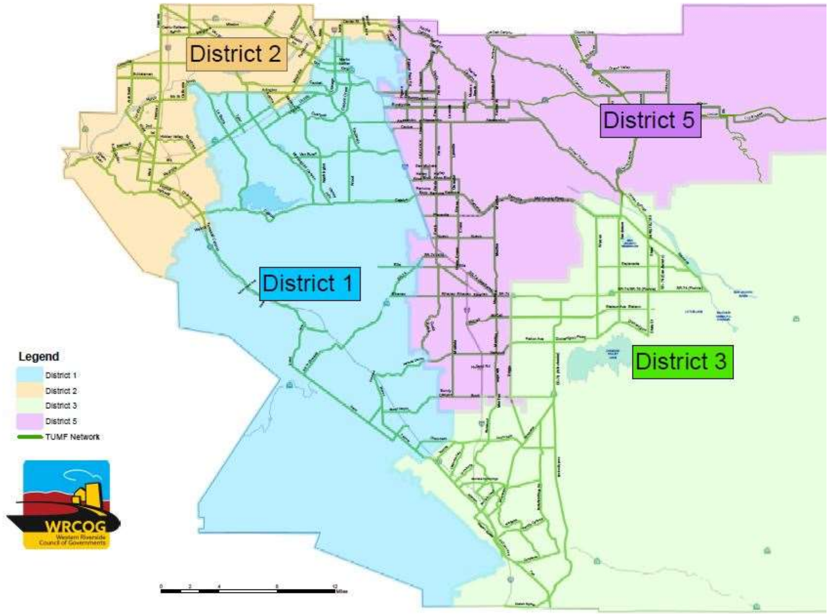
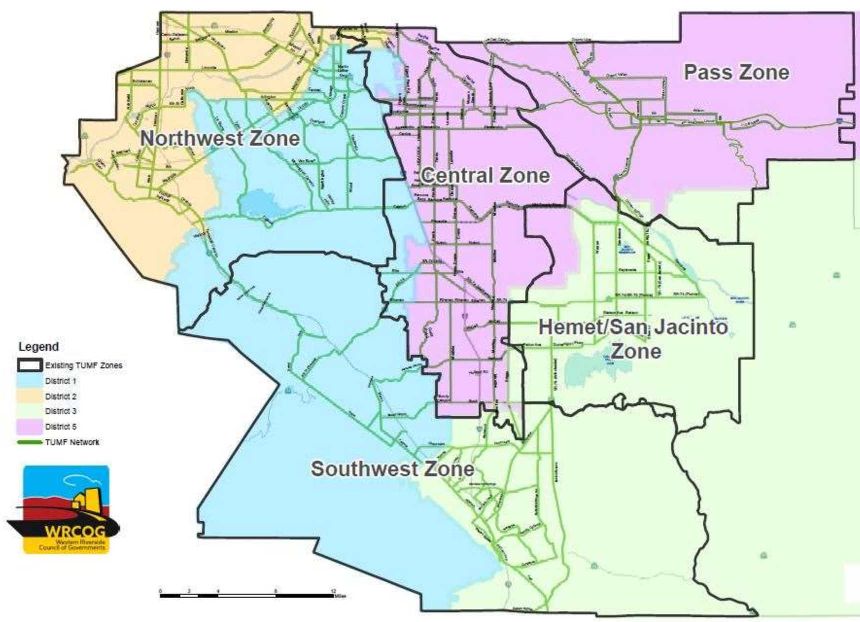
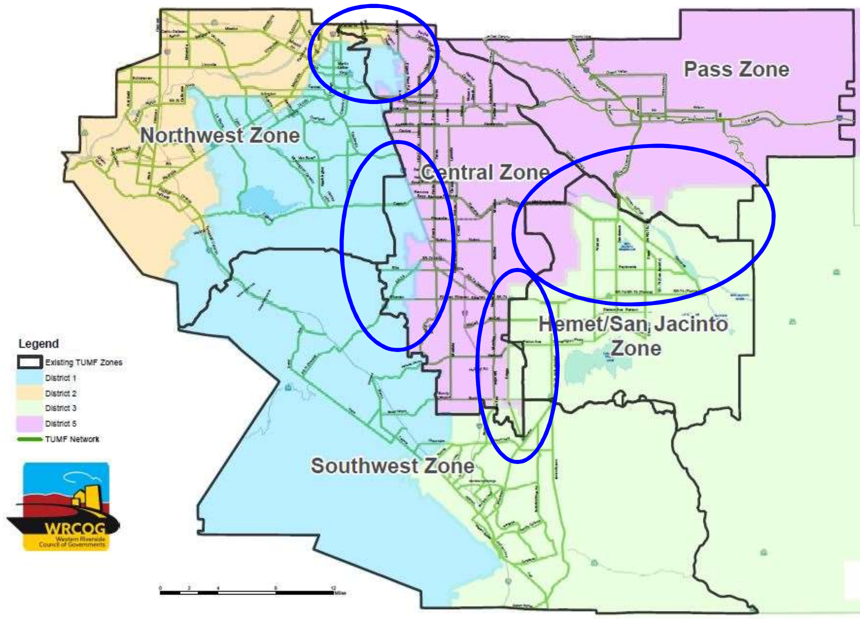
Supervisor Districts



Supervisor Districts, with Existing Zone Boundaries



Supervisor Districts, with Existing Zone Boundaries



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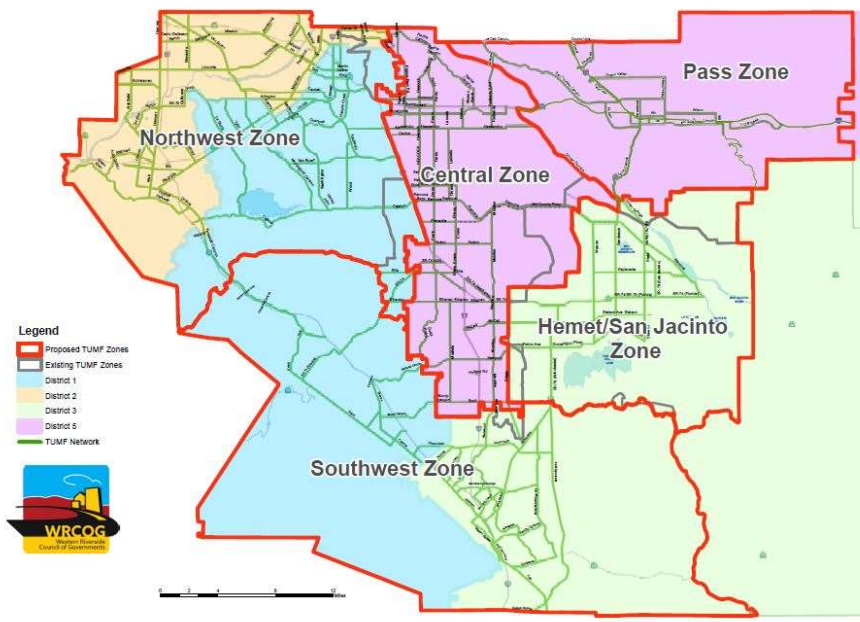
Supervisor Districts, with Proposed & Existing Zone Boundaries



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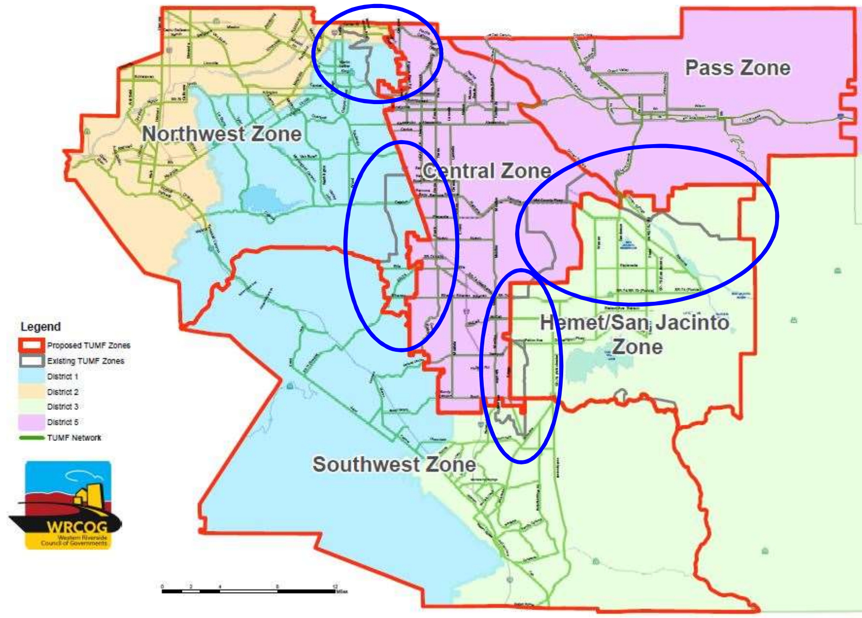
Supervisor Districts, with Proposed & Existing Zone Boundaries



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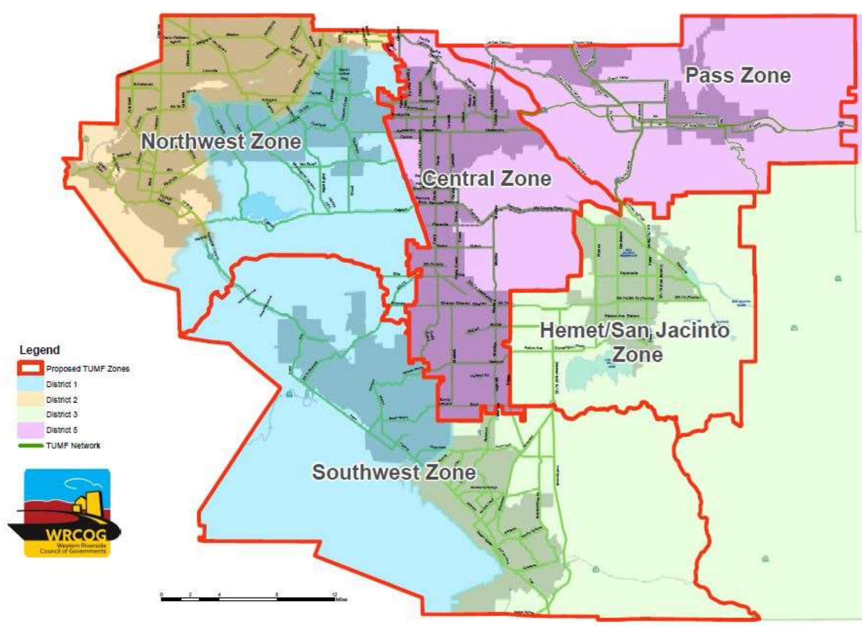
Proposed Zone Boundaries, with Cities



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Item 5.A

TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements

Attachment 2

TUMF Reimbursement Agreement with the City of Riverside for the Planning and Engineering Phases of the Van Buren Widening, Jurupa Avenue to Santa Ana River, Project

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TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
VAN BUREN BOULEVARD WIDENING – JURUPA AVENUE TO SANTA ANA RIVER
PLANNING AND ENGINEERING PHASES

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 20__, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and The City of Riverside ("City"), a California charter city and municipal corporation. WRCOG and City are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The City proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the City for Van Buren Boulevard Widening from Jurupa Avenue to Santa Ana River, (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the City and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

1) PA&ED – Project Approvals & Environmental Document
2) PS&E – Plans, Specifications and Estimates

2. WRCOG Funding Amount. WRCOG hereby agrees to distribute to City, on the terms and conditions set forth herein, a sum not to exceed **One Hundred and Sixty Thousand**

Dollars ($160,000), to be used for reimbursing the City for eligible Project expenses as described in Section 3 herein ("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time.

3. Project Costs Eligible for Advance/Reimbursement. The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) City and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) costs incurred in the preparation of plans, specifications, and estimates by City or consultants; and (5) City costs associated with bidding, advertising and awarding of the Project contracts.

4. Ineligible Project Costs. The Total Project Cost shall not include the following items which shall be borne solely by the City without reimbursement: (1) any City administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. Procedures for Distribution of TUMF Program Funds to City.

(a) Initial Payment by the City. The City shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the City shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the City, and documents evidencing the City's payment of the invoices or demands for payment. Documents evidencing the City's payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The City shall submit invoices not more often than monthly and not less often than quarterly.

(b) Review and Reimbursement by WRCOG. Upon receipt of an invoice from the City, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG to the City within thirty (30) days. In the event that WRCOG disputes the eligibility of the City for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the City may appeal WRCOG's decision as to the eligibility of one or more invoices to WRCOG's Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the City disagrees with the Executive Director's decision, the City may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the City submits its request for appeal to WRCOG within ten (10) days of the Executive Director's written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the City's submittal of invoices to WRCOG and WRCOG's consideration and payment of submitted invoices are set forth in Exhibit "B", attached hereto and incorporated herein by reference.

(c) Funding Amount/Adjustment. If a post Project audit or review indicates that WRCOG has provided reimbursement to the City in an amount in excess of the Maximum TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the City shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. Increases in Project Funding. The Funding Amount may, in WRCOG's sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG's Executive Director. In no case shall the amount of TUMF Program Funds allocated to the City exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG's Executive Director which shall be communicated to the City in writing.

7. No Funding for Temporary Improvements. Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. City's Funding Obligation to Complete the Project. In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the City shall provide such additional funds as may be required to complete the Project.

9. City's Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work. Except as otherwise expressly excepted within this paragraph, in the event that: (i) the City, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the City agrees that any TUMF Program Funds that were distributed to the City for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase, City shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.

10. City's Local Match Contribution. City local match funding is not required, as shown in Exhibit "A" and as called out in the City's Project Nomination Form submitted to WRCOG in response to its Call for Projects.

11. Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the City has fully satisfied its obligations under this Agreement.

All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. Representatives of the Parties. WRCOG's Executive Director, or his or her designee, shall serve as WRCOG's representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The City hereby designates **Kris Martinez, Public Works Director**, or his or her designee, as the City's representative to WRCOG. The City's representative shall have the authority to act on behalf of the City for all purposes under this Agreement and shall coordinate all activities of the Project under the City's responsibility. The City shall work closely and cooperate fully with WRCOG's representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. Expenditure of Funds by City Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the City from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the City understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the City's sole risk, and that some expenditures by the City may not be eligible for reimbursement under this Agreement.

14. Review of Services. The City shall allow WRCOG's Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. Termination.

(a) Notice. Either WRCOG or City may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

(b) Effect of Termination. In the event that the City terminates this Agreement, the City shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the City under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the City TUMF Program Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Project at the time of the notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights under Section 5(b), including but not limited to conducting a review of the invoices and requesting additional information. Upon such termination, the City shall, within 180 days, complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the amounts due to it hereunder and upon completion of the segment or portion of Project work for which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Prevailing Wages. The City and any other person or entity hired to perform services on the Project are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The City shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Project. The City shall defend, indemnify, and hold harmless WRCOG, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

17. Progress Reports. WRCOG may request the City to provide WRCOG with progress reports concerning the status of the Project.

18. Indemnification.

(a) City Responsibilities. In addition to the indemnification required under Section 16, the City agrees to indemnify and hold harmless WRCOG, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of the City or its subcontractors. The City will reimburse WRCOG for any expenditures, including reasonable attorneys' fees, incurred by WRCOG, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of the City.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold harmless the City, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the City for any expenditures, including reasonable attorneys' fees, incurred by the City, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) Effect of Acceptance. The City shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG's review, acceptance or funding of any services performed by the City or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the City shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the City's negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. Insurance. The City shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the City and WRCOG. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and City, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and City, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

(d) Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

20. Project Amendments. Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the City or WRCOG may be requested in writing by the City and are subject to the approval of WRCOG's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.;* "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. Conflict of Interest. For the term of this Agreement, no member, officer or employee of the City or WRCOG, during the term of his or her service with the City or WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. Limited Scope of Duties. WRCOG's and the City's duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of City or its contractors relating to the condemnation of property undertaken by City or construction related to the Project.

23. Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. Equal Opportunity Employment. The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California.

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

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

28. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. Public Acknowledgement. The City agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the City and WRCOG TUMF Program Funds.

30. No Joint Venture. This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the City for such purpose.

31. Compliance With the Law. The City shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. Notices. All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to City:	Kris Martinez, Public Works Director City of Riverside 3900 Main Street Riverside, CA 92522 Telephone: (951) 826-5575 Facsimile: (951) 826-2460
If to WRCOG:	Western Riverside Council of Governments Riverside County Administrative Center 3390 University Ave; Suite 450 Riverside, California 92501 Attention: Christopher Gray, Director of Transportation Telephone: (951) 405-6710 Facsimile: (951) 223-9720

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. Integration; Amendment. This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. Severability. If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the Agreement.

36. Independent Contractors. Any person or entities retained by the City or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the City or contractor, whichever is applicable. The City or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The City or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

37. Effective Date. This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By:______________________ Date:________
Rick Bishop
Executive Director

Approved to Form:

By:______________________ Date:________
Steven C. DeBaun
General Counsel

CITY OF RIVERSIDE

By: ______________________ Date:________

Atttest:_______________________________
City Clerk

Approved to Form:

By:______________________ Date:________
Deputy City Attorney
Ruthann M. Salera

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK: The project will widen the south-bound lanes on Van Buren Boulevard between Jurupa Avenue and Santa Ana River to provide for three (3) travel lanes. The project will realign portions of the existing Santa Ana River Trail as well as construct slopes, retaining walls, and storm drain modifications. Project design consists of the following phases:

1) Project Approval and Environmental Documents (PA&ED) phase – Complete preliminary engineering and obtain environmental clearance for the project;

2) Plans, Specifications, and Estimates (PS&E) phase – Complete final engineering and prepare construction contract documents. Advertise the project for bids.

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$46,000	0	$46,000
PS&E	$114,000	0	$114,000
RIGHT OF WAY	0	0	0
CONSTRUCTION	$1,951,000	0	$1,951,000
TOTAL	$2,111,000	0	$2,111,000

This Reimbursement Agreement is for the PA&ED and PS&E phases only.

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	12/2019	$46,000	
PS&E	12/2020	$114,000	
RIGHT OF WAY	12/2020	0	
CONSTRUCTION	12/2021	$1,951,000	
TOTAL		$2,111,000	

This Reimbursement Agreement is for the PA&ED and PS&E phases only.

Elements of Compensation

EXHIBIT "B"

PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. For professional services, WRCOG recommends that the City incorporate this Exhibit "B-1" into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the City and ultimately to WRCOG for reimbursement of City contractor costs.

2. Each month the City shall submit an invoice for eligible Project costs incurred during the preceding month. The original invoice shall be submitted to WRCOG's Executive Director with a copy to WRCOG's Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-2".

3. For jurisdictions with large construction projects (with the total construction cost exceeding $10 million) under construction at the same time, may with the approval of WRCOG submit invoices to WRCOG for payment at the same time they are received by the jurisdiction. WRCOG must receive the invoice by the 5th day of the month in order to process the invoice within 30 days. WRCOG will retain 10% of the invoice until all costs have been verified as eligible and will release the balance at regular intervals not more than quarterly and not less than semi-annually. If there is a discrepancy or ineligible costs that exceed 10% of the previous invoice WRCOG will deduct that amount from the next payment.

4. Each invoice shall include documentation from each contractor used by the City for the Project, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or subcontractor for the month and for the entire Project to date. Samples of acceptable task level documentation and progress reports are attached as Exhibits "B-4" and "B-5". All documentation from the City's contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-3".

5. If the City is seeking reimbursement for direct expenses incurred by City staff for eligible Project costs, the City shall provide the same level of information for its labor and any expenses as required of its contractors pursuant to Exhibit "B" and its attachments.

6. Charges for each task and milestone listed in Exhibit "A" shall be listed separately in the invoice.

7. Each invoice shall include a certification signed by the City Representative or his or her designee which reads as follows:

"I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the contractors or subcontractors listed.

Signed ________________________________

Title __________________________________

Date __________________________________

Invoice No. ____________________________

8. WRCOG will pay the City within 30 days after receipt by WRCOG of an invoice. If WRCOG disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

9. The final payment under this Agreement will be made only after: (I) the City has obtained a Release and Certificate of Final Payment from each contractor or subcontractor used on the Project; (ii) the City has executed a Release and Certificate of Final Payment; and (iii) the City has provided copies of each such Release to WRCOG.

EXHIBIT "B-1"
[Sample for Professional Services]

For the satisfactory performance and completion of the Services under this Agreement, City will pay the Contractor compensation as set forth herein. The total compensation for this service shall not exceed (_____INSERT WRITTEN DOLLAR AMOUNT___) ($___INSERT NUMERICAL DOLLAR AMOUNT___) without written approval of City's City Manager [or applicable position] ("Total Compensation").

1. ELEMENTS OF COMPENSATION.

Compensation for the Services will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 DIRECT SALARY COSTS

Direct Salary Costs are the base salaries and wages actually paid to the Contractor's personnel directly engaged in performance of the Services under the Agreement. (The range of hourly rates paid to the Contractor's personnel appears in Section 2 below.)

1.1.2 MULTIPLIER

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is __________________, and is the sum of the following components:

1.1.2.1 Direct Salary Costs _____________________

1.1.2.2 Payroll Additives _____________________

The Decimal Ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 Overhead Costs _____________________

The Decimal Ratio of Allowable Overhead Costs to the Contractor Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier ____________________
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE.

1.2.1 The fixed fee is $______________________.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

1.3 ADDITIONAL DIRECT COSTS.

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

ITEM	REIMBURSEMENT RATE
	[___insert charges___]
Per Diem	$ /day
Car mileage	$ /mile
Travel	$ /trip
Computer Charges	$ /hour
Photocopies	$ /copy
Blueline	$ /sheet
LD Telephone	$ /call
Fax	$ /sheet
Photographs	$ /sheet

Travel by air and travel in excess of 100 miles from the Contractor's office nearest to City's office must have City's prior written approval to be reimbursed under this Agreement.

2. DIRECT SALARY RATES

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Contractor's adjustments to individual compensation. The Contractor shall notify City in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION	RANGE OF HOURLY RATES
[___sample___]	
Principal	$ .00 - $ .00/hour
Project Manager	$ .00 - $ .00/hour
Sr. Engineer/Planner	$ .00 - $ .00/hour
Project Engineer/Planner	$ .00 - $ .00/hour
Assoc. Engineer/Planner	$ .00 - $ .00/hour
Technician	$ .00 - $ .00/hour
Drafter/CADD Operator	$ .00 - $ .00/hour
Word Processor	$ .00 - $ .00/hour

2.3 The above rates are for the Contractor only. All rates for subcontractors to the Contractor will be in accordance with the Contractor's cost proposal.

3. INVOICING.

3.1 Each month the Contractor shall submit an invoice for Services performed during the preceding month. The original invoice shall be submitted to City's Public Works Director.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by City's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Services, shall be listed separately. The charges for each individual assigned by the Contractor under this Agreement shall be listed separately on an attachment to the invoice.

3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to City such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 If applicable, each invoice shall indicate payments to DBE subcontractors or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Contractor's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.

Signed ______________________________
Title ______________________________
Date ______________________________
Invoice No. ______________________________

4. PAYMENT

4.1 City shall pay the Contractor within four to six weeks after receipt by City of an original invoice. Should City contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

4.2 The final payment for Services under this Agreement will be made only after the Contractor has executed a Release and Certificate of Final Payment.

EXHIBIT B-2
Sample Cover Letter to WRCOG

Date
Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice #__

Enclosed for your review and payment approval is the City's invoice for professional and technical services that was rendered by our contractors in connection with the 2002 Measure "A" Local Streets and Roads Funding per Agreement No. ________ effective __(Month/Day/Year)__. The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Authorized Agreement Amount:	$0,000,000.00
Total Invoiced to Date:	$0,000,000.00
Total Previously Invoiced:	$0,000,000.00
Balance Remaining:	$0,000,000.00
Amount due this Invoice:	**$0,000,000.00**
	===========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the contractors listed.

By: ______________________________
Name
Title

cc:

EXHIBIT B-3
Sample Letter from Contractor to City

Month/Date/Year

Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
Attn: Accounts Payable Invoice #____________

For **[type of services]** rendered by **[contractor name]** in connection with **[name of project]** This is per agreement No. XX-XX-XXX effective __Month/Date/Year__.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Base Contract Amount:	$000,000.00
Authorized Extra Work (if Applicable)	$000,000.00

TOTAL AUTHORIZED CONTRACT AMOUNT:	$000,000.00
Total Invoice to Date:	$000,000.00
Total Previously Billed:	$000,000.00
Balance Remaining:	$000,000.00
Amount Due this Invoice:	$000,000.00
	==========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed,

By: ____________________
Name
Title

EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)

EXHIBIT B-5
Sample Progress Report

REPORTING PERIOD: Month/Date/Year to Month/Date/Year
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

1. Responded to Segment 1 comments from Department of Transportation
2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

1. Completing and to submit Traffic Signal and Electrical Design plans
2. Responding to review comments

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Item 5.A

TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements

Attachment 3

TUMF Reimbursement Agreement with the City of Riverside for the Plans, Specifications, and Engineering Phase of the Iowa Avenue Widening, University Avenue to Martin Luther King, Project

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TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
IOWA AVENUE WIDENING – UNIVERSITY TO MARTIN LUTHER KING
PLANS, SPECIFICATIONS, AND ESTIMATES PHASE

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 20__, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and The City of Riverside ("City"), a California charter city and municipal corporation. WRCOG and City are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The City proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the City for Iowa Avenue Widening from University Avenue to Martin Luther King Boulevard, (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the City and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

2) PS&E – Plans, Specifications and Estimates

2. WRCOG Funding Amount. WRCOG hereby agrees to distribute to City, on the terms and conditions set forth herein, a sum not to exceed **Eighty Thousand Dollars ($80,000),** to be used for reimbursing the City for eligible Project expenses as described in Section 3 herein

("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time.

3. Project Costs Eligible for Advance/Reimbursement. The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) City and/or consultant costs associated with direct Project coordination and support; (2) costs incurred in the preparation of plans, specifications, and estimates by City or consultants; and (3) City costs associated with bidding, advertising and awarding of the Project contracts.

4. Ineligible Project Costs. The Total Project Cost shall not include the following items which shall be borne solely by the City without reimbursement: (1) any City administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. Procedures for Distribution of TUMF Program Funds to City.

(a) Initial Payment by the City. The City shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the City shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the City, and documents evidencing the City's payment of the invoices or demands for payment. Documents evidencing the City's payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The City shall submit invoices not more often than monthly and not less often than quarterly.

(b) Review and Reimbursement by WRCOG. Upon receipt of an invoice from the City, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG to the City within thirty (30) days. In the event that WRCOG disputes the eligibility of the City for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the City may appeal WRCOG's decision as to the eligibility of one or more invoices to WRCOG's Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the City disagrees with the Executive Director's decision, the City may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the City submits its request for appeal to WRCOG within ten (10) days of the Executive Director's written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the City's submittal of invoices to WRCOG and WRCOG's consideration and payment of submitted invoices are set forth in Exhibit "B", attached hereto and incorporated herein by reference.

(c) Funding Amount/Adjustment. If a post Project audit or review indicates that WRCOG has provided reimbursement to the City in an amount in excess of the Maximum

TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the City shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. Increases in Project Funding. The Funding Amount may, in WRCOG's sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG's Executive Director. In no case shall the amount of TUMF Program Funds allocated to the City exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG's Executive Director which shall be communicated to the City in writing.

7. No Funding for Temporary Improvements. Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. City's Funding Obligation to Complete the Project. In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the City shall provide such additional funds as may be required to complete the Project.

9. City's Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work. Except as otherwise expressly excepted within this paragraph, in the event that: (i) the City, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the City agrees that any TUMF Program Funds that were distributed to the City for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase, City shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.

10. City's Local Match Contribution. City local match funding is not required, as shown in Exhibit "A" and as called out in the City's Project Nomination Form submitted to WRCOG in response to its Call for Projects.

11. Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the City has fully satisfied its obligations under this Agreement. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. Representatives of the Parties. WRCOG's Executive Director, or his or her designee, shall serve as WRCOG's representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The City hereby designates **Kris Martinez, Public Works Director**, or his or her designee, as the City's representative to WRCOG. The City's representative shall have the authority to act on behalf of the City for all purposes under this Agreement and shall coordinate all activities of the Project under the City's responsibility. The City shall work closely and cooperate fully with WRCOG's representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. Expenditure of Funds by City Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the City from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the City understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the City's sole risk, and that some expenditures by the City may not be eligible for reimbursement under this Agreement.

14. Review of Services. The City shall allow WRCOG's Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. Termination.

(a) Notice. Either WRCOG or City may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

(b) Effect of Termination. In the event that the City terminates this Agreement, the City shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the City under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the City TUMF Program Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Project at the time of the notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights under Section 5(b), including but not limited to conducting a review of the invoices and requesting additional information. Upon such termination, the City shall, within 180 days, complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the amounts due to it hereunder and upon completion of the segment or portion of Project work for which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Prevailing Wages. The City and any other person or entity hired to perform services on the Project are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The City shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Project. The City shall defend, indemnify, and hold harmless WRCOG, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

17. Progress Reports. WRCOG may request the City to provide WRCOG with progress reports concerning the status of the Project.

18. Indemnification.

(a) City Responsibilities. In addition to the indemnification required under Section 16, the City agrees to indemnify and hold harmless WRCOG, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of the City or its subcontractors. The City will reimburse WRCOG for any expenditures, including reasonable attorneys' fees, incurred by WRCOG, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of the City.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold harmless the City, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the City for any expenditures, including reasonable attorneys' fees, incurred by the City, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) Effect of Acceptance. The City shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG's review, acceptance or funding of any services performed by the City or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the City shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the City's negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. Insurance. The City shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the City and WRCOG. Such insurance

shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and City, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and City, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

(d) Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

20. Project Amendments. Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the City or WRCOG may be requested in writing by the City and are subject to the approval of WRCOG's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.;* "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. Conflict of Interest. For the term of this Agreement, no member, officer or employee of the City or WRCOG, during the term of his or her service with the City or

WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. Limited Scope of Duties. WRCOG's and the City's duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of City or its contractors relating to the condemnation of property undertaken by City or construction related to the Project.

23. Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. Equal Opportunity Employment. The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California.

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

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

28. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. Public Acknowledgement. The City agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the City and WRCOG TUMF Program Funds.

30. No Joint Venture. This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the City for such purpose.

31. Compliance With the Law. The City shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. Notices. All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to City:
Kris Martinez, Public Works Director
City of Riverside
3900 Main Street
Riverside, CA 92522
Telephone: (951) 826-5575
Facsimile: (951) 826-2460

If to WRCOG:
Western Riverside Council of Governments
Riverside County Administrative Center
3390 University Avenue, Suite 450
Riverside, California 92501
Attention: Christopher Gray, Director of Transportation
Telephone: (951) 405-6710
Facsimile: (951) 223-9720

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. Integration; Amendment. This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. Severability. If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the Agreement.

36. Independent Contractors. Any person or entities retained by the City or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the City or contractor, whichever is applicable. The City or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The City or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

37. Effective Date. This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By:______________________ Date:________
Rick Bishop
Executive Director

Approved to Form:

By:______________________ Date:________
Steven C. DeBaun
General Counsel

CITY OF RIVERSIDE

By: ______________________ Date:________

Atttest:______________________________
City Clerk

Approved to Form:

By:______________________ Date:________
Deputy City Attorney
Ruthann M. Salera

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK: The project will widen Iowa Avenue between University Avenue and Martin Luther King Boulevard to provide two (2) travel lanes in each direction including a dedicated cycle track section between Martin Luther King Boulevard and Everton Place. The project will also provide new utility infrastructure including storm drain, sanitary sewer, underground electric, and domestic water. Project design consists of the following phases:

1) Project Approval and Environmental Documents (PA&ED) phase – Complete preliminary engineering and obtain environmental clearance for the project;

2) Plans, Specifications, and Estimates (PS&E) phase – Complete final engineering and prepare construction contract documents. Advertise the project for bids.

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	0	$100,000	$100,000
PS&E	$80,000	0	$80,000
RIGHT OF WAY	0	0	0
CONSTRUCTION	$2,920,000	0	$2,920,000
TOTAL	$3,000,000	$100,000	$3,100,000

This Reimbursement Agreement is for the Plans, Specifications, and Estimates phase only.

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	12/2018	$100,000	
PS&E	12/2019	$80,000	
RIGHT OF WAY	12/2019	0	
CONSTRUCTION	12/2020	$2,920,000	
TOTAL		$3,100,000	

This Reimbursement Agreement is for the Plans, Specifications, and Estimates phase only.

Elements of Compensation

EXHIBIT "B"

PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. For professional services, WRCOG recommends that the City incorporate this Exhibit "B-1" into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the City and ultimately to WRCOG for reimbursement of City contractor costs.

2. Each month the City shall submit an invoice for eligible Project costs incurred during the preceding month. The original invoice shall be submitted to WRCOG's Executive Director with a copy to WRCOG's Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-2".

3. For jurisdictions with large construction projects (with the total construction cost exceeding $10 million) under construction at the same time, may with the approval of WRCOG submit invoices to WRCOG for payment at the same time they are received by the jurisdiction. WRCOG must receive the invoice by the 5th day of the month in order to process the invoice within 30 days. WRCOG will retain 10% of the invoice until all costs have been verified as eligible and will release the balance at regular intervals not more than quarterly and not less than semi-annually. If there is a discrepancy or ineligible costs that exceed 10% of the previous invoice WRCOG will deduct that amount from the next payment.

4. Each invoice shall include documentation from each contractor used by the City for the Project, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or subcontractor for the month and for the entire Project to date. Samples of acceptable task level documentation and progress reports are attached as Exhibits "B-4" and "B-5". All documentation from the City's contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-3".

5. If the City is seeking reimbursement for direct expenses incurred by City staff for eligible Project costs, the City shall provide the same level of information for its labor and any expenses as required of its contractors pursuant to Exhibit "B" and its attachments.

6. Charges for each task and milestone listed in Exhibit "A" shall be listed separately in the invoice.

7. Each invoice shall include a certification signed by the City Representative or his or her designee which reads as follows:

"I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the contractors or subcontractors listed.

Signed ________________________________

Title __________________________________

Date __________________________________

Invoice No. ____________________________

8. WRCOG will pay the City within 30 days after receipt by WRCOG of an invoice. If WRCOG disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

9. The final payment under this Agreement will be made only after: (I) the City has obtained a Release and Certificate of Final Payment from each contractor or subcontractor used on the Project; (ii) the City has executed a Release and Certificate of Final Payment; and (iii) the City has provided copies of each such Release to WRCOG.

EXHIBIT "B-1"
[Sample for Professional Services]

For the satisfactory performance and completion of the Services under this Agreement, City will pay the Contractor compensation as set forth herein. The total compensation for this service shall not exceed (_____INSERT WRITTEN DOLLAR AMOUNT___) ($___INSERT NUMERICAL DOLLAR AMOUNT___) without written approval of City's City Manager [or applicable position] ("Total Compensation").

1. ELEMENTS OF COMPENSATION.

Compensation for the Services will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 <u>DIRECT SALARY COSTS</u>

Direct Salary Costs are the base salaries and wages actually paid to the Contractor's personnel directly engaged in performance of the Services under the Agreement. (The range of hourly rates paid to the Contractor's personnel appears in Section 2 below.)

1.1.2 <u>MULTIPLIER</u>

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is ________________, and is the sum of the following components:

1.1.2.1 <u>Direct Salary Costs</u> ____________________

1.1.2.2 <u>Payroll Additives</u> ____________________

The Decimal Ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 <u>Overhead Costs</u> ____________________

The Decimal Ratio of Allowable Overhead Costs to the Contractor Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier ____________________
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE.

1.2.1 The fixed fee is $______________________.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

1.3 ADDITIONAL DIRECT COSTS.

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

ITEM	REIMBURSEMENT RATE
	[___insert charges___]
Per Diem	$ /day
Car mileage	$ /mile
Travel	$ /trip
Computer Charges	$ /hour
Photocopies	$ /copy
Blueline	$ /sheet
LD Telephone	$ /call
Fax	$ /sheet
Photographs	$ /sheet

Travel by air and travel in excess of 100 miles from the Contractor's office nearest to City’s office must have City's prior written approval to be reimbursed under this Agreement.

2. DIRECT SALARY RATES

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Contractor's adjustments to individual compensation. The Contractor shall notify City in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION	RANGE OF HOURLY RATES
[___sample___]	
Principal	$ .00 - $ .00/hour
Project Manager	$ .00 - $ .00/hour
Sr. Engineer/Planner	$ .00 - $ .00/hour
Project Engineer/Planner	$ .00 - $ .00/hour
Assoc. Engineer/Planner	$ .00 - $ .00/hour
Technician	$ .00 - $ .00/hour
Drafter/CADD Operator	$ .00 - $ .00/hour
Word Processor	$ .00 - $ .00/hour

2.3 The above rates are for the Contractor only. All rates for subcontractors to the Contractor will be in accordance with the Contractor's cost proposal.

3. INVOICING.

3.1 Each month the Contractor shall submit an invoice for Services performed during the preceding month. The original invoice shall be submitted to City's Public Works Director.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by City's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Services, shall be listed separately. The charges for each individual assigned by the Contractor under this Agreement shall be listed separately on an attachment to the invoice.

3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to City such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 If applicable, each invoice shall indicate payments to DBE subcontractors or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Contractor's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.
Signed ______________________________
Title ______________________________
Date ______________________________
Invoice No. ______________________________

4. PAYMENT

4.1 City shall pay the Contractor within four to six weeks after receipt by City of an original invoice. Should City contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

4.2 The final payment for Services under this Agreement will be made only after the Contractor has executed a Release and Certificate of Final Payment.

EXHIBIT B-2
Sample Cover Letter to WRCOG

Date
Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice #__

Enclosed for your review and payment approval is the City's invoice for professional and technical services that was rendered by our contractors in connection with the 2002 Measure "A" Local Streets and Roads Funding per Agreement No. ________ effective __(Month/Day/Year)__. The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Authorized Agreement Amount:	$0,000,000.00
Total Invoiced to Date:	$0,000,000.00
Total Previously Invoiced:	$0,000,000.00
Balance Remaining:	$0,000,000.00
Amount due this Invoice:	**$0,000,000.00**
	===========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the contractors listed.

By: ______________________________
Name
Title

cc:

EXHIBIT B-3
Sample Letter from Contractor to City

Month/Date/Year

Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
Attn: Accounts Payable   Invoice #____________

For **[type of services]** rendered by **[contractor name]** in connection with **[name of project]** This is per agreement No. XX-XX-XXX effective __Month/Date/Year__.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Base Contract Amount:	$000,000.00
Authorized Extra Work (if Applicable)	$000,000.00

TOTAL AUTHORIZED CONTRACT AMOUNT:	$000,000.00
Total Invoice to Date:	$000,000.00
Total Previously Billed:	$000,000.00
Balance Remaining:	$000,000.00
Amount Due this Invoice:	$000,000.00
	==========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed,

By: ____________________
Name
Title

EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)

EXHIBIT B-5
Sample Progress Report

REPORTING PERIOD: Month/Date/Year to Month/Date/Year
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

1. Responded to Segment 1 comments from Department of Transportation
2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

1. Completing and to submit Traffic Signal and Electrical Design plans
2. Responding to review comments

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Item 5.A

TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements

Attachment 4

Amendment No. 1 to the TUMF Reimbursement Agreement with the City of Perris for the Planning and Engineering Phases of the Ramona Expressway Widening, I-215 to Webster Avenue, Project

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AMENDMENT NO. 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT

RAMONA EXPRESSWAY WIDENING PROJECT BETWEEN I-215 AND WEBSTER AVENUE

PLANNING PHASE

This Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement ("Amendment No. 1") is entered into this ______ day of _______________, 2018, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and **CITY OF PERRIS** ("AGENCY"). WRCOG and the AGENCY are sometimes referred to individually as "Party" and collectively as "Parties."

RECITALS

A. WRCOG and AGENCY have entered into an agreement titled "Transportation Uniform Mitigation Fee Program Agreement" that is dated **September 8th, 2015** ("Agreement"). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the construction of the **Ramona Expressway Widening Project Between I-215 and Webster Avenue** (hereinafter the "Project").

B. The Parties desire to amend the Agreement by **increasing** the Planning (PA&ED) funding amount pursuant to Sections 6 and 33 of the Agreement.

C. The Parties desire to amend the Agreement as additional funding for Planning (PA&ED) has become available through the 2018 Central Zone 5-Year Transportation Improvement Program.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. The Funding Amount contained in Section 2 of the Agreement is hereby **increased** by **Three Thousand Four Hundred and Eighty Dollars ($3,480)** from **Ninety Seven Thousand Dollars ($97,000)** to an amount not to exceed **One Hundred Thousand Four Hundred Eighty Dollars ($100,480).**

2. The foregoing **increase** in the Funding Amount is within the Maximum TUMF Share.

3. AGENCY's Local Match Contribution. AGENCY funding is not required, as shown in Exhibit "A" attached hereto.

4. Exhibits "A", "A-1", and "A-2" of the Agreement are hereby replaced in their entirety by Exhibits "A", "A-1", and "A-2" of this Amendment No. 1, which are attached hereto and incorporated by reference.

5. The above-stated Recitals are hereby fully incorporated into this Amendment No. 1.

6. Except to the extent specifically modified or amended hereunder, all of the terms, covenants and conditions of the Agreement shall remain in full force and effect between the Parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 1 to be executed by their duly authorized representatives to be effective on the day and year first written above.

WESTERN RIVERSIDE COUNCIL
OF GOVERNMENTS

By: ______________________________
Rick Bishop, Executive Director

Approved to Form:

By: ______________________________
Steven C. DeBaun
General Counsel

CITY OF PERRIS

By: ______________________________
Richard Belmudez, City Manager

Approved to Form:

By: ______________________________
Eric Dunn, City Attorney

Attest:

By: ______________________________
Nancy Salazar, City Clerk

Exhibit A

SCOPE OF SERVICES

1. **SCOPE OF WORK:**

This project will widen Ramona Expressway between I-215 and Webster Avenue within the City of Perris to a total of six through lanes, with additional turn pockets at major intersections as warranted by traffic volumes. The project length is 0.4 miles. Within the project reach, the majority of the roadway has four existing lanes.

Along with lane widening, curb & gutter and sidewalks will be installed throughout the project limits, and where necessary traffic signal modifications will be completed. The project is located entirely within Perris City Limits, and the City will be the lead for all project phases.

***This Reimbursement Agreement is for the Planning Phase Only**

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$100,480		$100,480
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL	$100,480		$100,480

***This Reimbursement Agreement is for the Planning Phase Only**

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	**Estimated Completion Date**	**Estimated Cost**	**Comments**
PA&ED	12/31/2019	$100,480	This agreement only for PA&ED
PS&E			Future Phase
RIGHT OF WAY			Future Phase
CONSTRUCTION			Future Phase
TOTAL			PA&ED Only

20323.00004\7854268.2

Item 5.A

TUMF Program Activities Update: 3,000 Square Foot Reduction for Retail and Service Policy Revision; TUMF Zone Boundaries Revision; and Approval of TUMF Reimbursement Agreements

Attachment 5

TUMF Reimbursement Agreement with the City of Perris for the Construction Phase of the Nuevo Road Widening, Murrieta Road to Dunlap Drive, with a 300’ Bridge, Project

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TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
NUEVO ROAD WIDENING BETWEEN MURRIETA ROAD AND DUNLAP DRIVE
WITH A 300' BRIDGE
CONSTRUCTION PHASE

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 20__, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and **CITY OF PERRIS**, a California municipal corporation ("AGENCY"). WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

<u>RECITALS</u>

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The AGENCY proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

<u>AGREEMENT</u>

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. <u>Description of the Qualifying Project.</u> This Agreement is intended to distribute TUMF Program Funds to the AGENCY for **Nuevo Road Widening between Murrieta Road and Dunlap Drive with a 300' Bridge**, (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the AGENCY and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

1) CON – Construction

2. WRCOG Funding Amount. WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **Four Million Three Hundred Thousand Dollars ($4,300,000),** to be used for reimbursing the AGENCY for eligible Project expenses as described in Section 3 herein ("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time.

3. Project Costs Eligible for Advance/Reimbursement. The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) AGENCY and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) all costs associated with right-of-way acquisition, including right-of-way engineering, appraisal, acquisition, legal costs for condemnation procedures if authorized by the AGENCY, and costs of reviewing appraisals and offers for property acquisition; (5) costs reasonably incurred if condemnation proceeds; (6) costs incurred in the preparation of plans, specifications, and estimates by AGENCY or consultants; (7) AGENCY costs associated with bidding, advertising and awarding of the Project contracts; (8) construction costs, including change orders to construction contract approved by the AGENCY; (9) construction management, field inspection and material testing costs; and (10) any AGENCY administrative cost to deliver the Project.

4. Ineligible Project Costs. The Total Project Cost shall not include the following items which shall be borne solely by the AGENCY without reimbursement: (1) any AGENCY administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. Procedures for Distribution of TUMF Program Funds to AGENCY.

(a) Initial Payment by the AGENCY. The AGENCY shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the AGENCY shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the AGENCY, and documents evidencing the AGENCY's payment of the invoices or demands for payment. Documents evidencing the AGENCY'S payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The AGENCY shall submit invoices not more often than monthly and not less often than quarterly.

(b) Review and Reimbursement by WRCOG. Upon receipt of an invoice from the AGENCY, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG to the AGENCY within thirty (30) days. In the event that WRCOG disputes the eligibility of the AGENCY for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the AGENCY may appeal WRCOG's decision as to the eligibility of one or more invoices to WRCOG's Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the AGENCY disagrees with the Executive Director's decision, the AGENCY may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the AGENCY submits its request for appeal to WRCOG within ten (10) days of the Executive Director's written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the AGENCY's submittal of invoices to WRCOG and WRCOG's consideration and payment of submitted invoices are set forth in Exhibit "B", attached hereto and incorporated herein by reference.

(c) Funding Amount/Adjustment. If a post Project audit or review indicates that WRCOG has provided reimbursement to the AGENCY in an amount in excess of the Maximum TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the AGENCY shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. Increases in Project Funding. The Funding Amount may, in WRCOG's sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG's Executive Director. In no case shall the amount of TUMF Program Funds allocated to the AGENCY exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG's Executive Director which shall be communicated to the AGENCY in writing.

7. No Funding for Temporary Improvements. Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. AGENCY's Funding Obligation to Complete the Project. In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the AGENCY shall provide such additional funds as may be required to complete the Project.

9. AGENCY's Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work. Except as otherwise expressly excepted within this paragraph, in the event that: (i) the AGENCY, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the AGENCY agrees that any TUMF Program Funds that were distributed to the AGENCY for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase, AGENCY shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.

10. AGENCY's Local Match Contribution. AGENCY local match funding is not required, as shown in Exhibit "A" and as called out in the AGENCY's Project Nomination Form submitted to WRCOG in response to its Call for Projects.

11. Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the AGENCY has fully satisfied its obligations under this Agreement. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. Representatives of the Parties. WRCOG's Executive Director, or his or her designee, shall serve as WRCOG's representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The AGENCY hereby designates **Habib Motlagh, City Engineer,** or his or her designee, as the AGENCY's representative to WRCOG. The AGENCY's representative shall have the authority to act on behalf of the AGENCY for all purposes under this Agreement and shall coordinate all activities of the Project under the AGENCY's responsibility. The AGENCY shall work closely and cooperate fully with WRCOG's representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. Expenditure of Funds by AGENCY Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the AGENCY from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the AGENCY understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the AGENCY's sole risk, and that some expenditures by the AGENCY may not be eligible for reimbursement under this Agreement.

14. Review of Services. The AGENCY shall allow WRCOG's Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. Termination.

(a) Notice. Either WRCOG or AGENCY may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

(b) Effect of Termination. In the event that the AGENCY terminates this Agreement, the AGENCY shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the AGENCY under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the AGENCY TUMF Program Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the AGENCY regarding the Project at the time of the notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights under Section 5(b), including but not limited to conducting a review of the invoices and requesting additional information. Upon such termination, the AGENCY shall, within 180 days, complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the amounts due to it hereunder and upon completion of the segment or portion of Project work for which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Prevailing Wages. The AGENCY and any other person or entity hired to perform services on the Project are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The AGENCY shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Project. The AGENCY shall defend, indemnify, and hold harmless WRCOG, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

17. Progress Reports. WRCOG may request the AGENCY to provide WRCOG with progress reports concerning the status of the Project.

18. Indemnification.

(a) AGENCY Responsibilities. In addition to the indemnification required under Section 16, the AGENCY agrees to indemnify and hold harmless WRCOG, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of the AGENCY or its subcontractors. The AGENCY will reimburse WRCOG for any expenditures, including reasonable attorneys' fees, incurred by WRCOG, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of the AGENCY.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold harmless the AGENCY, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the AGENCY for any expenditures, including reasonable attorneys' fees, incurred by the AGENCY, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) Effect of Acceptance. The AGENCY shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG's review, acceptance or funding of any services performed by the AGENCY or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the AGENCY shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the AGENCY's negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. Insurance. The AGENCY shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the AGENCY and WRCOG. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and AGENCY, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and AGENCY, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

(d) Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

20. Project Amendments. Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the AGENCY or WRCOG may be requested in writing by the AGENCY and are subject to the approval of WRCOG's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.;* "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. Conflict of Interest. For the term of this Agreement, no member, officer or employee of the AGENCY or WRCOG, during the term of his or her service with the AGENCY or WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. Limited Scope of Duties. WRCOG's and the AGENCY's duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of AGENCY or its contractors relating to the condemnation of property undertaken by AGENCY or construction related to the Project.

23. Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. Equal Opportunity Employment. The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California.

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

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

28. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. Public Acknowledgement. The AGENCY agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the AGENCY and WRCOG TUMF Program Funds.

30. No Joint Venture. This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the AGENCY for such purpose.

31. Compliance With the Law. The AGENCY shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. Notices. All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to AGENCY:

City of Perris
101 North D Street
Perris, CA 92570
Attn: Habib Motlagh, City Engineer
Telephone: (951) 943-6504
Facsimile: (951) 943-8416

If to WRCOG:

Western Riverside Council of Governments
Citrus Tower
3390 University Ave. Suite 450
Riverside, California 92501-3609
Attention: Christopher Gray, Director of Transportation
Telephone: (951) 405-6710
Facsimile: (951) 787-7991

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. Integration; Amendment. This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. Severability. If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the Agreement.

36. Independent Contractors. Any person or entities retained by the AGENCY or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the AGENCY or contractor, whichever is applicable. The AGENCY or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The AGENCY or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

37. Effective Date. This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS	**CITY OF PERRIS**
By:____________________ Date:________	By: ____________________ Date:________
Rick Bishop Executive Director	Richard Belmudez City Manager

Approved to Form:

By:____________________ Date:________

Steven C. DeBaun
General Counsel

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

This project will widen Nuevo Road between Murrieta Road and Dunlap Drive within the City of Perris to a total of four through lanes, with additional turn pockets at major intersections as warranted by traffic volumes. The project length is 1.0 miles (2.0 lane miles). Within the project reach, the majority of the roadway has two existing lanes.

Along with lane widening, curb & gutter and sidewalks will be installed throughout the project limits, and where necessary traffic signal modifications will be completed. The project will also widen the existing bridge that crosses over Perris Valley Channel. The project is located entirely within Perris City Limits, and the City will be the lead for all project phases.

***This Reimbursement Agreement is for the Construction Phase Only**

EXHIBIT “A-1”

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$499,806		$499,806
PS&E			
RIGHT OF WAY			
CONSTRUCTION	$4,300,000		$4,300,000
TOTAL	$4,799,806		$4,799,806

***This Reimbursement Agreement is for the Construction Phase Only**

EXHIBIT “A-2”

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	March 2019	$499,806	
PS&E			
RIGHT OF WAY			
CONSTRUCTION	December 2020	$4,300,000	
TOTAL		$4,799,806	

Elements of Compensation

EXHIBIT "B"

PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. For professional services, WRCOG recommends that the AGENCY incorporate this Exhibit "B-1" into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the AGENCY and ultimately to WRCOG for reimbursement of AGENCY contractor costs.

2. Each month the AGENCY shall submit an invoice for eligible Project costs incurred during the preceding month. The original invoice shall be submitted to WRCOG's Executive Director with a copy to WRCOG's Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-2".

3. For jurisdictions with large construction projects (with the total construction cost exceeding $10 million) under construction at the same time, may with the approval of WRCOG submit invoices to WRCOG for payment at the same time they are received by the jurisdiction. WRCOG must receive the invoice by the 5th day of the month in order to process the invoice within 30 days. WRCOG will retain 10% of the invoice until all costs have been verified as eligible and will release the balance at regular intervals not more than quarterly and not less than semi-annually. If there is a discrepancy or ineligible costs that exceed 10% of the previous invoice WRCOG will deduct that amount from the next payment.

4. Each invoice shall include documentation from each contractor used by the AGENCY for the Project, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or subcontractor for the month and for the entire Project to date. Samples of acceptable task level documentation and progress reports are attached as Exhibits "B-4" and "B-5". All documentation from the Agency's contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-3".

5. If the AGENCY is seeking reimbursement for direct expenses incurred by AGENCY staff for eligible Project costs, the AGENCY shall provide the same level of information for its labor and any expenses as required of its contractors pursuant to Exhibit "B" and its attachments.

6. Charges for each task and milestone listed in Exhibit "A" shall be listed separately in the invoice.

7. Each invoice shall include a certification signed by the AGENCY Representative or his or her designee which reads as follows:

"I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the contractors or subcontractors listed.

Signed ________________________________

Title __________________________________

Date __________________________________

Invoice No. ____________________________

8. WRCOG will pay the AGENCY within 30 days after receipt by WRCOG of an invoice. If WRCOG disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

9. The final payment under this Agreement will be made only after: (I) the AGENCY has obtained a Release and Certificate of Final Payment from each contractor or subcontractor used on the Project; (ii) the AGENCY has executed a Release and Certificate of Final Payment; and (iii) the AGENCY has provided copies of each such Release to WRCOG.

EXHIBIT "B-1"
[Sample for Professional Services]

For the satisfactory performance and completion of the Services under this Agreement, Agency will pay the Contractor compensation as set forth herein. The total compensation for this service shall not exceed (_____INSERT WRITTEN DOLLAR AMOUNT___) ($___INSERT NUMERICAL DOLLAR AMOUNT___) without written approval of Agency's City Manager [or applicable position] ("Total Compensation").

1. ELEMENTS OF COMPENSATION.

Compensation for the Services will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 <u>DIRECT SALARY COSTS</u>

Direct Salary Costs are the base salaries and wages actually paid to the Contractor's personnel directly engaged in performance of the Services under the Agreement. (The range of hourly rates paid to the Contractor's personnel appears in Section 2 below.)

1.1.2 <u>MULTIPLIER</u>

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is _________________, and is the sum of the following components:

1.1.2.1 <u>Direct Salary Costs</u> ____________________

1.1.2.2 <u>Payroll Additives</u> ____________________

The Decimal Ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 <u>Overhead Costs</u> ____________________

The Decimal Ratio of Allowable Overhead Costs to the Contractor Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier ____________________
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE.

1.2.1 The fixed fee is $______________________.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

1.3 ADDITIONAL DIRECT COSTS.

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

ITEM	REIMBURSEMENT RATE
	[___insert charges___]
Per Diem	$ /day
Car mileage	$ /mile
Travel	$ /trip
Computer Charges	$ /hour
Photocopies	$ /copy
Blueline	$ /sheet
LD Telephone	$ /call
Fax	$ /sheet
Photographs	$ /sheet

Travel by air and travel in excess of 100 miles from the Contractor's office nearest to Agency’s office must have Agency's prior written approval to be reimbursed under this Agreement.

2. DIRECT SALARY RATES

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Contractor's adjustments to individual compensation. The Contractor shall notify Agency in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION	RANGE OF HOURLY RATES
[___sample___]	
Principal	$ .00 - $ .00/hour
Project Manager	$ .00 - $ .00/hour
Sr. Engineer/Planner	$ .00 - $ .00/hour
Project Engineer/Planner	$ .00 - $ .00/hour
Assoc. Engineer/Planner	$ .00 - $ .00/hour
Technician	$ .00 - $ .00/hour
Drafter/CADD Operator	$ .00 - $ .00/hour
Word Processor	$ .00 - $ .00/hour

2.3 The above rates are for the Contractor only. All rates for subcontractors to the Contractor will be in accordance with the Contractor's cost proposal.

3. INVOICING.

3.1 Each month the Contractor shall submit an invoice for Services performed during the preceding month. The original invoice shall be submitted to Agency's Executive Director with two (2) copies to Agency's Project Coordinator.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by Agency's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Services, shall be listed separately. The charges for each individual assigned by the Contractor under this Agreement shall be listed separately on an attachment to the invoice.

3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to Agency such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 If applicable, each invoice shall indicate payments to DBE subcontractors or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Contractor's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.

Signed ______________________________

Title ______________________________

Date ______________________________

Invoice No. ______________________________

4. PAYMENT

4.1 Agency shall pay the Contractor within four to six weeks after receipt by Agency of an original invoice. Should Agency contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

4.2 The final payment for Services under this Agreement will be made only after the Contractor has executed a Release and Certificate of Final Payment.

EXHIBIT B-2
Sample Cover Letter to WRCOG

Date
Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice #__

Enclosed for your review and payment approval is the AGENCY's invoice for professional and technical services that was rendered by our contractors in connection with the 2002 Measure "A" Local Streets and Roads Funding per Agreement No. ________ effective __(Month/Day/Year)__. The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Authorized Agreement Amount:	$0,000,000.00
Total Invoiced to Date:	$0,000,000.00
Total Previously Invoiced:	$0,000,000.00
Balance Remaining:	$0,000,000.00
Amount due this Invoice:	**$0,000,000.00**
	===========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the contractors listed.

By: ______________________________
Name
Title

cc:

EXHIBIT B-3
Sample Letter from Contractor to AGENCY

Month/Date/Year

Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
Attn: Accounts Payable Invoice #____________

For **[type of services]** rendered by **[contractor name]** in connection with **[name of project]** This is per agreement No. XX-XX-XXX effective __Month/Date/Year__.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Base Contract Amount:	$000,000.00
Authorized Extra Work (if Applicable)	$000,000.00

TOTAL AUTHORIZED CONTRACT AMOUNT:	$000,000.00
Total Invoice to Date:	$000,000.00
Total Previously Billed:	$000,000.00
Balance Remaining:	$000,000.00
Amount Due this Invoice:	$000,000.00
	==========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed,

By: ____________________
Name
Title

EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)

EXHIBIT B-5
Sample Progress Report

REPORTING PERIOD: Month/Date/Year to Month/Date/Year
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

1. Responded to Segment 1 comments from Department of Transportation
2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

1. Completing and to submit Traffic Signal and Electrical Design plans
2. Responding to review comments

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Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **Finance Department Activities Update**

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

Date: **October 1, 2018**

***The purpose of this item is to** provide an update on the Fiscal Year (FY) 2017/2018 Agency Audit, Annual TUMF review, and the Agency Financial Report summary through July 2018.*

Requested Action:

1. Receive and File.

FY 2017/2018 Agency Audit

FY 2017/2018 ended on June 30, 2018. WRCOG's annual Agency Interim Audit was completed on May 31, 2018. WRCOG utilized 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 returned to finish its second round, which is known as "fieldwork", which is currently still in progress. The final Comprehensive Annual Financial Report is expected to be issued no later than November 15, 2018, and will first be reviewed by the Finance Directors Committee. It will then be presented at the November or December 2018 Administration & Finance Committee meeting, with the Executive Committee receiving the report no later than at its January 7, 2019, meeting.

Annual TUMF review of participating agencies

Each year, WRCOG meets with participating members to review TUMF Program fee collections and disbursements to ensure compliance with Program requirements. It is anticipated that the FY 2017/2018 reviews will be conducted from September through November, with the final reports issued to the respective jurisdictions and agencies by December 2018.

Financial Report summary through July 2018

The Agency Financial Report summary through July 2018, a monthly overview of WRCOG's financial statements in the form of combined Agency revenues and costs, is provided as Attachment 1.

Prior Action:

None.

Fiscal Impact:

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

<u>Attachment</u>:

1. Financial Report summary – July 2018.

Item 5.B

Finance Department Activities Update

Attachment 1

Financial Report summary – July 2018

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Western Riverside Council of Governments
Monthly Budget to Actuals
For the Month Ending July 31, 2018

Total Agency			
	Approved Budget	**Thru Actual**	**Remaining Budget**
Revenues	**6/30/2019**	**7/31/2018**	**6/30/2019**
PACE Residential Revenue	560,000	60,198	499,802
Statewide HERO Revenue	2,400,000	131,383	2,268,617
WRCOG HERO-Recording Revenue	122,500	16,890	105,610
Statewide Recording Rev	600,000	81,665	518,335
Regional Streetlights Revenue	300,000	63,500	236,500
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	173,688	1,910,572
Total Revenues and Carryover Funds	**58,937,742**	**5,741,926**	**53,195,816**
Expenditures	**Approved**	**Actual**	
Wages and Benefits	**6/30/2019**	**7/31/2018**	
Salaries & Wages	2,987,699	96,868	2,890,831
Fringe Benefits	929,898	56,170	873,728
Overhead Allocation	2,084,260	173,688	1,910,572
Total Wages, Benefits and Overhead	**6,001,857**	**326,727**	**5,675,130**
PERS Unfunded Liability	198,823	152,327	46,496
Bank Fees	19,000	3,420	15,580
Commissioners Per Diem	62,500	7,050	55,450
Office Lease	400,000	33,482	366,518
Parking Validations	27,550	2,741	24,810
Coffee and Supplies	3,000	151	2,849
Event Support	102,369	36,512	65,857
Program/Office Supplies	24,150	642	23,508
Computer Equipment/Supplies	8,000	125	7,875
Computer Software	30,000	222	29,778
Rent/Lease Equipment	30,000	1,129	28,871
Membership Dues	33,000	18	32,982
Meeting Support Services	9,681	233	9,448
Postage	6,015	761	5,254
Other Household Exp	750	541	209
Storage	16,000	1,259	14,741
Communications - Cellular Phones	21,000	804	20,196
Communications - Computer Services	57,500	4,591	52,909
Communications - Web Site	8,000	6,552	1,448
Equipment Maintenance - General	10,000	1,641	8,359
Equipment Maintenance - Comp/Software	21,000	1,590	19,410
Insurance - Gen/Busi Liab/Auto	79,850	51,345	28,505
PACE Residential Recording	727,500	96,190	631,310
Travel - Mileage Reimbursement	23,600	303	23,297
Other Incidentals	9,950	563	9,387
Consulting Labor	3,102,373	663,724	2,438,649
TUMF Project Reimbursement	38,000,000	83,612	37,916,388
Total General Operations	**47,676,204**	**1,151,527**	**46,524,677**
Total Expenditures and Overhead	**53,678,061**	**1,478,254**	**52,199,808**

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Item 5.C

Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **WRCOG Committees and Agency Activities Update**

Contact: **Rick Bishop, Executive Director, rbishop@wrcog.us, (951) 405-6701**

Date: **October 1, 2018**

***The purpose of this item** is to provide updates on noteworthy actions and discussions held in recent standing Committee meetings, and to provide general project updates.*

Requested Action:

1. Receive and file.

Attached are summaries of actions and activities from recent WRCOG standing Committee meetings that have taken place since the September 2018 Executive Committee meeting.

Prior Action:

None.

Fiscal Impact:

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

Attachments:

1. WRCOG September Committees Activities Matrix (Action items only).
2. Summary recaps from September Committee meetings.

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Item 5.C

WRCOG Committees and Agency Activities Update

Attachment 1

WRCOG September Committees Activities Matrix (Action items only)

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WRCOG Committees Activities Matrix (Action Items Only)	Executive Committee	Administration & Finance Committee	Technical Advisory Committee	Planning Directors Committee	Public Works Committee	Finance Directors Committee	Solid Waste Committee
Date of Meeting:	**9/10/18**	**Did not meet**	**Did not meet**	**9/13/18**	**9/13/18**	**Did not meet**	**Did not meet**
Current Programs / Initiatives:							
Regional Streetlights Program	Received and filed.			n/a	n/a		
Property Assessed Clean Energy (PACE) Programs	Received and filed.			n/a	n/a		
Community Choice Aggregation (CCA) / Western Community Energy	n/a			n/a	n/a		
TUMF	Authorize the Executive Director to execute Amendment No. 3 to the TUMF Reimbursement Agreement with the City of San Jacinto for the Planning and Engineering Phases of the Esplanade Avenue Widening (Warren Road to State Street) Phases I and II Project in an amount not to exceed $1,170,025; 2) Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of San Jacinto for the Right-of-Way Phase of the Esplanade Avenue Widening (Warren Road to State Street) Phases I and II Project in an amount not to exceed $1,000,000; 3) Authorize the Executive Director to execute Amendment No. 1 to the TUMF Reimbursement Agreement with March Joint Powers Authority (JPA) for the Construction Phase of the Van Buren Boulevard Widening (Barton Road to 1,000' West of I-215) Project in an amount not to exceed $7,222,000; 4) Authorize the Executive Director to execute Amendment No. 1 to the TUMF Reimbursement Agreement with the County of Riverside for the Planning and Engineering Phases of the Cajalco Road Widening Project (Alexander Street to I-215) in an amount not to exceed $2,413,338;			Recommend that the Executive Committee adopt changes to the Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies; 2) Recommend that the Executive Committee adopt changes to the Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies; 3) Recommend that the Executive Committee direct staff to consult with each member agency to formally determine those that wish to enroll in this process; 4) Recommend that the Executive Committee direct staff to work with legislative bodies with each agency wishing to enroll in this process to adopt an update to their TUMF Ordinance; 5) Recommend that the Executive Committee direct staff to allow those agencies which do not wish at this to enroll in this process to continue calculating and collecting TUMF; 6) Approve a revision to the 3,000 square foot reduction policy for retail and service uses that limits this reduction to projects that are less than 20,000 square feet;	Recommend that the Executive Committee adopt changes to the Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies; 2) Recommend that the Executive Committee adopt changes to the Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies; 3) Recommend that the Executive Committee direct staff to consult with each member agency to formally determine those that wish to enroll in this process; 4) Recommend that the Executive Committee direct staff to work with legislative bodies with each agency wishing to enroll in this process to adopt an update to their TUMF Ordinance; 5) Recommend that the Executive Committee direct staff to allow those agencies which do not wish at this to enroll in this process to continue calculating and collecting TUMF; 6) Approve a revision to the 3,000 square foot reduction policy for retail and service uses that limits this reduction to projects that are less than 20,000 square feet; 7) Recommend that the Executive Committee approve an update to the TUMF Zone boundaries to align with County of Riverside Supervisorial districts;		
Fellowship	n/a			n/a	n/a		
New Programs / Initiatives:							
EXPERIENCE	n/a			n/a	n/a		

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Item 5.C

WRCOG Committees and Agency Activities Update

Attachment 2

Summary recaps from September Committee meetings

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Western Riverside Council of Governments
Executive Committee Meeting Recap
September 10, 2018

Following is a summary of key items discussed at the last Executive Committee meeting. To review the full agenda and staff reports for all items, click here. To review the meeting PowerPoint presentations, click here.

Homelessness Activities Updates

- The Homelessness Statement of Principles adopted by the Executive Committee last March has been adopted by the Cities of Jurupa Valley, Lake Elsinore, Riverside and Temecula. If jurisdictions that have not yet taken action would like to bring the Statement of Principles to their City Council for consideration, WRCOG staff are available to assist.
- Two BEYOND Team-funded Homelessness Coalitions presented on their progress to date in providing both direct care and services and developing tools and regional best practices for addressing homelessness and related issues.
- The presentations concluded with a listing of lessons learned—such as the essential need for alignment between elected officials and staff—and recommended next steps, including a suggestion that WRCOG provide grant writing assistance for homelessness related funding opportunities.
- WRCOG will continue to engage with both coalitions and explore opportunities to support additional progress to combatting homelessness as directed by the Executive Committee.

Understanding the Transportation Analysis Implications of Senate Bill (SB) 743

- SB 743 significantly changes how transportation impacts are measured under the California Environmental Quality Act (CEQA), and therefore creates significant challenges for local jurisdictions to implement.
- With a grant from SCAG, WRCOG is working to provide assistance to member jurisdictions in implementing SB 743 and reduce costs to local agencies by providing regionally-appropriate tools member jurisdictions may choose to utilize.
- WRCOG will provide regular updates to the Public Works and Planning Directors Committees to gather their input. The study will conclude in March 2019.

Executive Committee Opposes Congressional Senate Bill (S.) 3157

- S. 3157 aims to limit local control of the deployment of telecommunication facilities and small cells through such measures as limiting the amount jurisdictions can charge for small cell attachments, and regulating location siting of small cell deployment.
- The Executive Committee adopted an "Oppose" position to S. 3157 and authorized the Executive Director to transmit a letter on behalf of WRCOG indicating WRCOG's opposition to the Bill.

Climate Adaptation Toolkit Project Consultant Contract Approvals

- WRCOG has been awarded a $683,431 grant from Caltrans to develop a Toolkit, in collaboration with the San Bernardino COG, to support regional efforts to prepare for and mitigate risks associated with climate adaptation and transportation infrastructure.
- The Executive Committee approved professional services agreements with the three firms to develop the components of the Toolkit.
- Work on the project will commence immediately and conclude in February 2020.

TUMF Program Approval of Project Reimbursement Agreements

- The Executive Committee authorized a new Reimbursement Agreement and a Reimbursement Agreement Amendment with the City of San Jacinto for the Esplanade Avenue Widening Project. The new Agreement provides for reimbursement for the Right-of-Way Phase, in an amount not to exceed $1,000,000. The Amendment modifies an existing Agreement to reimburse up to $1,170,025 for Phases I and II of the Project.
- The Executive Committee authorized an Amendment to the Reimbursement Agreement with March JPA for the Construction Phase of the Van Buren Boulevard Widening Project for an amount not to exceed $7,222,000.
- The Executive Committee authorized an Amendment to the Reimbursement Agreement with the County of Riverside for the Planning and Engineering Phases of the Cajalco Road Widening Project in an amount not to exceed $2,413,338.

Next Meeting

- The next Executive Committee meeting is scheduled for Monday, October 1, 2018, at 2:00 p.m., at the County of Riverside Administrative Center, 1st Floor Board Chambers.

Western Riverside Council of Governments
Planning Directors Committee Meeting Recap
September 13, 2018

Following is a summary of key items discussed at the last PDC meeting. To review the full agenda and staff reports for all items, click here. To review the meeting PowerPoint presentations, click here. For additional information, contact Andrea Howard at ahoward@wrcog.us or (951) 405-6751.

Update on Local Input Process for the 2020 Regional Transportation Plan/ Sustainable Community Strategy (RTP/SCS)

- SCAG staff provided an update on its Bottom-Up Local Input and Envisioning Process that was first initiated in the fall of 2017.
- The local input process allows SCAG member agencies to propose clarifications and revisions to the information SCAG currently has on record, which will be used to inform the development of both the RTP/SCS and the next cycle of the Regional Housing Needs Assessment.
- The deadline to submit input is October 1, 2018

Community Engagement Case Studies

- Jeff Murphy recounted his experiences using online engagement and interactive seminars to turn the tide against a very vocal oppositional community group.
- Michael Baker International shared community engagement case studies from the local area along with practical execution techniques.
- Riverside Transit Authority shared their strategy in engaging the local community, specifically university students through social media and outreach events.
    - Please refer to the linked PowerPoint above for full presentations.

Proposed New TUMF Calculation Policy

- As of August 2018, the Technical Advisory Committee recommended that the Executive Committee approve an option that would have WRCOG calculate and collect TUMF for all member agencies.
- In response to feedback received, the proposed update to the TUMF calculation would provide agencies the option to have WRCOG calculate and collect TUMF.
- PDC members expressed interest in hearing input from the Public Works Committee (PWC).
- The PDC requested that voluntary opt-in or opt-out language be added to the Calculation Policy.

TUMF Program 3,000 Square Foot (SF) Reduction for Retail and Service Uses Implementation Update

- Staff introduced a proposal to limit the recently enacted 3,000 SF deduction for retail and service uses to spaces that are less than 20,000 SF.
- The 3,000 SF deduction currently applies to all retail and service uses, regardless of size.
- This update would maintain the fee relief for smaller uses, while also recognizing that larger tenants generally create more regional traffic.
- The PDC approved the revision to the policy, which will limit the sizes of service and retail uses that receive the deduction to less than 20,000 SF.

- Staff will continue to monitor revenue loss from the deduction and development trends for retail and service uses.

Next Meeting

- The next meeting of the WRCOG Planning Directors Committee will convene on Thursday, October 11, 2018 at WRCOG's office, located at 3390 University Avenue, Suite 450, Riverside.

Western Riverside Council of Governments
Public Works Committee Meeting Recap
September 13, 2018

Smart Cities Update

- Ed Ebrahimian, retired Director of the Los Angeles Bureau of Street Lighting (LABSL), presented his experience with deployment of Smart City Technologies on streetlights in the City of Los Angeles.
- Mr. Ebrahimian also presented the benefits of LED streetlight installation and emerging potential to use streetlights to co-locate remote monitoring systems.
- For more information, please contact Tyler Masters at tmasters@wrcog.us.

Inland Empire Transportation Cybersecurity Research Initiative

- Kimberly Collins, Director of the Leonard Transportation Center at California State University San Bernardino, presented the results of a Cybersecurity Study undertaken to analyze the current regulatory environment, management, and resources available to manage cybersecurity threats in the Inland Empire's transportation sector.
- Key findings of the Study include the need for local agencies to plan for future technologies and connected devices will continue to be a top target as local agencies continue to put more systems online.
- For more information, please contact Christopher Gray at cgray@wrcog.us.

Proposed New TUMF Calculation Policy

- Daniel Ramirez-Cornejo, WRCOG Program Manager, presented an update to the proposed TUMF calculation process revision which is intended to eliminate errors by giving each individual member agency the option to have WRCOG calculate and collect TUMF for all development projects.
- Each member agency would also have the option to retain responsibility for TUMF calculation and collection within their jurisdiction (maintaining the current process).
- The Committee recommended that the Executive Committee adopt changes to the TUMF Ordinance and Administrative Plan to allow for WRCOG calculation and collection of TUMF for member agencies that elect to make this change.
- Contingent upon Executive Committee approval, staff will coordinate with each agency to determine the approach that each agency intends to follow in regard to TUMF calculation and collection.
- The Committee also requested that staff coordinate with each agency on a yearly basis to verify their position in regard to TUMF calculation and collection.
- For more information, please contact Daniel Ramirez-Cornejo at dramirez-cornejo@wrcog.us.

TUMF Program 3,000 Square Foot Exemption for Retail and Service Uses Implementation Update

- Daniel Ramirez-Cornejo, WRCOG Program Manager, presented a proposed revision to the 3,000 square foot (SF) reduction policy for retail and service uses enacted by the Executive Committee in August 2017 that would limit this reduction to projects that are less than 20,000 SF.

- The Committee approved the revision to the 3,000 SF reduction policy to limit this exemption to projects that are less than 20,000 SF.
- Staff will present item to the Executive Committee in October 2018 for final approval prior to implementation.
- For more information, please contact Daniel Ramirez-Cornejo at dramirez-cornejo@wrcog.us.

<u>TUMF Zone Boundaries Update</u>

- Daniel Ramirez-Cornejo, WRCOG Program Manager, explained that the existing TUMF Zone boundaries do not coincide with the Riverside County Supervisor Districts and presented proposed new Zone boundaries that would better align with County Supervisor Districts.
- The proposed revisions only affect the unincorporated portion of the County with a handful of TUMF projects shifting Zones.
- The Committee approved the proposed revisions to the TUMF Zone boundaries.
- For more information, please contact Daniel Ramirez-Cornejo at dramirez-cornejo@wrcog.us.

<u>Actions Forwarded to WRCOG Executive Committee</u>

1. Recommend that the Executive Committee adopt changes to the Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies that wish to enroll in this process.
2. Recommend that the Executive Committee direct staff to prepare an amendment to the TUMF Ordinance to allow WRCOG to collect TUMF on behalf of its member agencies that wish to enroll in this process.
3. Recommend that the Executive Committee direct staff to consult with each member agency to formally determine those that wish to enroll in this process.
4. Recommend that the Executive Committee direct staff to work with legislative bodies with each agency wishing to enroll in this process to adopt an update to their TUMF Ordinance.
5. Recommend that the Executive Committee direct staff to allow those agencies who do not wish at this time to enroll in this process to continue calculating and collecting TUMF.
6. Recommend that the Executive Committee direct staff to contact all member agencies on an annual basis to verify enrollment status.
7. Approve a revision to the 3,000 square foot reduction policy for retail and service uses that limits this reduction to projects that are less than 20,000 square feet.
8. Recommend that the Executive Committee approve an update to the TUMF Zone boundaries to align with County of Riverside Supervisorial districts.

Item 5.D

Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **Regional Streetlight Program Activities Update**

Contact: **Tyler Masters, Program Manager, tmasters@wrcog.us, (951) 405-6732**

Date: **October 1, 2018**

***The purpose of this item is to** provide an update on the Western Riverside County streetlight acquisition and transition processes.*

Requested Action:

1. Receive and file.

WRCOG's Regional Streetlight Program will assist member jurisdictions with the acquisition and retrofit of their Southern California Edison (SCE)-owned and operated streetlights. The Program has three phases: 1) streetlight inventory, 2) procurement and retrofitting of streetlights, and 3) ongoing operations and maintenance. A major objective of the Program is to provide cost savings to participating member jurisdictions.

Background

At the direction of the Executive Committee, WRCOG developed a Regional Streetlight Program that will allow jurisdictions (and Community Service Districts) to purchase streetlights within their boundaries that are currently owned and operated by SCE. Once the streetlights are owned by the member jurisdiction, the lamps will be retrofitted to Light Emitting Diode (LED) technology to provide more economical operations (i.e., lower maintenance costs and reduced energy use). Local control of the streetlight system provides jurisdictions with opportunities for future revenue generation such as digital-ready networks and telecommunications and information technology strategies.

Regional Streetlight Acquisition Process

Eleven jurisdictions (listed below) have moved forward and signed Purchase and Sales Agreements (Agreement) to acquire current SCE-owned streetlights within their jurisdictional boundaries. Collectively, these account for nearly 48,000 streetlights within Western Riverside County. The CPUC has approved all member jurisdiction applications for streetlight ownership. The table below provides the status for each jurisdiction participating in the Program and is subject to change as SCE progresses through the transition process. WRCOG staff will continue to update the progress as jurisdictions reach each milestone.

	City approves agreement to purchase streetlights	City approves amendment to PSA	SCE executes agreement	SCE sends to CPUC	CPUC approves streetlight transfer	City approves program participation
Eastvale	4/12/17	7/25/17	✓	✓	12/8/17	5/9/18
Hemet	3/14/17	9/11/17	✓	✓	3/31/18	8/28/18
JCSD	3/13/17	N/A	✓	✓	3/11/18	7/23/18
Lake Elsinore	1/24/17	8/17/17	✓	✓	3/11/18	7/24/18
Menifee	2/15/17	3/7/18	✓	✓	8/8/18	Est. 10/3/18
Moreno Valley	3/21/17	10/16/17	✓	✓	3/31/18	6/19/18
Murrieta	3/7/17	7/11/17	✓	✓	9/29/17	12/19/17
Perris	3/28/17	N/A	✓	✓	3/31/18	5/8/18
San Jacinto	3/28/17	N/A	✓	✓	3/31/18	12/19/17
Temecula	2/28/17	5/30/17	✓	✓	6/21/18	8/14/18
Wildomar	3/8/17	N/A	✓	✓	3/31/18	8/8/18

As part of the next step of the Program, staff will work with remaining jurisdictions to identify and pursue action on the Regional Program Participation Package including:

1. Financing: If approved, the jurisdiction will enter into an agreement with the Program's financing lender, Banc of America. Banc of America will be working with each respective jurisdiction to provide the adequate amount for Acquisition and/or LED Retrofit.
2. Retrofit, operation & maintenance: If approved, the jurisdiction will elect to enter into an agreement with WRCOG's retrofit, operation & maintenance (O&M) service provider, Siemens, which will be conducting retrofit services and ongoing maintenance remedies for any streetlight outages and fixture damages, and provide a 24/7 call center for residents with the goal of meeting and/or exceeding the current service that is being offered.
3. LED fixture selection and procurement: If approved, the jurisdiction will elect to enter into an agreement to convert their current lighting fixtures to LED technology. The LED technology that will be implemented throughout the region will be installed by Siemens.

Streetlight Transition Process

WRCOG receives regular transition timelines and updates from SCE indicating the estimated timing that SCE will initiate and analyze each streetlight pole as part of the acquisition process. Known as the SCE Inventory and Inspection Process (or inventory true-up process), SCE estimates the entire region will have the streetlight transition started by October 2018. At the conclusion of the Process, each jurisdiction will be provided with their own streetlight report containing important information from the amount of sellable streetlight systems, streetlight location, pole material, etc. To date, the City of Murrieta and City of Hemet have completed the Process and has received their streetlight data for review. The table below estimates the program milestones for each jurisdiction from the period SCE's Inventory and Inspection Process commences all the way through retrofit completion for the participants. Note that the table provides different scenario timelines based on alternating milestones of SCE's process as well as the pace of retrofit and fixture delivery.

9.20.18	SCE Transition start 1	SCE Transition closing 2		City approval + payment of invoice 3	Retrofit Start 4		Retrofit End (Siemens @ 3,000 poles/month) 5		Retrofit End (Siemens @ 1,000/Month)	
		Scenario #1 @ 5 months	Scenario #2 @ 3.5 months		Scenario #1	Scenario #2	Scenario #1	Scenario #2	Scenario #1	Scenario #2
Eastvale	6/1/18	10/29/18	9/9/18	~ 120 days	2/26/19	1/7/19	04/07/19	02/16/19	06/27/19	05/08/19
Hemet	6/4/18	11/1/18	9/12/18		3/1/19	1/10/19	03/18/19	01/27/19	04/22/19	03/03/19
JCSD	6/4/18	11/1/18	9/12/18		3/1/19	1/10/19	03/19/19	01/28/19	04/26/19	03/07/19
Lake Elsinore	6/4/18	11/1/18	9/12/18		3/1/19	1/10/19	04/01/19	02/10/19	06/04/19	04/15/19
Menifee	10/1/18	2/28/19	1/9/19		6/28/19	5/9/19	08/30/19	07/11/19	01/03/20	11/14/19
Moreno Valley	9/1/18	1/29/19	12/10/18		5/29/19	4/9/19	08/25/19	07/06/19	02/17/20	12/29/19
Murrieta	complete	10/12/18	9/12/18		2/9/19	1/10/19	04/14/19		08/21/19	
Perris	7/17/18	12/14/18	10/25/18		4/13/19	2/22/19	05/24/19	04/04/19	08/15/19	06/26/19
San Jacinto	7/17/18	12/14/18	10/25/18		4/13/19	2/22/19	05/01/19	03/12/19	06/06/19	04/17/19
Temecula	10/1/18	2/28/19	1/9/19		6/28/19	5/9/19	09/09/19	07/21/19	02/03/20	12/15/19
Wildomar	9/4/18	2/1/19	12/13/18		6/1/19	4/12/19	06/15/19	04/26/19	07/13/19	05/24/19

1. SCE Transition start: Initiation of streetlight inventory and inspection process and final verification of streetlight systems. Completed by SCE's third party contractor.
2. SCE Transition closing: SCE has indicated they can transition between 2,000 to 4,000 lights per month. As such, the table above estimated closing dates using two scenarios. Scenario #1 illustrates a conservative approach where SCE can audit the jurisdiction's poles in 5 months & Scenario #2 illustrates an expedited approach where SCE can audit the jurisdiction's poles in 3 and ½ months
3. City Approval & payment and additional application requirements (if any): Estimated timeframe for City review of streetlight audit & submittal of payment for streetlight purchase to SCE, and for LED fixture manufacture and delivery.
4. Retrofit start: Estimated LED retrofit start date. Retrofit start date will be based off of Footnote #2 audit approach.
5. Retrofit end: Estimated LED retrofit end date. Two Scenarios are shown with WRCOG's O&M vendor Siemens providing a 3,000 poles per month retrofit and 1,000 poles per month retrofit scenario(s).

Incentive / Rebate Update

The Regional Streetlight Program also supports member jurisdictions when they apply for rebates from SCE as they look toward retrofitting their streetlight with qualified LEDs. SCE provides incentives in the form of a refund check to jurisdictions that implement qualified energy efficiency projects throughout their facilities that successfully reduce energy consumption and utility costs. The Regional Streetlight Program is a major project that qualifies for SCE incentives.

SCE currently has two rebate channels for processing incentive applications from jurisdictions. First, the "Customized" rebate channel is to be used by jurisdictions that are converting their streetlight systems from low-pressure sodium (LPS) to light-emitting diode technology (LED). The customized channel is an approximate four-month process in which SCE must approve the LED fixtures prior to purchasing them, a pre-inspection of the existing LPS streetlight system, and a post-inspection of the LED fixtures once they have been installed. Second, the "Deemed/Express" rebate channel is to be used by jurisdictions that are converting their streetlight systems from high-pressure sodium (HPS) to LED. The deemed/express channel is much quicker given that SCE does not require the pre-purchase approval of the LED fixtures and does not require pre- and post-inspections of existing and installed hardware. The deemed/express approach removes approximately four months of application processing time for jurisdictions that are applying for incentive rebates.

Earlier this month, WRCOG received news that SCE has determined the deemed/express rebate channel for all WRCOG participating jurisdictions that are going through the streetlight acquisition process. This means that each jurisdiction currently in the Regional Streetlight Program, regardless of LPS or HPS streetlight systems, is eligible to apply for incentives through the same streamlined deemed/express rebate process.

Prior Action:

None.

Fiscal Impact:

Activities for the Regional Streetlight Program are included in the Agency's adopted Fiscal Year 2018/2019 Budget in the Energy Department.

Attachment:

None.

Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **PACE Programs Activities Update**

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

Date: **October 1, 2018**

The purpose of this item is to *provide general Program updates including the nexus between homeowner's insurance, wildfires, and PACE assessments, as well as an update on legislation SB 465 which allows wildfire safety improvements to be financed by PACE.*

Requested Action:

1. Receive and file.

WRCOG's PACE Programs provide financing to property owners to implement energy saving, renewable energy, and water conservation improvements to their homes and businesses. Financing is paid back through a lien placed on the property tax bill. The HERO Program was initiated in December 2011 and has been expanded (an effort called "California HERO") to allow for jurisdictions throughout the state to join WRCOG's Program and allow property owners in these jurisdictions to participate. WRCOG now offers CaliforniaFIRST, Greenworks, Ygrene, and PACE Funding as additional PACE Providers under the WRCOG PACE Program.

Overall PACE Program Update

The following table provides a summary of all residential projects that have been completed under the residential WRCOG PACE Programs through September 24, 2018:

PACE Program	Date Program Launched	Projects Completed	Total Project Value	Product Type Installed
WRCOG HERO	December 2011	26,515	$558,230,623	HVAC: 32.0%; Solar: 26.1%; Windows / Doors: 18.1%; Roofing: 9.1%; Landscape: 4.4%
California HERO	December 2013	61,694	$1,426,159,276	HVAC: 29.5%; Solar: 27.3%; Windows / Doors: 17.7%; Roofing:10.3 %; Landscape: 5.2%
CaliforniaFIRST	May 2017	163	$4,996,872	HVAC: 30.0%; Solar: 30.0%; Windows / Doors: 16.5%; Roofing:11.0 %; Landscape: 4.9%
PACE Funding	November 2017	184	$2,358,830	HVAC: 31.5%; Solar: 28.2%; Windows / Doors: 24.1%; Roofing: 7.4%; Landscape: 4.5%
Total:		**87,596**	**$1,991,745,601**	

The following table provides a summary of the total estimated economic and environmental impacts for projects completed in both the WRCOG and the California HERO Programs to date.

Economic and Environmental Impacts Calculations	
KW Hours Saved – Annually	1,101 GWh
GHG Reductions – Annually	222,221 tons
Gallons Saved – Annually	555 Million
$ Saved – Annually	117 Million
Projected Annual Economic Impact	$ 3.4 Billon
Projected Annual Job Creation/Retention	20,225 Jobs

PACE Products and Homeowners Insurance

On August 6, 2018, the Executive Committee requested information regarding the nexus between wildfires, homeowner's insurance, and PACE assessments. Pursuant to this request, staff compiled the following data.

In October 2017, Sonoma County experienced a devastating wildfire that destroyed a large number of buildings and infrastructure. The destroyed properties included 69 homes with PACE assessments attached to the tax bill. Sonoma County's PACE Program Manager informed WRCOG that despite their efforts to find solutions, property owners with PACE assessments retained the financial responsibility to complete PACE assessment payments in their entirety. Sonoma County operates its own PACE Program and has added the following language in their contracts:

"Further, neither the County, its officials, agents, employees, attorneys and representatives, the Program Administrator, nor SCEIP [Sonoma County Energy Independence Program] staff is responsible for making Owner whole in the event of loss of the Improvement. Owner is responsible for ensuring its insurance coverage is sufficient to replace the Improvement in the event of loss. In the event of loss of the Improvement, the lien of the Assessment and the Annual Administrative Assessment will remain on the Property pursuant to the terms of the Assessment Contract."

On September 1, 2018, the WRCOG call center staff began stating insurance disclosures to property owners in the confirmed terms call. Since a PACE improvement is an asset to a property, WRCOG advises property owners to ensure their insurance coverage is sufficient to cover costs; especially important in the case of natural disasters. If a property owner fails to contact their home insurance provider, they run the risk of having their PACE products uninsured. The WRCOG insurance disclosure reads, *"Lastly, because you are adding an asset to your home, we recommend that you contact your homeowner's insurance provider to let them know about the improvements you are making."*

The Riverside County Treasurer-Tax Collector's Office indicated that there is no specified mechanism to delay the PACE assessment portion on the property tax bill in the event of a natural disaster. However, property owners could apply for calamity relief. This method would not officially deter taxes but would ultimately waive penalties at the time of payment.

The California Department of Insurance (CDI) requires that all homeowners have home insurance for their properties. Homeowners insurance consist of two major coverage types: property coverage and liability coverage. Property coverage insures dwelling units and other structures on the property. Liability coverage includes personal property, loss of use, personal liability, and medical payments to others. Personal property loss is normally 50% of your dwelling unit coverage. Furthermore, loss of use, personal liability and medical payments to others are normally less than 50% of the dwelling unit coverage.

The two types of coverage that a homeowner can choose when selecting homeowner's insurance are the actual cash value policy and the replacement cost policy. The actual cash value policy is a policy that takes the replacement cost of the property and deducts any depreciation. In the event of a complete loss, an actual cash value policy will not cover the complete cost of replacing a home. On the other hand, a replacement policy sets coverage limits that allow for the cost of rebuilding a home. While a replacement policy has set limits, there are policies that will not cover the building code upgrade that may have occurred since the home was built. In the case of having to upgrade to new building codes, the U.S. Small Business Administration offers homeowners affordable Home and Property Disaster Loans. In order to apply for these loans, eligible individuals can apply at DisasterAssistance.gov.

In the event of an incident that the state declares a "disaster," insurers must offer at least 24 months of Additional Living Expenses (California Insurance Code 2051) or up to the homeowner's policy limit. Additional Living Expenses are covered under Coverage D – Loss of use. This coverage is normally limited to 20% of the dwelling coverage. This will help homeowners find a temporary place of residence until their insurance company works with all parties to payout a homeowner. Many insurance providers have exclusion clauses in their contracts that do not cover disasters such as earthquakes. In these cases, insurance providers are legally required to offer property owners extended coverages at a premium, so that property owners may decide what cost and coverage is suitable for their needs.

SB 465

SB 465 was formally enrolled in the California Code of Statutes on September 7, 2018, and will operate until January 1, 2029. The bill will allow the use of PACE assessments to finance the installation of wildfire safety improvements that are permanently fixed to residential and commercial properties in areas that are designated as Very High Fire Hazard Severity Zone. Within the WRCOG subregion, the following Cities have been identified as having Very High Fire Hazard Severity Zones: Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula and Wildomar.

The wildfire safety improvements that are eligible for PACE financing include ember resistant roofs, dual-paned windows, driveways, and a variety of ignition resistant products that may be permanently affixed to properties. The language in the legislation prohibits PACE financing for wildfire safety improvements to be used in the new construction or rebuilding for properties that have been previously destroyed or damaged in a fire. The measure states that it is the property owner's responsibility to coordinate with their insurance provider to determine whether the wildfire safety improvements will be covered by their insurance plan or impact their insurance rate.

Staff is currently analyzing the legislation and associated improvements and will come back to the this Committee to discuss the development of a Wild Fire Safety Improvement product category that will allow for certain PACE eligible improvements to be made only in those areas designated as Very High Fire Hazard Severity Zone.

Prior Action:

September 10, 2018: The Executive Committee received and filed.

Fiscal Impact:

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

Attachment:

None.

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Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **Western Riverside Energy Partnership Activities Update**

Contact: **Tyler Masters, Program Manager, tmasters@wrcog.us, (951) 405-6732**

Date: **October 1, 2018**

The purpose of this item is to *provide information on the 2018 Direct Install Program, and the 2018 LED Holiday Light Exchange and Energy Efficiency Kit-Giveaway.*

Requested Action:

1. Receive and file.

The Western Riverside Energy Partnership (WREP) responds to Executive Committee direction for WRCOG, Southern California Edison (SCE), and Southern California Gas Company (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.

2018 LED Holiday Light Exchange and Energy Efficiency Kit Giveaway

WRCOG is developing its 5th Annual LED Holiday Light Exchange and Energy Efficiency Starter Kit Giveaway. This Program is offered in coordination with its WREP partners, SCE (Southern California Edison) and SoCal Gas (Southern California Gas Company). Originated in 2014, this Program allows residents within SCE territory to exchange their old, incandescent holiday lights for new, energy efficient LEDs. SoCal Gas joined the Program in 2016 to promote their Energy Efficiency kits to their customers. The Energy Efficiency kits include a low flow showerhead and several faucet aerators. To date, staff has attended 20 holiday community events, exchanged over 2,300 holiday lights, and provided 150 energy efficiency starter kits to over 1,100 households within Western Riverside County.

To participate in the Holiday Light Exchange, residents must bring:

- Old, inefficient, incandescent holiday lights to exchange
- A recent copy of SCE monthly bill (or proof of electronic bill payment)
- A license or picture identification matching customer name on the SCE bill

To participate in the Energy Efficiency Starter Kit giveaway, residents must bring:

- A recent copy of their SoCal Gas monthly bill (or proof of electronic bill payment)
- A license or picture identification matching customer name on the SoCal Gas bill

Following is the list of this year's community events:

City	Event	Date
City of Calimesa	TBD	TBD
City of Temecula	WinterFest	11/26/18
City of Perris	Christmas Tree Lighting Ceremony	11/30/18
City of Eastvale	Winter Wonderland & Tree Lighting Ceremony	12/1/18
City of Canyon Lake	37th Annual Tree Lighting Ceremony	12/2/18

This Program is open to any SCE / SoCal Gas customer in resident in Western Riverside County.

Staff will be in contact with each jurisdiction's Public Information Officer (PIO) to promote the Program in the upcoming weeks. For additional questions on the Program, please contact Anthony Segura at asegura@wrcog.us.

2018 Direct Install Program

The WREP Partnership has been working with SCE and SoCal Gas to provide commercial businesses in Western Riverside County with no-cost energy consultations and energy efficient retrofit installations. This offering is provided on behalf of SCE's and SoCal Gas' Direct Install (DI) Programs, which provides commercial businesses opportunities to reduce utility bills and increase the building's life span.

In 2018, the DI Program through SCE for commercial businesses has occurred in the Cities of Canyon Lake, Lake Elsinore, Perris, San Jacinto, Menifee, and Temecula. The commercial consultation began on August 15, 2018, and will conclude at the end of September. The SoCal Gas DI Program is available to all cities in Western Riverside County from now through the end of 2018. Participation in these Programs are on a first come, first served basis as funding is limited.

The energy measures available for the DI Program include:

- 4 ft. LED tube replacements
- Auto-closer for coolers & freezers
- Insulation for bare suction pipes

The gas measures available for the DI Program include:

- Low-flow kitchen pre-rinse spray valves
- Hot water tank & pipe insulation
- Low-flow showerheads & aerators

To promote the DI Program, WRCOG has developed and distributed a Press Release that has been provided to several media outlets as well as the participating jurisdictions PIO's for distribution through their social media platforms. Staff will continue to work with each jurisdictions PIO's to identify other Utility Customer Programs that can be offered and identify the best platform for outreach. The Utilities DI Program is a yearly Program and WRCOG will continue to promote both SCE's & SoCal Gas' offering through the end of 2018 and into 2019.

For a list of Customer Programs that are offered in Western Riverside County by both SCE & SoCal Gas, or if interested in participating in the Utilities DI Program, please contact Anthony Segura at asegura@wrcog.us.

Prior Action:

August 6, 2018: The Executive Committee received and filed.

Fiscal Impact:

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

Attachment:

None.

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Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **Report from the League of California Cities**

Contact: **Erin Sasse, Regional Public Affairs Manager, League of California Cities, esasse@cacities.org, (951) 321-0771**

Date: **October 1, 2018**

***The purpose of this item is to** provide an update of activities undertaken by the League of California Cities.*

Requested Action:

1. Receive and file.

Legislative Update 9-13-18

The Legislature ended the session by sending hundreds of bills to the Governor's desk for consideration. The Governor must now decide whether to sign or veto them by the September 30 deadline. The League is requesting that the Governor sign 34 bills and veto 17 of them.

Bureau of Cannabis Control Draft Regulations:
BCC finished their public input process in late August.
They are now processing all that input

1) If they make major changes, it triggers a new 45-day comment period.
2) If the changes are substantial and sufficiently related, there is a 15-day comment period.
3) The Office of Administrative Law gets them and they review the entire record. (They are not a rubber stamp and have been known to toss regulations that are not consistent with the LAW, which is the League's strongest argument)

Request for Signature:

AB 1772 (Aguiar-Curry) Fire Insurance: Indemnity
Extends the minimum time limit for an insured person to collect the full replacement cost of a loss related to a "state of emergency" from 24 to 36 months. Insured persons may extend coverage for six months for good cause, including a delay in the approval or reconstruction of the home.

AB 2020 (Quirk) Cannabis: Local Jurisdiction Licensees: Temporary Event Licenses
Allows the Bureau of Cannabis Control to issue a temporary state event license for a venue that has been expressly approved by a local jurisdiction under specific conditions. It makes common sense changes to existing law and gives cities more control over authorizing a temporary cannabis event.

AB 2123 (Cervantes) District-Based Elections
Provides up to an additional 90 days to convert to district-based elections through the ordinance process upon mutual agreement between a prospective plaintiff and a city. (Signed by the Governor)

***AB 2164 (Cooley) Fines and Penalties: Cannabis**
Allows local agencies to adopt an ordinance that provides for the immediate imposition of administrative fines or penalties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis. (Signed by the Governor)

***SB 822 (Wiener) Communications: Broadband Internet Access Service**
Restores net neutrality principles in California, which will help ensure a free and open internet and protect cities or the services they provide and/or receive from anti-competitive internet practices.

***SB 833 (McGuire) Emergencies: Alert and Warning Systems**
Requires CalOES to collaborate with the League, California State Association of Counties, and other stakeholders in developing uniform guidelines for mass notification during major emergencies.

***SB 901 (Dodd) Wildfires**
At the urging of numerous stakeholders, including the League, this legislation maintains the current liability rules, protecting cities from a potential shift of liability and protecting our ability to rebuild after a wildfire. The measure also adds new safety and prevention measures, including new wildfire mitigation planning by electric utilities, appropriates $1 billion over five years for forest management, expands the use of mutual aid funding for pre-positioning of equipment and personnel, and contains tools to assist utilities that are facing costs from wildfires. The bill is now on the Governor's desk awaiting signature. Thank you to all who communicated to legislators and stakeholders about the need for a comprehensive approach to this issue. Your engagement was instrumental in the League's efforts on the final package that will help the state and our cities better protect our communities.

SB 1145 (Leyva) Enhanced Infrastructure Financing Districts
Protects local economic development investments by allowing Enhanced Infrastructure Financing Districts (EIFDs) to finance ongoing maintenance costs for public projects financed by the EIFD.

Request for Veto:

***AB 553 (Daly) Workers' Compensation: Return-to-Work Program**
Requires the Department of Industrial Relations to distribute $120 million annually to injured workers from the Return to Work Program – a public and private employer funded Program. Places an additional administrative and cost burden on cities by requiring employers to contribute annually to the fund and shifts the responsibility to administer the Program funds away from the state to both public and private employers as well as their insurers.

AB 748 (Ting) Peace Officers: Video and Audio Recordings: Disclosure
Establishes a standard for the release of body-worn camera footage that removes local authority over the determination to release footage to the public. Supplants existing, well-reasoned exemptions from disclosure under the Public Records Act and expressly undermines public interest. Opens up cities to Public Record Act lawsuits and would increase costs.

AB 1597 (Nazarian) Public Employee Retirement Systems: Prohibited Investments: Turkey
Prohibits CalPERS and CalSTRS from investing in the government of Turkey and certain financial instruments of the sovereign state, if the federal government of the United States sanctions Turkey for failing to acknowledge the Armenian Genocide.

***AB 1771 (Bloom) Regional Housing Needs Assessment (RHNA)**
Makes a number of changes to the RHNA methodology and allocation process. Limits flexibility for two local governments to agree to an alternative distribution of appealed housing allocations. Allows a Council of Government (COG) to identify significant barriers to affirmatively furthering fair housing at the regional level and recommend strategies or actions to overcome those barriers. This would allow a COG to second guess city land use decisions.

***AB 2495 (Mayes) Code Enforcement**
Makes it unlawful for a local city or county government to charge a person for the costs of investigation, prosecution, or appeal that the city or county sustains in a criminal case. (Signed by the Governor)

***AB 2544 (Lackey) Parking Penalties**
Retroactively requires cities to verify the indigent status of persons with unpaid parking violations over the last five years. Creates an undue burden on local governments and their ability to enforce basic local laws.

***AB 2681 (Nazarian) Seismic Safety: Potentially Vulnerable Buildings**
Creates an unfunded mandate requiring cities and counties to compile inventories of potentially vulnerable buildings and other prescriptive requirements without any funding secured for the program.

***AB 2923 (Chiu) Bay Area Rapid Transit District: Land Use Authority**
Provides the Bay Area Rapid Transit District (BART) land use authority over their property within one half mile of a BART station. Applies only to BART, but it sets a dangerous precedent for all other special districts in the state wanting the same authority.

***SB 828 (Wiener) Regional Housing Needs Assessment (RHNA)**
Modifies existing codified intent language that recognizes that cities may not meet their RHNA and implies that RHNA is a production mandate. Makes numerous changes to the methodology to account for overcrowding, jobs / housing imbalance, and "cost burdened."

SB 946 (Lara) Sidewalk Vending
Prohibits a local authority from adopting rules or regulations that regulate or prohibit sidewalk vendors unless it first adopts a sidewalk vending licensing program that requires a sidewalk vendor to obtain a license from the local authority before selling food or merchandise. Prohibits restricting the location of a licensed sidewalk vendor unless the restriction is directly related to objective health, safety, or welfare concerns.

SB 1333 (Wieckowski) Planning and Zoning: Charter Cities
Applies nearly all of the planning and zoning laws to charter cities.

***SB 1421 (Skinner) Peace officers: Release of Records**
Exposes peace officers to the risk of having their identity revealed for non-sustained or exonerated incidents. Does not take into account officer safety, litigation against public agencies, or the cost to comply. Bifurcates disclosure requirements allowing unsubstantiated use of force claims against officers to be released. Invites increased California Public Records Act challenges.

*These were the League's priority bills.

Prior Action:

None.

Fiscal Impact:

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

Attachment:

None.

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Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: **Proposed New TUMF Calculation Policy**

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

Date: **October 1, 2018**

***The purpose of this item is to** provide an update and request action on a proposed new TUMF calculation policy that would have WRCOG calculate and collect TUMF for member agencies that elect to have WRCOG take responsibility of the calculation and collection of TUMF.*

Requested Actions:

1. Adopt changes to the TUMF Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies that wish to enroll in this process.
2. Direct staff to prepare an amendment to the TUMF Ordinance to allow WRCOG to collect TUMF on behalf of its member agencies that wish to enroll in this process.
3. Direct staff to consult with each member agency to formally determine those that wish to enroll in this process.
4. Direct staff to work with legislative bodies with each agency wishing to enroll in this process to adopt an update to their TUMF Ordinance.
5. Direct staff to allow those agencies who do not wish at this time to enroll in this process to continue calculating and collecting TUMF.
6. Direct staff to contact all member agencies on an annual basis to verify enrollment status.

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 and the March JPA 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, the Regional Conservation Authority (RCA) and the Riverside Transit Agency (RTA).

TUMF Calculation Review

Since spring 2018, staff has pursued a potential policy change to the TUMF calculation process as the result of a comprehensive review of TUMF Remittance Reports submitted by member agencies for Fiscal Year (FY) 2017/2018 that identified a number of miscalculations that ultimately resulted in over $300,000 in refunds to developers. Further, staff has noted that the current calculation process has led to several significant issues between WRCOG and its member agencies. These issues cost significant WRCOG and member agency staff and legal resources as the issues have taken multiple years to resolve. Staff's interpretation is that similar issues will continue to arise without a modification to the TUMF calculation policy. Therefore, staff has determined that it is appropriate to provide member agencies an option that would significantly revise the TUMF calculation and collection process, with the goal of improving the cost-effectiveness of the process for WRCOG and its member agencies.

The item has been presented to various WRCOG Committees and, through the course of the presentations, staff received questions on the implementation and legal aspect of a proposed structure in which WRCOG would calculate and collect TUMF. Staff provided information on the process and schedule to the Planning Directors (PDC), Public Works (PWC), and Technical Advisory (TAC) Committees in August. Additionally, staff presented the proposed forms for comment that member agencies would use to submit development project specifics to WRCOG for the calculation of TUMF.

At its August 16, 2018, meeting, the TAC unanimously recommended that the Executive Committee approve an option that would have WRCOG calculate and collect TUMF for all member agencies. This would significantly streamline the TUMF process by reducing the back-and-forth between WRCOG and member agency staff prior to fee collection. At its September meetings, the PDC and PWC unanimously recommended that the Executive Committee approve an option that would allow WRCOG to calculate and collect TUMF for member agencies that wish to adopt this new policy. Pursuant to the PDC and PWC recommendation, agencies would also have the option of continuing with the current TUMF calculation, collection, remittance, and annual review process.

WRCOG Calculation and Collection Feasibility

Legal counsel has prepared a memo regarding the feasibility of options presented to the WRCOG Committees; a summary is provided as follows:

The Mitigation Fee Act does not prohibit WRCOG from calculating, verifying or collecting TUMF on behalf of its member agencies.

Legal counsel has advised staff that the TUMF Model Ordinance allows either WRCOG or its member agencies to calculate TUMF obligations for new development. Having WRCOG staff calculate TUMF for its member agencies would require an amendment to the TUMF Administrative Plan, which would be subject to approval of the Executive Committee. This change to the Administrative Plan is one of the actions being presented today for approval. WRCOG may also collect TUMF on behalf of its member agencies, subject to a member agency's governing body adopting an Amendment to the current TUMF Ordinance.

Proposed TUMF Calculation Process

In response to feedback received, the proposed update to the TUMF calculation process would provide agencies the option to have WRCOG calculate and collect TUMF. Agencies would also have the option of continuing with the current TUMF calculation, collection, and remittance process.

WRCOG staff presented a series of worksheets that would be used by member agencies to submit project-specific details to WRCOG for the calculation of TUMF at the August 2018 PDC and PWC meetings. Staff distributed proposed worksheets to members of each Committee for additional review and comment. Staff received comments on the proposed worksheets and incorporated the requested changes into the revised worksheets (Attachments 1 through 3).

WRCOG staff would use the information provided by the member agency staff on the calculation worksheets to calculate the TUMF based on the fee per unit and number of units proposed for each development project. This amount would then be communicated to the developer for payment of TUMF. Once TUMF has been paid to WRCOG, a receipt would be forwarded to the developer and the appropriate member agency to notify the member agency staff that the TUMF requirement has been satisfied. This communication is key because member agencies have the ultimate authority to issue project approvals, including building permits or certificates of occupancy.

During the initial presentations on this item, staff received questions regarding the turnaround time for WRCOG to provide TUMF calculations to member agencies. WRCOG has staffing resources to accommodate calculation of TUMF for all member agencies and all calculations would be provided to member agencies within 48 hours, or no longer than one week for projects that require additional review. Additionally, all of the worksheets and calculations would be completed electronically.

Fee collection would also be electronic, allowing the developer to pay TUMF in an online web portal. This approach would be no different than the process for other regional fees, such as water district or school district fees, which are calculated and collected by these agencies. WRCOG already collects fees through the PACE Program and has financial systems in place to accommodate TUMF collection.

The overall calculation process for these agencies would be as follows:

Reporting requirements for agencies that elect to have WRCOG calculate and collect TUMF would be dramatically simpler, as WRCOG staff would simply verify that calculation forms were submitted for all building permits issued. This review could occur on a monthly or annual basis. Agencies that choose to continue calculating and collecting TUMF would be required to continue the current monthly Remittance Report submittals and be subject to in-depth annual reviews.

Frequently Asked Questions

Staff has received a number of questions on the proposed change to the TUMF calculation and collection process. Two of the most common questions, with answers, include:

- ***What happens if an agency wants to maintain the current process?*** If an agency wishes to still calculate and collect TUMF, they may choose to do so. WRCOG would defer to each individual agency to determine how this formal notification would occur. Potential options could include a letter from the City Manager / County Executive Officer / March JPA Executive Officer or formal action by the elected body of the agency. Each agency will have the option to determine how to notify WRCOG which can include City Council / Board of Supervisors action or a formal letter from the agency.

- ***Would WRCOG charge an additional processing fee for TUMF calculations?*** No. The TUMF Program authorizes WRCOG to expend funds generated from TUMF that are necessary and reasonable to carry out its responsibilities for administering and managing the Program.

- ***Could agencies continue to charge a TUMF processing fee?*** Yes. Member agencies would retain authority to charge an additional, separate TUMF processing fee on an agency-by-agency basis to recuperate costs associated with member agency staff time spent on the TUMF Program (i.e., submitting forms with project specific details for WRCOG calculation of TUMF).

- ***Would the Credit Agreement process change if WRCOG were to calculate and collect TUMF?*** The Credit Agreement process would not significantly change, as member agencies are ultimately responsible for acceptance of infrastructure constructed pursuant to Agreements.

Answers to additional frequently asked questions can be found in Attachment 4.

Proposed Implementation Schedule

If action is taken by the Executive Committee in October, implementation of the new calculation policy could proceed as follows:

October 1, 2018: Executive Committee takes action to update the TUMF Administrative Plan to change the policy in which TUMF is calculated to allow WRCOG to calculate TUMF on behalf of member agencies that elect to have WRCOG take calculate and collect TUMF. The Executive Committee takes action on the amended TUMF Ordinance to have WRCOG calculate and collect TUMF for member agencies that elect to adopt the TUMF Ordinance.

October 2, 2018 – November 30, 2018: Agencies opt-into the new TUMF calculation and collection policy that would shift responsibility from the member agency to WRCOG. All agencies will be required to formally notify WRCOG of their approach – whether shifting responsibility of calculation and collection to WRCOG or maintaining responsibility of calculation and collection with the local jurisdiction.

December 2018 – March 2019: The governing body of each member agency interested in WRCOG calculating and collecting TUMF approves TUMF Ordinance Amendment.

April 1, 2019: WRCOG begins fee collection, contingent on member agency approval of the amended TUMF Ordinance. Agencies would also have the option of adopting the amended TUMF Ordinance after April 1, 2019; however, WRCOG will not begin collecting fees until after the amended Ordinance is adopted.

Next Steps

Once approved by the Executive Committee, WRCOG will contact each WRCOG member agency through its TAC representative and ascertain their interest in delegating fee calculation and collection to WRCOG within 30 days. Staff will ask each agency to formally notify WRCOG of their intent to either retain fee calculation and collection responsibilities or delegate them to WRCOG. Each agency will be responsible for determining the appropriate means to determine their intent, whether it be through an administrative action, action of their legislative body, or some other approach. Once we have received notices from our member agencies, WRCOG will coordinate with those enrolling in the process to move forward on an update to their respective TUMF Ordinance. If a member agency chooses to maintain fee calculation and collection responsibilities, no further action would be needed by that agency. As noted above, the fee calculation and collection process will be formalized through the adoption of an updated TUMF Ordinance by those agencies wishing to do so.

Prior Actions:

September 13, 2018: The Public Works Committee and the Planning Directors Committee 1) recommended that the Executive Committee adopt changes to the Administrative Plan to allow for WRCOG to calculate and collect TUMF on behalf of its member agencies that wish to enroll in this process; 2) recommended that the Executive Committee direct staff to prepare an amendment to the TUMF Ordinance to allow WRCOG to collect TUMF on behalf of its member agencies that wish to enroll in this process; 3) recommended that the Executive Committee direct staff to consult with each member agency to formally determine those that wish to enroll in this process; 4) recommended that the Executive Committee direct staff to work with legislative bodies of each agency wishing to enroll in this process to adopt an update to their TUMF Ordinance; 5) recommended that the Executive Committee direct staff to allow those agencies who do not wish at this time to enroll in this process to continue calculating and collecting TUMF; and, 6) requested that WRCOG staff contact all agencies on an annual basis to confirm enrollment status.

August 16, 2018: The Technical Advisory Committee recommended that the Executive Committee approve an option that would have WRCOG calculate and collect all project TUMF fees and exemptions.

August 9, 2018: The Public Works Committee and the Planning Directors Committee reviewed and provided input on the proposed TUMF calculation policy change.

May 17, 2018: The Technical Advisory Committee 1) recommended that the Executive Committee approve an option that would have WRCOG verify all project TUMF fees and verify exemptions; 2) directed staff to complete a comprehensive update to the TUMF Calculator Tool by August 2018; 3) directed staff to complete the TUMF Administrative Plan update with the process for implementing an option that would have WRCOG calculate all project TUMF fees and verify exemptions by August 2018.

May 10, 2018: The Public Works Committee 1) recommended that the Executive Committee approve an option that would have WRCOG verify all project TUMF fees and verify exemptions; 2) directed staff to complete a comprehensive update to the TUMF Calculator Tool by August 2018; 3) directed staff to complete the TUMF Administrative Plan update with the process for implementing an option that would have WRCOG verify all project TUMF fees and verify exemptions by August 2018.

Fiscal Impact:

Transportation Department activities are included in the Agency's adopted Fiscal Year 2018/2019 Budget under the Transportation Department.

Attachments:

1. Draft TUMF Worksheet for Calculations.
2. Draft TUMF Worksheet for Exemptions.
3. Draft TUMF Worksheet for Defined Land Uses.
4. Frequently Asked Questions.
5. Draft Amendment to the TUMF Ordinance.
6. Draft TUMF Administrative Plan.
7. Draft TUMF Model Improvement and Credit Agreement.

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Item 6.A

Proposed New TUMF Calculation Policy

Attachment 1

Draft TUMF Worksheet for Calculations

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TUMF CALCULATION WORKSHEET

Project Title: ________________________________

Project Address: ________________________________

Permit Number: ________________________________

Agency: ________________________________

Developer Contact Name: ________________________________

Developer Email: __________________________ **Developer Phone No.:** _______________

Exemption: ☐ No / ☐ Yes (please complete TUMF Exemption Worksheet for all exemptions)

Credit Agreement: ☐ No / ☐ Yes (Name of Agreement: _____________________________)

Project Square Footage/# of Units: ________________________________

Note: Please complete 1 worksheet per project use.

STANDARD PROJECT TYPES (Check one)

☐ Single-Family Residential

☐ Multi-Family Residential

☐ Industrial

☐ Retail

☐ Service

☐ Class A & Class B Office

TUMF CALCULATION HANDBOOK CATEGORIES (Check one & also complete TUMF Defined Land Use Worksheet)

☐ Transit Oriented Development

☐ Active Senior Living

☐ Fuel Filling Station

☐ Congregate Care/Nursing Home

☐ Mini-Warehouse/Rental Storage

☐ Golf Course

☐ Wholesale Nursery

☐ Retail Nursery

☐ High-Cube Warehouse/Distribution Center

☐ Winery

☐ Electric Vehicle Supply Equipment Charging Station

Please email Jessica May at jmay@wrcog.us or call 951-405-6713 with TUMF calculation-related questions.

CERTIFICATION

Under penalty of perjury, I certify that the above is a true and accurate project description for purposes of calculating TUMF.

Name: _____________________ Date: __________

Signature: _____________________

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Item 6.A

Proposed New TUMF Calculation Policy

Attachment 2

Draft TUMF Worksheet for Exemptions

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TUMF EXEMPTION WORKSHEET

Project Name: ________________________________

Permit Number: ________________________________

EXEMPTION TYPE	DOCUMENTATION REQUIRED
☐ Low-Income Residential Housing	☐ *Rental Housing:* Restriction to lower-income households for period of 55-years after issuance of Certificate of Occupancy ☐ *For-Sale Units:* Restriction to ownership by persons and families of low or moderate income for at least 45-years after issuance of Certificate of Occupancy
☐ Government/Public Buildings, Schools, or Facilities	☐ Proof of payment of prevailing wage rates for project construction ☐ Copy of Long-term lease with a government agency ☐ Copy of deed restriction limiting use to government/public facility for minimum 20 years
☐ Development Agreement (*must be on WRCOG-approved list)*	☐ Copy of Development Agreement
☐ Rehabilitation/Reconstruction of Habitable Structures, with replacement in-kind	☐ Proof of existence prior to January 1, 2000 ☐ Project plans/description, showing replacement in-kind
☐ Rehabilitation/Reconstruction of Habitable Structures, credit for previous structure	☐ Proof of existence prior to January 1, 2000 ☐ Square footage/# of units of structure to be demolished on-site: ____________
☐ "Guest Dwellings" and "Detached Second Units"	☐ Lot zoned for and contains existing single-family residence ☐ Second dwelling located on same lot as existing dwelling
☐ Additional Single-Family Residential Units on the Same Parcel as Existing	☐ Copy of agricultural zoning classifications ☐ Site plan, showing existing single-family unit
☐ Kennels and Catteries on Existing Single Family Residence	☐ Site plan, showing existing single-family unit
☐ Non-Revenue Generating Sanctuary/Activity at House of Worship	☐ Project description
☐ Non-Profit Corporation/Organization Offering Full-Time Day School	☐ Proof of organization's 501(c)(3) status/documentation that no profit will be generated by the use
☐ New Single-Family Homes for Veterans	☐ Proof of organization's 501(c)(3) status

Please email Jessica May at jmay@wrcog.us or call 951-405-6713 with TUMF calculation-related questions.

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Item 6.A

Proposed New TUMF Calculation Policy

Attachment 3

Draft TUMF Worksheet for Defined Land Uses

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TUMF DEFINED LAND USE WORKSHEET

Project Name and Number: ____

PROJECT TYPE	DOCUMENTATION REQUIRED
☐ Transit Oriented Development	Site plan showing: ☐ Residential use of not less than 50% of total floorspace; ☐ Maximum number of parking spaces. Location Map showing: ☐ One convenience retail store selling food within ½ mile of development; ☐ Seven eligible diverse uses within ½ mile of development, including previously described food retail store.
☐ Active Senior Living	☐ Documentation showing a minimum 20 dwelling units in community; ☐ Local zoning/governing documents characterizing development as senior citizen housing pursuant to Cal. Civ. Code §51.11; ☐ Occupancy restriction statement pursuant to Cal. Bus. & Prof. Code §11010.05 [2016].
☐ Fuel Filling Station	Total number of fuel filling positions: __________ Note: number of "fuel filling positions" = number of cars that can be fueled at the same time Total gross floor area of buildings: __________
☐ Congregate Care/Nursing Home	Total number of beds: __________
☐ Mini-Warehouse/Rental Storage	Total site area (acres): __________
☐ Golf Course	Total number of holes: __________ Total gross floor area of buildings (SF): ________
☐ Wholesale or Retail Nursery	Total site area (acres): __________ Total gross floor area of buildings (SF): __________
☐ High-Cube Warehouse/ Distribution Center	Total gross floor area of buildings (SF): __________
☐ Winery	Total gross floor area of tasting room and/or associated ancillary uses (SF): __________ Total gross floor area of all buildings (SF): __________
☐ Electric Vehicle Supply Equipment Charging Station	Total number of publicly accessible ESVE units: __________

Please email Jessica May at jmay@wrcog.us or call 951-405-6713 with TUMF calculation-related questions.

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Item 6.A
Proposed New TUMF Calculation Policy

Attachment 4
Frequently Asked Questions

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Transportation Uniform Mitigation Fee (TUMF)

Frequently Asked Questions

TUMF Process

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. WRCOG administers the program in partnership with its member agencies. Each member agencies elects to participate in the TUMF Program through adoption of an ordinance and membership in WRCOG.

In an effort to create additional efficiencies in the TUMF Program, WRCOG is pursuing a revision in the TUMF process to give member agencies the option to shift responsibility of calculation and collection of TUMF from the member agency to WRCOG.

Below are responses to some "Frequently Asked Questions" regarding the proposed revision. Please do not hesitate to contact Christopher Gray, Director of Transportation at cgray@wrcog.us or at 951-405-6710 if you have additional questions.

Question: ***Why is WRCOG proposing a change to the TUMF process?***

Response: A number of calculation issues have arisen throughout the history of the TUMF Program, which has led to time consuming and expensive resolution processes for both WRCOG and member agency staff. Ultimately, the member agency is responsible for confirmed calculation errors. Staff's interpretation is that these types of issues will continue to arise without an update to the TUMF calculation policy.

Question: ***Can an agency continue to calculate and collect TUMF within its boundaries?***

Response: Yes. Two options are currently proposed by WRCOG staff:

1. No change to the current process – A member agency will continue to calculate and collect TUMF, before remitting TUMF to WRCOG on a monthly basis; or

2. WRCOG calculates and collects TUMF on behalf of the member agency.

Each member agency will be required to commit to either Option 1 or 2. These options are illustrated in **Attachment 1** and **Attachment 2** to this FAQ.

Question: ***What would the new process entail?***

Response: Developers would work with member agency staff to complete TUMF Calculation Worksheets with project-specific information for submittal to WRCOG staff for fee calculation. WRCOG staff would review submitted TUMF Calculation Worksheets and provide a TUMF fee assessment or feedback within 48 hours. This submittal process would be completed electronically.

TUMF fee collection would still occur at either building permit or certificate of occupancy issuance. Developers would have the option of paying fees online or in-person at the WRCOG offices. WRCOG staff would send receipt of TUMF payment to the respective member agency for agency issuance of building permit or certificate of occupancy.

Question: ***Why should a local agency support this change?***

Response: This approach provides three significant benefits. First, there will be a significant reduction in local agency staff time required to calculate and collect the TUMF. Second, there will no longer be the need for extensive end of the year audits. Third, agencies who delegate this responsibility to WRCOG will no longer be responsible for any errors or omissions related to TUMF.

It is important to understand that agency's bear the responsibility for any errors related to TUMF calculations. In the instances in which TUMF is miscalculated, an agency is ultimately responsible to pay WRCOG for the difference between the collected fee and the fee due. Sometimes, it may not be possible for an agency to collect this amount since the development project has already been approved and may already be operational.

Question: ***Does the Mitigation Fee Act allow for WRCOG to calculate and collect TUMF?***

Response: The Mitigation Fee Act does not prohibit WRCOG from calculating, verifying, or collecting TUMF on behalf of its member agencies. In fact, other regional fee programs which were based on the TUMF already implement this approach, such as the Fresno COG Regional Fee Program.

The TUMF Ordinance will be amended to allow WRCOG to calculate and collect TUMF. The governing body of each member agency will be required to approve a TUMF Ordinance Amendment to allow WRCOG to calculate and collect TUMF if the agency elects to have WRCOG take responsibility for fee calculation and collection within its boundaries.

Question: ***Would WRCOG charge an additional processing fee for TUMF calculations?***

Response: No. The TUMF Program authorizes WRCOG to expend funds generated from TUMF that are necessary and reasonable to carry out its responsibilities for administering and managing the Program. The maximum amount of TUMF revenue that WRCOG can utilize for administering and managing the Program is 4%. Historically, WRCOG has utilized approximately 3% of the TUMF revenue for administrative costs.

Question: ***Would WRCOG need to add staff to accommodate calculation and collection of TUMF?***

Response: No. WRCOG staff currently spend a significant amount of time working with member agencies to resolve fee calculation issues *after* fees have been collected. WRCOG calculation and collection of fees would be a proactive approach to ensure that questions and concerns are addressed *before* fees have been collected and will significantly reduce back-and-forth discussion after fees have been collected.

WRCOG staff currently respond to fee calculation-related questions within 24 hours and are confident that the majority of calculations would be processed within 48 hours. For special-case calculations that require additional information from the member agency or developer before a fee assessment can be provided, WRCOG would initiate the fee-calculation discussion within 48 hours to resolve these issues in a timely manner.

Question: ***Could agencies continue to charge a TUMF processing fee?***

Yes. Member agencies would retain authority to charge an additional, separate TUMF processing fee on an agency-by-agency basis to recuperate costs associated with member agency staff time spent on the TUMF Program (i.e. submitting forms with project specific details for WRCOG calculation of TUMF).

Question: ***Does this mean that WRCOG is taking over land use control from local agencies?***

Response: No. Local agencies will maintain their current responsibilities in terms of reviewing and approving development projects. WRCOG will simply calculate the TUMF and collect the fee for those local agencies who chose to go this route.

This approach is no different than other regional fees such as Water District and School District fees, which are calculated and collected by these agencies.

Question: ***Would the TUMF assessment on new development continue to occur at issuance of building permit?***

Response: Yes. TUMF would generally continue to be assessed at issuance of building permit; however, developers would also continue to have the option of deferring TUMF payment until final inspection or certificate of occupancy. The fees assessed shall be based on the fee amounts in effect at the time that the payment is due under the TUMF Ordinance adopted by each member agency.

Question: ***Could developers submit fee calculation worksheets directly to WRCOG?***

Response: No. Member agency staff would be required to submit TUMF Calculation Worksheets to WRCOG to ensure that the information provided on the Calculation Worksheet for calculation of TUMF accurately matches the proposed development project. This is important because member agencies would still have the ultimate authority to issue project approvals including building permits or certificates of occupancy.

Question: ***How would the TUMF be determined by WRCOG?***

Response: Neither fee levels or calculation methodologies would change at this time as a result of the updated fee calculation and collection policy. WRCOG staff would continue to use fee levels outlined in the 2016 Nexus Update, as approved by the WRCOG Executive Committee on July 10, 2017. The proposed Calculation Worksheets for submittal to WRCOG are based on existing methodology outlined in the TUMF Fee Calculation Handbook.

Once Calculation Worksheets would be submitted by member agency staff to WRCOG, WRCOG staff would calculate the TUMF based on the fee per unit and number of units proposed by a development project. This amount would then be communicated to the developer for payment of TUMF. Once TUMF has been paid to WRCOG, a receipt would be forwarded to the appropriate member agency staff and to the developer to notify the member agency that the TUMF requirement has been satisfied.

Question: ***Would developers be required to go to the WRCOG office for payment of TUMF?***

Response: No. Developers would have the option to pay TUMF fees via a convenient online portal. In-person TUMF payment would also be available at the WRCOG office.

Question: ***Would developers still have the option of entering Credit Agreements? Would this process change?***

Response: The Credit Agreement process would not significantly change. Credit Agreements would still be executed between member agencies and developers, as member agencies would ultimately be responsible for the acceptance of the infrastructure constructed pursuant to the Credit Agreement.

WRCOG staff would track administration of credits pursuant to each Credit Agreement as building permits tied to an Agreement are pulled.

Question: ***What would WRCOG's response time be for calculation of TUMF?***

Response: WRCOG will commit to a 48-hour response time for TUMF fee calculations. The majority of projects will be straightforward, and a calculation would be available within this time period. For more complicated projects, WRCOG staff will initiate discussion with member agency staff within 48 hours. The turnaround time on these types of requests is currently less than a single day.

WRCOG staff has the capacity to calculate and collect TUMF. It is important to note that staff currently spends a significant amount of time working with member agency staff and developers after errors in TUMF calculation have been made and fees have been collected. This new proactive approach would avoid mistakes up-front, making the process more efficient and straight-forward for all parties involved.

Question: ***Could a developer appeal WRCOG's calculation of TUMF?***

Response: Yes. The appeal process currently requires developers to pay TUMF in protest and then bring their concerns to the applicable City Council prior to formally bringing their concerns to WRCOG. Therefore, it can take several weeks for an appeal to reach WRCOG, and several more weeks before a decision can be made.

The appeal process would be significantly simplified through the WRCOG calculation and collection of TUMF, because developers would have the option to bring appeals directly to WRCOG. WRCOG staff would continue to coordinate with member agency staff to resolve appeals.

Question: ***How would this change impact reporting/annual review requirements?***

Response: Because WRCOG would be responsible for TUMF calculation and collection, WRCOG staff would simply verify that TUMF Calculation Worksheets were submitted for all building permits issued within a given time period.

This would significantly streamline the process as the current process involves planning and finance staff time gathering relevant information such as receipts of TUMF payment, building permits, and Remittance Reports.

Question: ***When could these changes take effect?***

Response: These proposed changes are currently being discussed in several of WRCOG's committees. A tentative schedule of implementation is shown below:

October 2018: WRCOG Executive Committee takes action to update the TUMF Administrative Plan to have WRCOG calculate TUMF for all member agencies. The WRCOG Executive Committee will also take action on the amended TUMF Ordinance to have WRCOG calculate and collect TUMF for member agencies that elect to adopt the TUMF Ordinance.

Once the Executive Committee takes action on a revised TUMF process for calculation and collection, member agencies would have thirty days to notify the WRCOG Executive Director if they intend to opt-in to have WRCOG collect fees.

November 2018: Calculation policy takes effect on predetermined date; for example, November 1, 2018.

November 2018 – March 2019: Governing body of each member agency interested in WRCOG collection of TUMF approves TUMF Ordinance Amendment.

April 1, 2019: WRCOG begins fee collection, contingent on member agency approval of the amended TUMF Ordinance. Agencies would also have the option of adopting the amended TUMF Ordinance after April 1, 2019; however, WRCOG will not begin collecting fees until after the amended Ordinance is adopted.

Question: ***What happens if an agency wants to maintain the current process?***

Response: If an agency wishes to still calculate and collect TUMF, they may choose to do so. We simply ask that each agency formally notify WRCOG of their intended approach so that we can work with those agencies who wish to delegate fee calculation and collection to WRCOG.

WRCOG would defer to each individual agency to determine how this formal notification would occur. Potential options could include a letter from the City Manager or even formal action by the elected body of the agency.

WRCOG is also developing new tools, such as the online fee estimator, and new reporting procedures to limit future miscalculations and streamline the process. Agencies which choose to calculate and collect TUMF should be aware that

WRCOG will be requesting additional information for each fee calculation to reduce the number of errors below their current level.

Question: ***What if my agency chooses not to delegate fee calculation and collection to WRCOG at this time? Will there be future opportunities to participate in this effort?***

Response: WRCOG will be reaching out to each agency after the Executive Committee takes action in October to determine whether they want to allow WRCOG to calculate and collect the fee or retain this responsibility. Based on the schedule above, we anticipate that fee calculation and collection will take effect in April 2019.

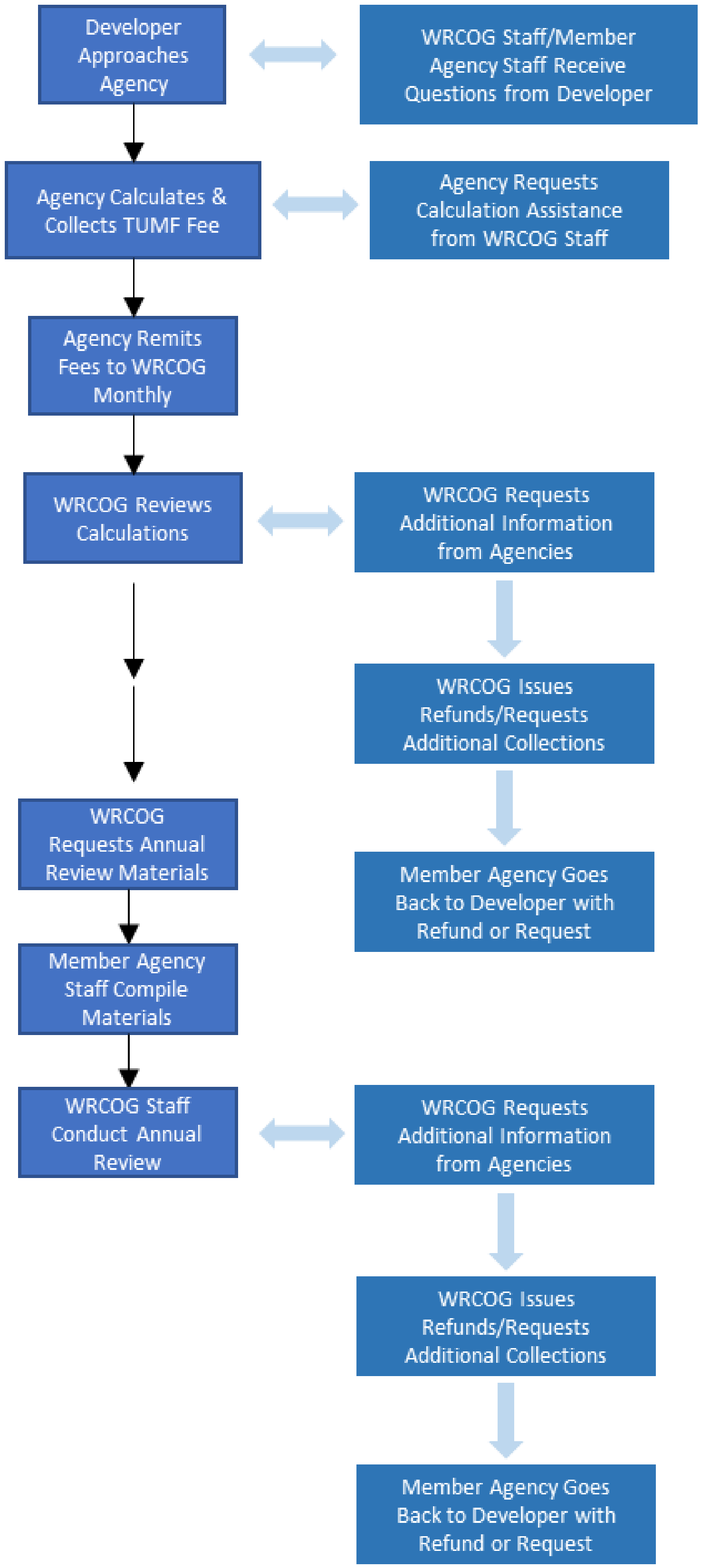
For those agencies who may wish to wait on making this decision, WRCOG will provide future opportunities for agencies who may delegate fee calculation and collection to WRCOG in the future. We anticipate that the process would proceed as follows:

- On January 1 of each year, WRCOG will distribute a letter to each member agency that continues to calculate and collect TUMF
- This letter will ask the agency whether they plan to delegate this task to WRCOG
- If the agency elects to delegate this task, then WRCOG will work with that agency with an amended TUMF Ordinance to implement this change
- If there is no change, then no further action is necessary

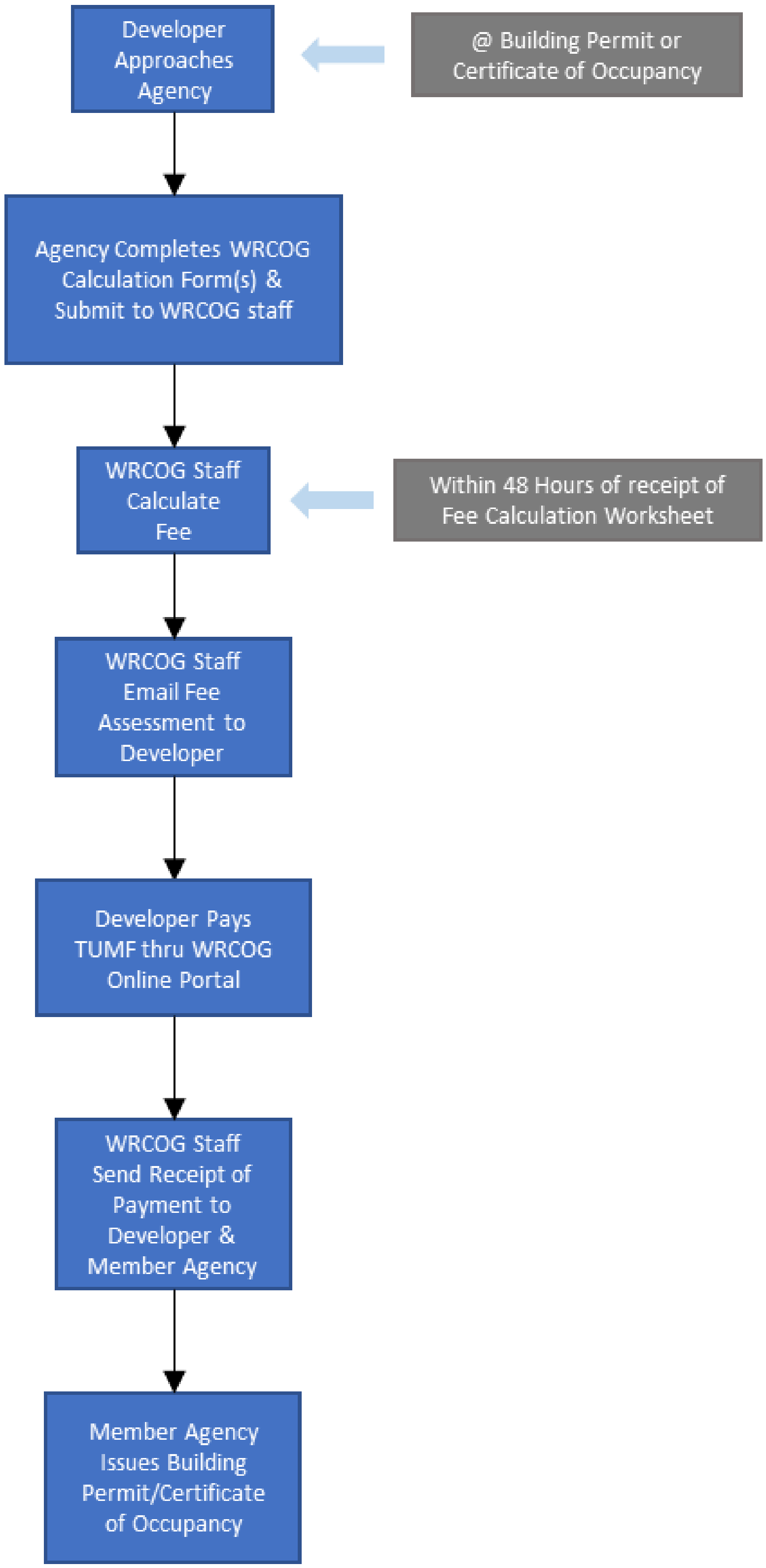
Question: ***How can I find out more about WRCOG's TUMF Program?***

Response: To learn more about WRCOG's TUMF Program, please refer to the WRCOG website at www.wrcog.us and select the TUMF link. To request a meeting or presentation, please contact Christopher Gray, WRCOG Director of Transportation, at cgray@wrcog.us or at 951-405-6710.

Attachment 1 – Current TUMF Process



Attachment 2 – Proposed TUMF Process



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Item 6.A

Proposed New TUMF Calculation Policy

Attachment 5

Draft Amendment to the TUMF Ordinance

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ORDINANCE NO. _______

AN ORDINANCE OF THE CITY OF ___________________________ AMENDING ORDINANCE NO. ______ TO INCLUDE A PROCESS FOR WRCOG CALCULATION AND COLLECTION OF FEES UNDER THE WESTERN RIVERSIDE COUNTY TRANSPORTATION UNIFORM MITIGATION FEE (TUMF) PROGRAM

The City Council of the City of _________, California "(City") ordains as follows:

Section 1. Title.

This Ordinance shall be known as Amendment No. 1 to the "Western Riverside County Transportation Uniform Mitigation Fee Program Ordinance of 2017" ("Ordinance").

Section 2. Findings.

A. The City is a member agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and 18 cities located in Western Riverside County. Acting in concert, the WRCOG Member Agencies developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System of Highways and Arterials in Western Riverside County (the "Regional System") could be made up in part by a Transportation Uniform Mitigation Fee ("TUMF") on future residential, commercial and industrial development.

B. WRCOG, upon the recommendation of the WRCOG Executive Committee, now desires to adopt a process in which WRCOG calculates and collects TUMF on behalf of member agencies under the Western Riverside County Transportation Uniform Mitigation Fee Program Ordinance of 2018.

C. The findings set forth in Ordinance No. ___ remain true and correct, and by this reference are incorporated into this Ordinance No. __ as if set forth in full herein. This Ordinance No. ____ shall amend and supersede the provisions of Ordinance No. ___, and to the extent any provisions herein conflict with any provisions of Ordinance No. ___ or any other ordinance of the City, the City Council finds and determines that it is the intent of the City Council that the provisions herein shall control.

Section 3. Definitions.

For the purpose of this Ordinance, 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. **<u>"Class 'B' Office</u>"** 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. **<u>"Development Project"</u>** or **<u>"Project"</u>** means any project undertaken for the purposes of development, including the issuance of a permit for construction.

D. **<u>"Gross Acreage</u>"** 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. **<u>"Habitable Structure</u>"** 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. **<u>"Industrial Project"</u>** 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. **<u>"Low Income Residential Housing</u>"** 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. and (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. **<u>"Multi-Family Residential Unit"</u>** means a development project that has a density of greater than eight (8) residential dwelling units per gross acre.

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

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

K. **<u>“Residential Dwelling Unit</u>”** 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. **<u>“Retail Commercial Project”</u>** means any development project 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/dining facility residing on the retail commercial development premises.

M. **<u>“Service Commercial Project”</u>** 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 eating/dining facilities, and other uses related to personal or professional services.

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

O. **<u>“TUMF Participating Jurisdiction</u>”** 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. **<u>“Disabled Veteran”</u>** 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. “**<u>Government/public buildings, public schools, and public facilities”</u>** means any owned and operated facilities by a government entity in accordance with Section 4. Exemptions, Subsection F of this 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 during the term of deed restriction the long term and any extensions thereof.

(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 WRCOG determines that the intent of the lease is to provide for a long-term government use, and not to evade payment of TUMF.

R. **<u>"Non-profit Organization"</u>** 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 port 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. **<u>"Long-Term Lease"</u>** as used in the TUMF Program, a "long-term lease" shall mean a lease with a term of no less than twenty years.

T. **<u>"Mixed-Use Development"</u>** 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. **<u>"Guest Dwellings" and "Detached Second Units"</u>** 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. "**<u>TUMF Administrative Plan</u>**" means that the TUMF Administration Plan adopted by the WRCOG Execution Committee May 5, 2003, as amended, setting forth detailed administration procedures and requirements for the TUMF program.

<u>Section 4</u>. <u>Establishment of the Transportation Uniform Mitigation Fee</u>.

A. **Adoption of TUMF Schedule.** The City Council shall adopt an applicable TUMF schedule through a separate resolution, which may be amended from time to time.

B. **Fee Calculation.** The fees shall be calculated by WRCOG according to the calculation methodology fee set forth in the WRCOG TUMF Fee Calculation Handbook adopted July 14, 2003, as amended from time to time. In addition to data in the Fee Calculation Handbook, WRCOG Staff may consider the following items when establishing the appropriate fee calculation methodology:

- Underlying zoning of the site
- Land-use classifications in the latest Nexus Study
- Project specific traffic studies
- Latest Standardized reference manuals such as the Institute of Traffic Engineers Trip Generation Manual
- Previous TUMF calculations for similar uses
- WRCOG staff shall approve final draft credit / reimbursement agreement prior to execution

WRCOG shall have final determination regarding the appropriate methodology to calculate the fee based on the information provided by the local agency. In case of a conflict between the applicant, WRCOG, and/or the local agency regarding the fee calculation methodology, the dispute resolution process in the TUMF Administrative Plan will apply.

C. **Fee Adjustment.** The fee schedule may be periodically reviewed and the amounts adjusted by the WRCOG Executive Committee. By amendment to the Resolution reference is subsection A, above, the fees may be increased or decreased to reflect the changes in actual and estimated costs of the Regional System including, but not limited to, debt service, lease payments and construction costs. The adjustment of the fees may also reflect changes in the facilities required to be constructed, in estimated revenues received pursuant to this Ordinance, as well as the availability or lack thereof of other funds with which to construct the Regional System. WRCOG shall review the TUMF Program no less than every four (4) years after the effective date of this Ordinance.

D. **Purpose.** The purpose of the TUMF is to fund those certain improvements to the Regional System as depicted in Exhibit "A" and identified in the 2016 Nexus Study, Exhibit "B."

E. **Applicability.** The TUMF shall apply to all new development within the City, unless otherwise exempt hereunder.

F. **Exemptions.** The following types of new development shall be exempt from the provisions of this Ordinance and in TUMF Administrative Plan:

1. Low income residential housing as described in Section 3 Definitions, Subsection G of this Ordinance and in the TUMF Administrative Plan.
2. Government/public buildings, public schools, and public facilities as described in Section 3. Definitions, Subsection Q. of this Ordinance and in the TUMF Administrative Plan. 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 the effective date of Ordinance No. _____[insert number. of original TUMF Ordinance], 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 the effective date of Ordinance No. ___________[insert number. of original TUMF Ordinance], 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 described in this Ordinance in Section 3. Definitions, Subsection U. and in the Administrative Plan
6. Kennels and Catteries established in connection with an existing single family residential unit.
7. 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 venues, coffee/snack shops, book stores, for-profit pre-school day-cares, etc., which would be assessed TUMF.)

8. 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.

9. 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."

10. Other uses may be exempt as determined by the WRCOG Executive Committee as further defined in the TUMF Administrative Plan.

G. **Credit.** Regional System improvements may be credited toward the TUMF in accordance with the TUMF Administrative Plan and the following:

Regional Tier

i. **Arterial Credits:** If a developer constructs arterial improvements identified on the Regional System, the developer shall receive credit for all costs associated with the arterial component based on approved Nexus Study for the Regional System effective at the time the credit agreement is entered into. WRCOG staff must pre-approve any credit agreements that deviate from the standard WRCOG approved format.

ii. **Other Credits:** In special circumstances, when a developer constructs off-site improvements such as an interchange, bridge, or railroad grade separation, credits shall be determined by WRCOG and the City in consultation with the developer. All such credits must have prior written approval from WRCOG.

iii. The amount of the development fee credit shall not exceed the maximum amount determined by the Nexus Study for the Regional System at the time the credit agreement is entered into or actual costs, whichever is less.

Local Tier

i. The local jurisdictions shall compare facilities in local fee programs against the Regional System and eliminate any overlap in its local fee program except where there is a Recognized Financing District has been established.

ii. If there is a Recognized Financing District established, the local agency may credit that portion of the facility identified in both programs against the TUMF in accordance with the TUMF Administrative Plan.

<u>Section 5</u>. <u>Reimbursements</u>.

Should the developer construct Regional System improvements in excess of the TUMF fee obligation, the developer may be reimbursed based on actual costs or the approved Nexus Study effective at the time the agreement was entered into, whichever is less. Reimbursements shall be enacted through an agreement between the developer and the City, contingent on funds being available and approved by WRCOG. In all cases, however, reimbursements under such special agreements must coincide with construction of the transportation improvements as scheduled in the five-year Zone Transportation Improvement Program's adopted annually by WRCOG.

<u>Section 6</u>. <u>Procedures for the Levy, Collection and Disposition of Fees</u>.

A. **Authority of the Building Department.** The Director of Building & Safety, or his/her designee, is hereby authorized provide WRCOG with development project specifics for the calculation of TUMF in a manner consistent with the TUMF Administrative Plan.

B. **Payment and Collection.** Payment of the fees shall be as follows:

i. All fees collected hereunder shall be collected by WRCOG for deposit, investment, accounting and expenditure in accordance with the provisions of this Ordinance, TUMF Administrative Plan, and the Mitigation Fee Act.

ii. The fees shall be paid at the time a certificate of occupancy is issued for the Development Project or upon final inspection, whichever comes first (the “Payment Date”). However this section should not be construed to prevent payment of the fees prior to issuance of an occupancy permit or final inspection. Fees may be paid at the issuance of a building permit, and the fee payment shall be calculated based on the fee in effect at that time, provided the developer tenders the full amount of his/her TUMF obligation. If the developer makes only a partial payment prior to the Payment Date, the amount of the fee due shall be based on the TUMF fee schedule in place on the Payment Date. The fees shall be calculated according to fee schedule set forth in the Ordinance and the calculation methodology set forth in the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time.

iii. The fees required to be paid shall be the fee amounts in effect at the time of payment is due under this Ordinance, not the date the Ordinance is initially adopted. The City shall not enter into a development agreement which freezes future adjustments of the TUMF.

iv. If all or part of any development project is sold prior to payment of the fee, the property shall continue to be subject to the requirement for payment of the fee. The obligation to pay the fee shall run with the land and be binding on all the successors in interest to the property.

v. Fees shall not be waived.

C. **Issuance of Certificate of Occupancy**. The City shall not issue a certificate of occupancy for any Development Project until WRCOG has provided written evidence that it has collected the fee.

D. **Appeals.** Appeals shall be filed with WRCOG in accordance with the provisions of the TUMF Administrative Plan. Appealable issues shall be the application of the fee, application of credits, application of reimbursement, application of the legal action stay and application of exemption.

E. **Reports to WRCOG**. The Director of Building and Safety, or his/her designee, shall prepare and deliver to the Executive Director of WRCOG, periodic reports as will be established under Section 7 of this Ordinance.

Section 7. Appointment of the TUMF Administrator.

WRCOG is hereby appointed as the Administrator of the Transportation Uniform Mitigation Fee Program. WRCOG is hereby authorized to collect all fees generated from the TUMF within the City, and to invest, account for and expend such fees in accordance with the provisions of this Ordinance and the Mitigation Fee Act. The detailed administrative procedures concerning the implementation of this Ordnance shall be contained in the TUMF Administrative Plan . Furthermore, the TUMF Administrator shall use the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time, for the purpose of calculating a developer’s TUMF obligation. In addition to detailing the methodology for calculating all TUMF obligations of different categories of new development, the purpose of the Fee Calculation Handbook is to clarify for the TUMF Administrator, where necessary, the definition and calculation methodology for uses not clearly defined in the respective TUMF ordinances.

WRCOG shall expend only that amount of the funds generated from the TUMF for staff support, audit, administrative expenses, and contract services that are necessary and reasonable to carry out its responsibilities and in no case shall the funds expended for salaries and benefits exceed one percent (1%) of the revenue raised by the TUMF Program. The TUMF Administrative Plan further outlines the fiscal responsibilities and limitations of the Administrator.

Section 8. Effect.

No provisions of this Ordinance shall entitle any person who has already paid the TUMF to receive a refund, credit or reimbursement of such payment. This Ordinance does not create any new TUMF.

Section 9. Severability.

If any one or more of the terms, provisions or sections of this Ordinance shall to any extent be judged invalid, unenforceable and/or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions and sections of this Ordinance shall not be affected thereby and shall be valid and enforceable.

Sectio**n 10.** No Procedural Defenses.

Prohibition of Jurisdictions from raising procedural defenses, including without limitation a statute of limitations, laches, the California Government Tort Claims Act, and necessary parties in a dispute with WRCOG regarding the matters set forth herein.

Section 11. Judicial Review.

In accordance with State law, any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be commenced within ___________ days of the date of adoption of this Ordinance.

Section 12. Ordinance No.

This Ordinance supersedes the provisions of Ordinance No. __________ provided this Ordinance is not declared invalid or unenforceable by a court of competent jurisdiction. If, for whatever reason, this Ordinance is declared invalid or unenforceable by a court of competent jurisdiction, Ordinance No. ________ all other related ordinances and polices shall remain in full force and effect.

Section 13. Effective Date.

This Ordinance shall take effect on XXXXXXXXXX.

MOVED AND PASSED upon this ____ day of ____ 2018, by the following vote:
AYES:

NOES:

ABSTAIN:

ABSENT:

____

Mayor

ATTEST:

____

City Clerk

EXHIBIT “A”

MAP OF REGIONAL SYSTEM

EXHIBIT “B”

NEXUS STUDY

EXHIBIT “B”

Summary report: **Litéra® Change-Pro 7.5.0.135 Document comparison done on 9/13/2018 8:21:52 PM**	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS:iw://iManage/iManage/31401125/1	
Modified DMS: iw://iManage/iManage/31401125/2	
Changes:	
Add	15
~~Delete~~	13
~~Move From~~	1
Move To	1
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	30

Item 6.A

Proposed New TUMF Calculation Policy

Attachment 6

Draft TUMF Administrative Plan

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Transportation Uniform Mitigation Fee

ADMINISTRATIVE PLAN

August __, 2018

PREPARED BY THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
RIVERSIDE COUNTY ADMINISTRATIVE CENTER ANNEX
4080 LEMON STREET, 3RD FLOOR, MS 1032
RIVERSIDE, CALIFORNIA, 92501-3609
PHONE (951) 955-7985
FAX (951) 787-7991

Western Riverside Council of Governments (WRCOG)

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

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Exhibits:

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, 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.

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 ___ 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 clerical error, it is the City'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. 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, 1.64% 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, 46.39% 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, 46.39% 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, 1.59% 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. 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 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. 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, variance in the fee assessed, and such other information as requested by WRCOG. 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.

E. **Riverside Transit Agency –** In accordance with the Nexus Study 1.64% 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 Committee each year, which has been reviewed by the technical committees, 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.

F. **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 will all necessary materials/information to calculate the TUMF. These participating jurisdictions will also be required to periodically submit verification to WRCOG that calculation worksheets have been completed for all building permits issued within a given time period.

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 Having 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 D" 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.

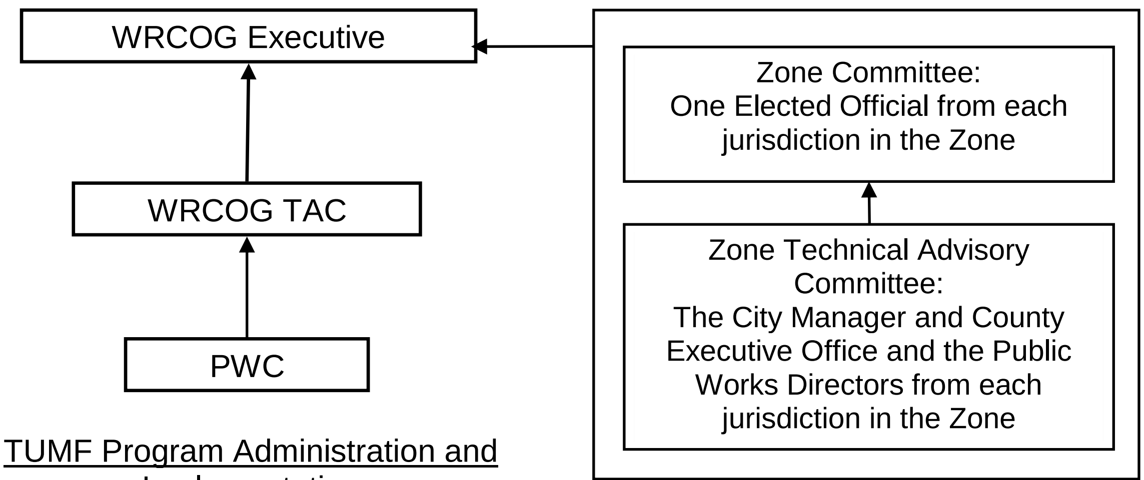
The TUMF Program was developed to mitigate the cumulative impacts of future growth on the RSHA. It was not developed to mitigate project-specific traffic impacts. Accordingly the program does not relieve any development project of the responsibility to mitigate project-specific impacts identified in 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

WRCOG

ZONE
(There are 5 TUMF Zones and RTA)
(Example of a single zone)



<u>TUMF Program Administration and Implementation</u>

<u>Zone Improvements and Policies</u>

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. Obligating 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.

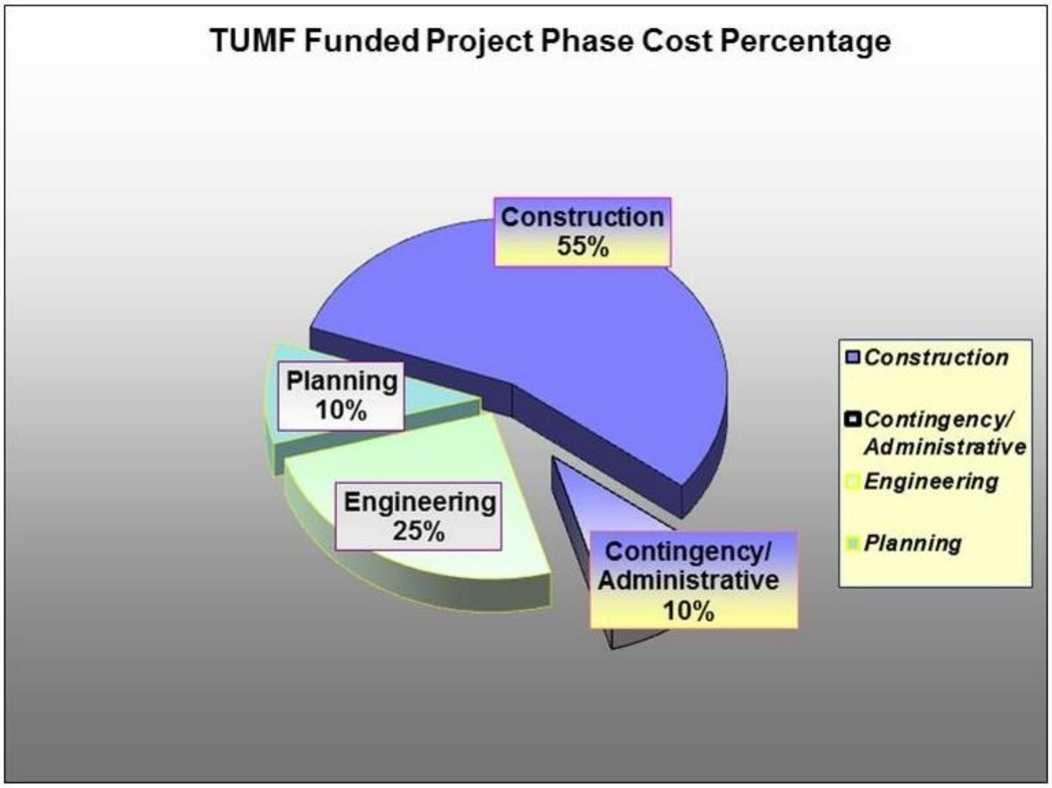
Under this new policy, some jurisdictions may opt to continue applying the 10 percent Contingency to the construction costs, while others may choose to apply a portion of the 10 percent Contingency to help defray their administrative costs incurred during the planning and engineering phase delivery.

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)	= $ 25,000	(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 port 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 ministerally amended by each jurisdiction's local codes.

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 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.”

EXHIBIT "F"

WRCOG TUMF

Credit/Reimbursement Manual

Final Draft

October 19, 2017

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List of Tables

WRCOG TUMF

1. Introduction

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1. Introduction

1.1 What is the WRCOG Transportation Uniform Mitigation Fee (TUMF) Program?

The Western Riverside Council of Governments (WRCOG) recognizes future development within western Riverside County will result in traffic volumes exceeding the capacity of the region's highways and roadways. To address future capacity needs and supplement other available transportation funds, the TUMF Program was established.

The TUMF Program is a regional fee program designed to provide transportation and transit infrastructure that mitigates the impact of new growth in the western Riverside County. Each of WRCOG's member jurisdictions and the March Joint Powers Authority (JPA) participates in the TUMF Program through an adopted ordinance, collects fees from new development, and remits the fees to WRCOG. As the administrator of the TUMF Program, WRCOG allocates TUMF funds to a variety of agencies in the region, including:

- Riverside Transportation Commission (RCTC);
- Riverside Transit Agency (RTA);
- Western Riverside Regional Conservation Authority (RCA); and
- Western Riverside cities and Riverside County areas, through the applicable TUMF Zone.

Figure 1.1, WRCOG TUMF Zones, illustrates the location of each zone.

Allocation for each TUMF Zone is based on the amount of fees collected in each jurisdiction. Funding accumulated through the TUMF Program is used to construct transportation improvements needed to accommodate future travel demand in western Riverside County. By levying a fee on new developments in the region, public agencies will be establishing a mechanism by which developers and in turn new county residents and employees effectively contribute their "fair share" toward sustaining the regional transportation system.

Fees are used to fund planning, engineering, right-of-way acquisition, and construction of eligible TUMF facilities. Eligible projects are identified in the TUMF Nexus Study, which establishes a nexus or reasonable relationship between the development impact fee's use and the type of project for which the fee is required.

WRCOG TUMF Zones

There are five TUMF Zones designated in the TUMF Program:

- Central
- Hemet/San Jacinto
- Northwest
- Pass
- Southwest

Each Zone is a specific geographic area in the WRCOG sub-region with common transportation issues. Zone level meetings occur among the public works, executive management, and elected officials who select which projects are to be prioritized. Each TUMF Zone receives 46.39% of TUMF revenues that are collected from the jurisdictions in that Zone.

TUMF Nexus Study

Identifies the future improvements needed for the TUMF Network. The TUMF Nexus Study also summarizes the TUMF network cost calculations for each of the individual roadway segment and the maximum eligible TUMF share for each segment.

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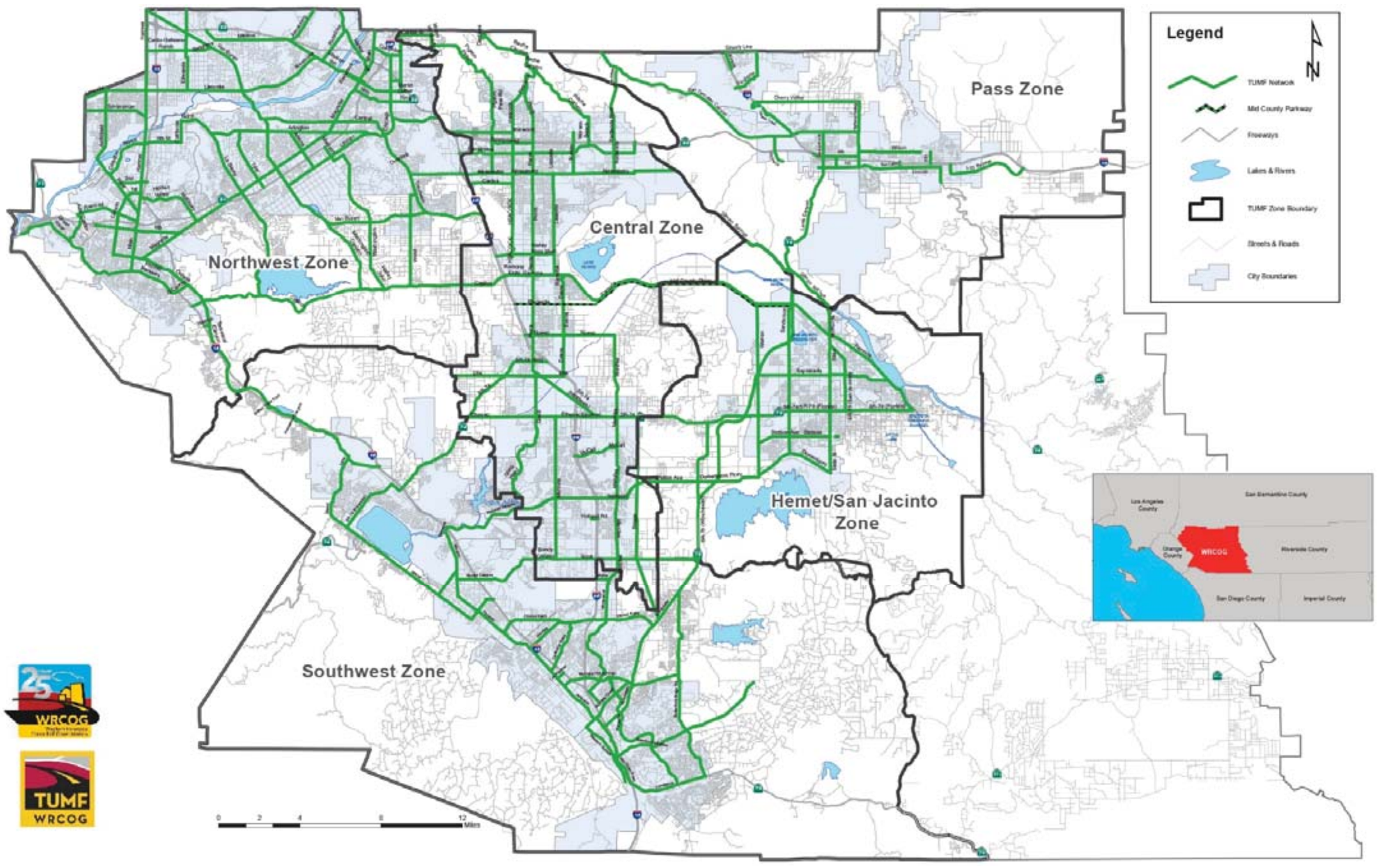

Figure 1: WRCOG TUMF Zones

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1.2 Purpose and Use of WRCOG TUMF Credit/Reimbursement Manual

The purpose of the WRCOG TUMF Credit/Reimbursement Manual is to provide those jurisdictions and agencies that are participants in the TUMF Program with guidelines on how to claim funds allocated for improvements to the TUMF Network as identified in the most recently adopted TUMF Nexus Study. This manual is intended to be a guide for TUMF participants and shall not be construed to establish any new rules or requirements. Binding TUMF Program rules are set forth in the TUMF Administrative Plan and the applicable city/county TUMF ordinances and resolutions.

This manual provides details on the reimbursement process for public agencies, credit and reimbursement process for developers, required documentation for TUMF invoicing to WRCOG and other TUMF funding elements.

Public agencies and developers seeking TUMF credits and/or reimbursements are encouraged to follow the guidelines set forth in this manual. However, WRCOG recognizes that changes and deviations from this manual may be necessary to accommodate and address specific project factors and public agency needs. WRCOG will coordinate with public agencies when deviations to credit or reimbursement process steps are required. All TUMF reimbursements require an agreement with WRCOG and/or the applicable TUMF participating agency.

The WRCOG TUMF Credit/Reimbursement Manual is organized into the following sections:

WRCOG TUMF Credit/Reimbursement

1. Introduction
2. Eligible and Ineligible Project Expenses
3. Public Agency TUMF Reimbursements
4. Developer TUMF Credits
5. Developer TUMF Reimbursements
6. Checklists and Forms
7. FAQ

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WRCOG TUMF

2. Eligible and Ineligible Project Expenses

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2. Eligible and Ineligible Project Expenses

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2. Eligible and Ineligible Project Expenses

2.1 TUMF Reimbursement Manual Vision and Reimbursement Principles

The WRCOG TUMF Reimbursement Manual assists local jurisdictions with the reimbursement process for eligible project costs of transportation improvements and facilities by providing a comprehensive, user-friendly handbook.

WRCOG coordinates with each local jurisdiction to encourage an efficient reimbursement process, but recognizes that questions regarding the reimbursement eligibility of some improvements and facilities may occur. To assist in determining the eligibility of projects costs, WRCOG utilizes the following TUMF Reimbursement Principles:

PRINCIPLE 1: Proposed improvements/costs contribute to the reduction of congestion in the region's transportation network.

PRINCIPLE 2: Proposed improvements/costs contribute to capacity enhancement in the region's transportation network.

PRINCIPLE 3: Proposed improvements/costs do not exceed the maximum TUMF share identified in the most recent TUMF Nexus Study.

PRINCIPLE 4: Proposed improvements/costs are integral to the implementation of the TUMF facility.

Reimbursements through the TUMF Program are for eligible project expenses for roadway segments identified on the TUMF Network or Regional System of Highways and Arterials (RSHA) as indicated in the TUMF Administrative Plan and Nexus Study. It is the responsibility of member jurisdictions to demonstrate the eligibility under the TUMF Program of all expenses submitted to WRCOG for review and potential reimbursement. The TUMF Program can only contribute funding for particular expenses as they relate to capacity enhancing projects included in the TUMF Nexus Study. Funding amounts explicitly stated in Reimbursement Agreements between WRCOG and member jurisdictions are reimbursed only if all invoices submitted contain TUMF eligible expenses.

The following sections list eligible and ineligible project expenses for reimbursement.

2.2 Eligible Project Types

Project reimbursement items eligible for funding reimbursement shall follow the Federal Guidelines as defined in MAP 21 and in the Caltrans Local Assistance Procedure Manual (LAPM). The following lists project types eligible for TUMF reimbursement:

Table 2-1
Eligible Project Types for TUMF Reimbursement

	Construction of additional TUMF Network roadway lanes
	Construction of new TUMF Network roadway segments
	Expansion of existing TUMF Network bridge structures
	Construction of new TUMF Network bridge structures
	Expansion of existing TUMF Network interchanges with freeways
	Construction of new TUMF Network interchanges with freeways
	Grade separation of existing RSHA Network at-grade rail crossings

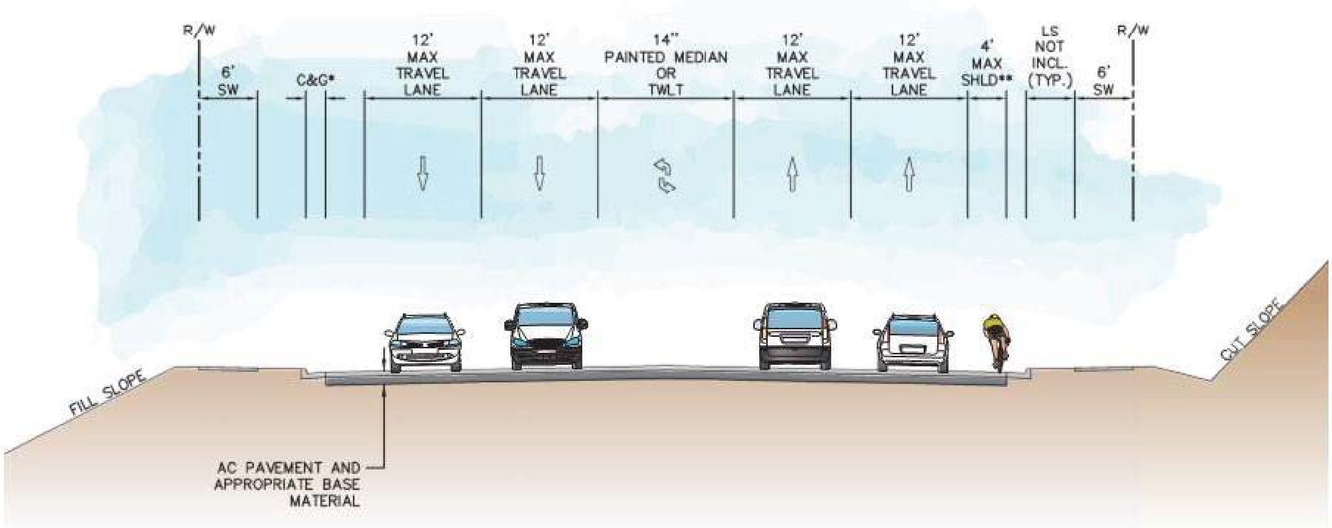
For eligible project types, the required Typical Roadway Standard assumes the following standard design characteristics that are consistent with the minimum requirements of the Caltrans Highway Design Manual:

- Asphalt concrete pavement and appropriate base material to accomplish 12 feet per travel lane plus up to four feet for ancillary treatments (e.g. shoulders or Class II Bike Lane);
- Concrete curb and gutter and associated drainage (e.g. paved roadway shoulders and/or open swale);
- Storm drains located within curb to curb, and associated transverse portions perpendicular to the roadway and adjoining portions longitudinal to the roadway (the longitudinal storm drain line shall be sized and reimbursed only for the roadway within right-of-way limits);
- 14-foot paved and painted median (or dual center left turn lane);
- Traffic signals at intersections with state highways and other major arterials that are also on the TUMF Network if identified in the application project description and warranted;
- Pavement striping and roadway signing, as required;
- 6-foot wide concrete sidewalks and associated curb cuts for ADA access at street crossings.

2.3 Model Typical Sections for Eligible Project Costs

Figures 2.1 – 2.6 illustrate general configurations typically eligible for reimbursement under the WRCOG TUMF Program. For more complex projects, additional project features are reviewed for reimbursement eligibility using the TUMF Reimbursement Principles.

Figure 2.1 Typical Section – Construction of New Roadway Lanes

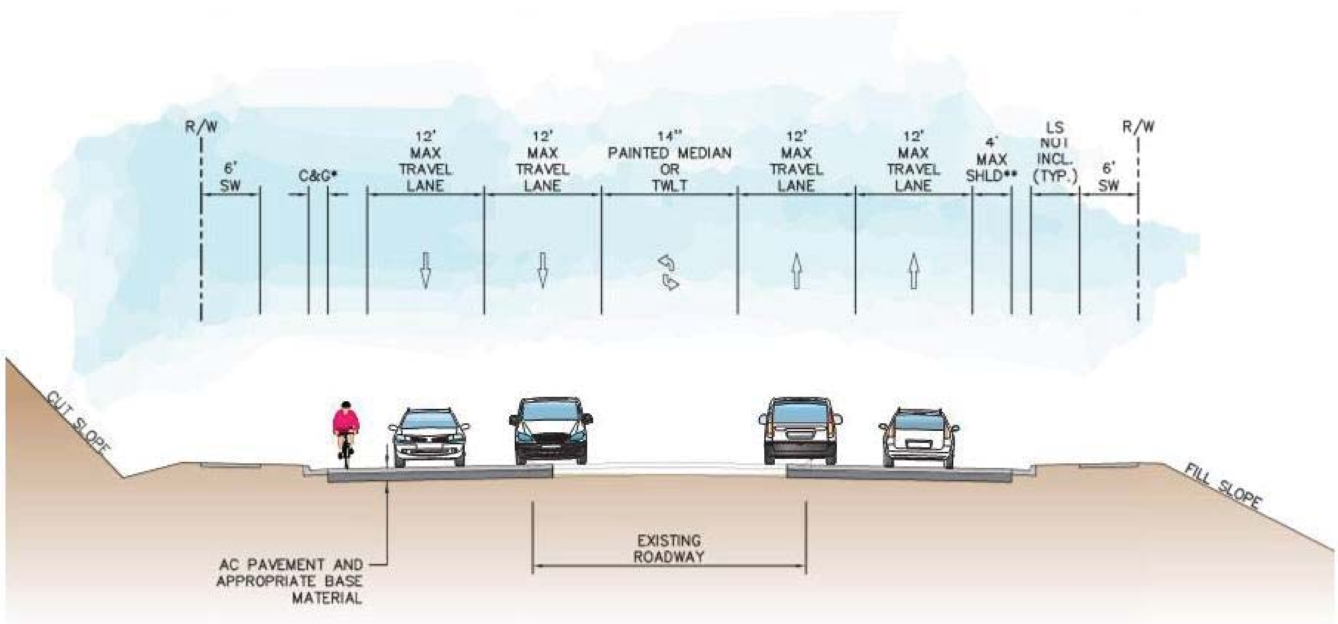


CONSTRUCTION OF NEW ROADWAY LANES

BASIC FEATURES
NOT TO SCALE

*	–	CONCRETE CURB AND GUTTER AND ASSOCIATED DRAINAGE (E.G. PAVED ROADWAY SHOULDERS AND/OR OPEN SWALE)
**	–	UP TO FOUR FEET FOR ANCILLARY TREATMENTS (E.G. SHOULDERS OR CLASS II BIKE LANE)
LS	–	LANDSCAPE
R/W	–	RIGHT–OF–WAY
SW	–	SIDEWALK
SHLD	–	SHOULDER
TWLT	–	TWO WAY LEFT TURN
TYP.	–	TYPICAL

Figure 2.2 Typical Section – Construction of Additional Roadway Lanes



CONSTRUCTION OF ADDITIONAL ROADWAY LANES

BASIC FEATURES
NOT TO SCALE

*	–	CONCRETE CURB AND GUTTER AND ASSOCIATED DRAINAGE (E.G. PAVED ROADWAY SHOULDERS AND/OR OPEN SWALE)
**	–	UP TO FOUR FEET FOR ANCILLARY TREATMENTS (E.G. SHOULDERS OR CLASS II BIKE LANE)
LS	–	LANDSCAPE
R/W	–	RIGHT–OF–WAY
SW	–	SIDEWALK
SHLD	–	SHOULDER
TWLT	–	TWO WAY LEFT TURN
TYP.	–	TYPICAL

Figure 2.3 Typical Configuration – Construction of New Interchange

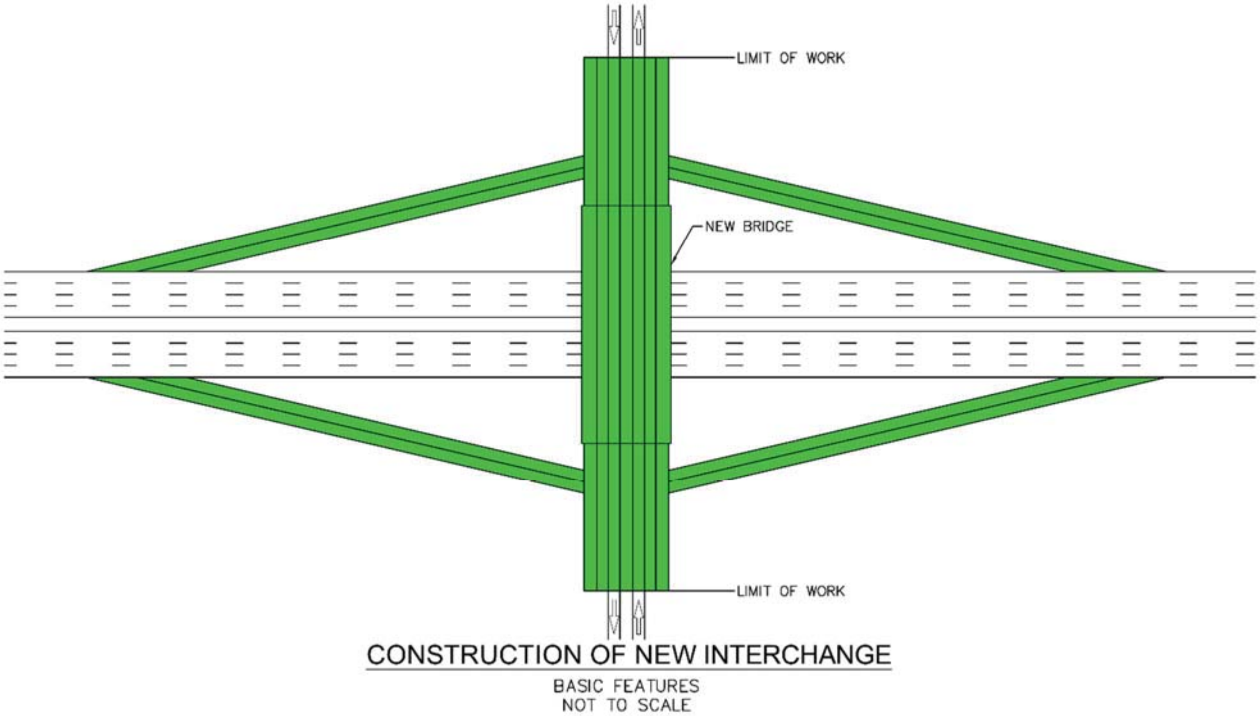


Figure 2.4 Typical Configuration – Construction of Interchange Improvements

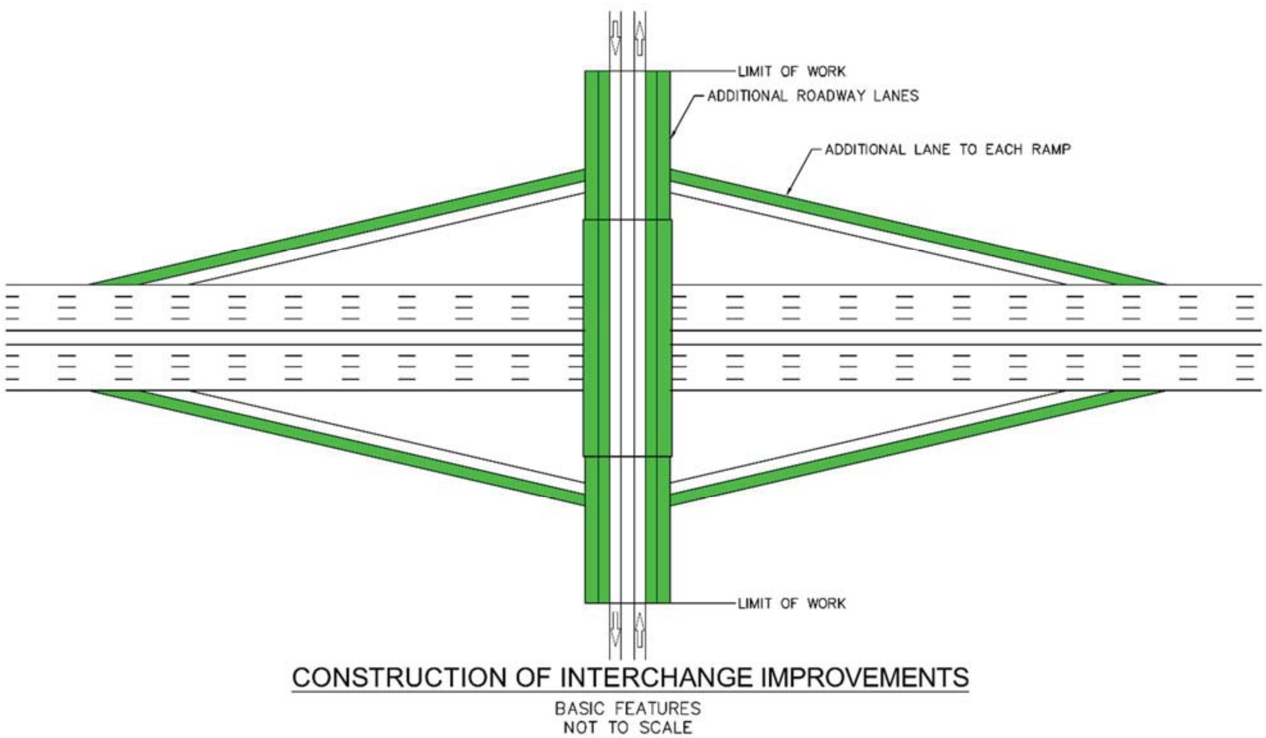


Figure 2.5 Typical Configuration – Construction of New Grade Separation

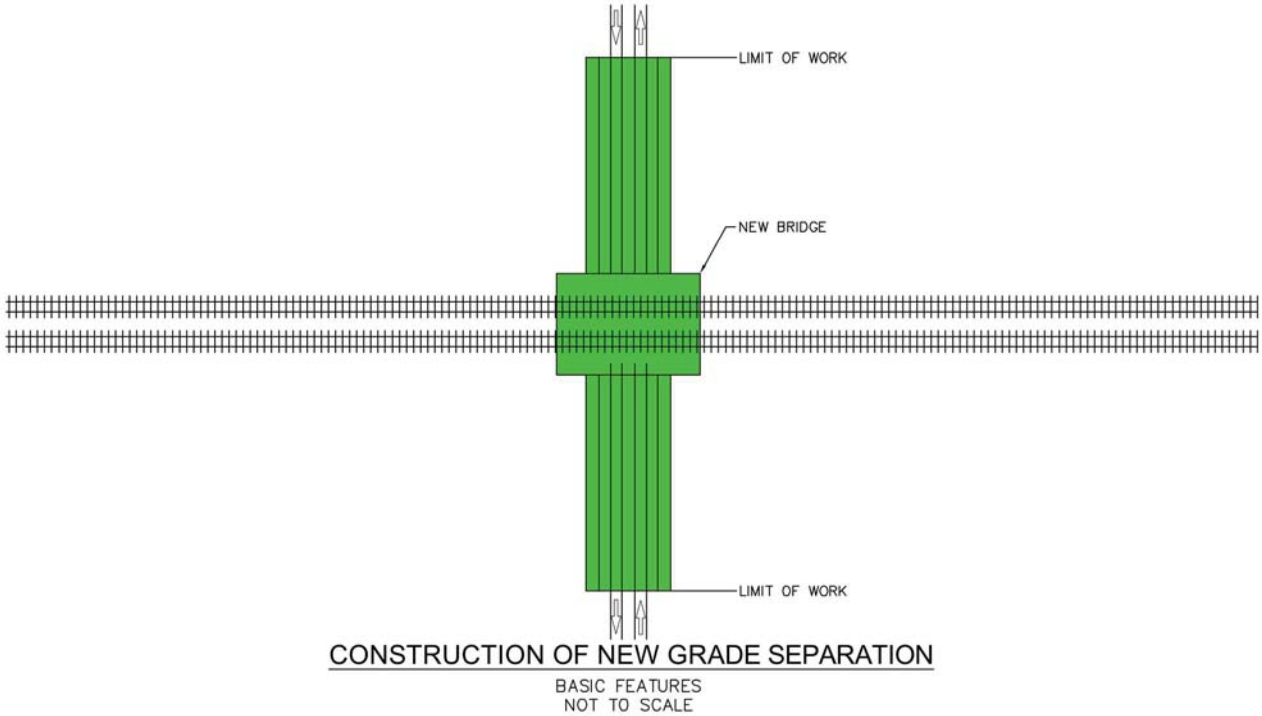
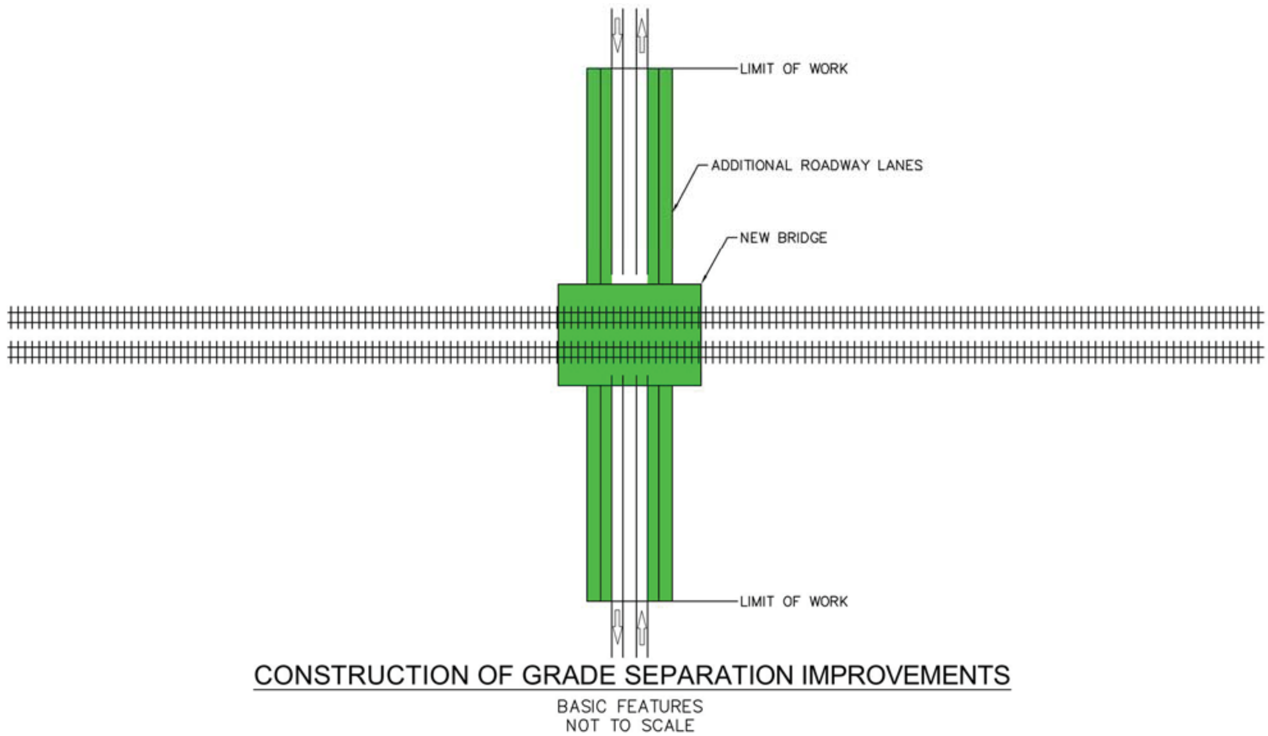


Figure 2.6 Typical Configuration – Construction of Grade Separation Improvements



2.4 Eligible Project Expenses

Eligible project expenses include the following items, provided that such items are included in the scope of work approved under the reimbursement agreement between the public agency and WRCOG:

Table 2-2 Eligible Project Expenses for TUMF Reimbursement	
	Public agency and/or consultant costs associated with direct project coordination and support
	Funds expended in preparation of preliminary engineering studies
	Funds expended in preparation of environmental review documentation for the project
	All costs associated with right-of-way acquisition, legal costs for condemnation procedures if authorized by the public agency, and costs of reviewing appraisals and offers for property acquisition
	Costs reasonable incurred if condemnation proceeds
	Costs incurred in the preparation of plans, specifications, and estimates by the public agency or consultants
	Public agency costs associated with bidding, advertising, and awarding of project contracts
	Construction costs, including change orders to construction contract approved by the public agency
	Construction management, field inspection and material testing costs
	Any public agency administrative cost to deliver the project
	Maximum reimbursed for Project Approval and Environmental Document (PA&ED) Phase work = 10% of Construction Costs
	Maximum reimbursed for Plan, Specification and Estimate (PS&E) Phase work = 15% of Construction Costs
	Maximum reimbursed for Construction Management (CM) Phase work = 15% of Construction Costs

2.5 Ineligible Project Types and Expenses

Ineligible project costs include the items listed below. Ineligible project costs follow the Federal Guidelines as defined in MAP 21 and in the Caltrans Local Assistance Procedure Manual (LAPM). These improvements are not eligible for TUMF funding and will be the responsibility of the local funding agency.

Table 2-3
Ineligible Project Types and Expenses for TUMF Reimbursement

	Roadway improvements more than the Typical Roadway Standard. These improvements may include, but are not limited to: • Portland concrete cement pavement or other aesthetic pavement types (except at interchanges and overpasses) • Major rehabilitation or overlay of existing pavement in adjacent roadway lanes • Raised barriers medians • Parking lanes • Roadway tapers outside the extent of the approved project • Sanitary sewage infrastructure • Water systems • Dry Utilities • Undergrounding infrastructure • Relocation of non-prior rights utilities • Storm drain systems in excess of draining the roadway • Landscaping • Street lighting • Class I Bike Lanes (e.g. separate bicycle paths) • Detection/retention basins outside of street right-of-way • Excess Right-of-Way • Crosswalk Enhancements (e.g. in-pavement lights and HAWK Pedestrian Crosswalk Systems)
	Environmental permitting
	Agency staff time in excess of 15% of programmed engineering
	Agency staff time in excess of 15% of programmed construction
	Temporary (interim) improvements

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3. Public Agency TUMF Reimbursements

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3. Public Agency TUMF Reimbursements

Public agencies who construct TUMF facilities are eligible for reimbursement of eligible project costs equivalent to the maximum share identified in the Nexus Study or actual project cost, whichever is less. **Figure 3.1, Public Agency TUMF Reimbursement Process**, illustrates the TUMF reimbursement process for public agencies.

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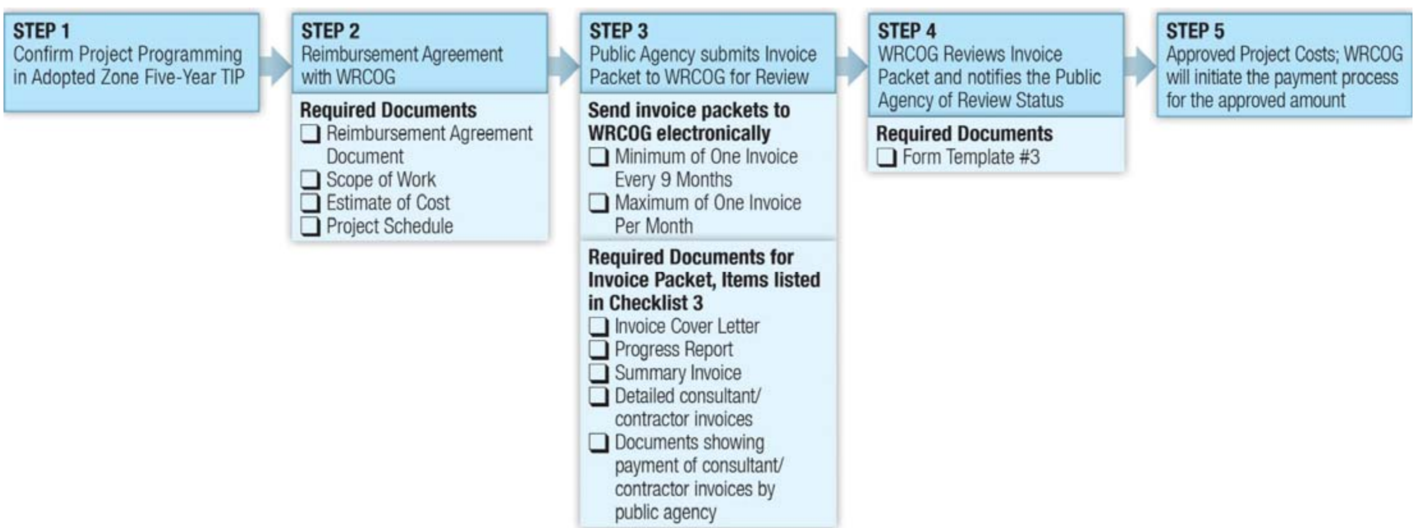

Figure 3.1: Public Agency TUMF Reimbursement Process

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3.1 Obtaining a Reimbursement

The following illustrates the steps for public agency reimbursements:

Step 1. Confirm Project Programming

The public agency shall confirm that the project phase is programmed in the current year of the adopted Zone Five-Year Transportation Improvement Program (TIP).

STEP 1
Confirm Project Programming in Adopted Zone Five-Year TIP

STEP 2
Reimbursement Agreement with WRCOG

Required Documents
- ❑ Reimbursement Agreement Document
- ❑ Scope of Work
- ❑ Estimate of Cost
- ❑ Project Schedule

Step 2. Reimbursement Agreement with WRCOG

Public agencies are required to enter a reimbursement agreement with WRCOG to be eligible to receive TUMF revenue. The amount eligible for reimbursement will be based on the awarded contract, but will not exceed the maximum TUMF share identified in the current TUMF Nexus Study.

A public agency is required to enter a reimbursement agreement with WRCOG at the start of a project and does not have to renew the reimbursement agreement every fiscal year unless the amount programmed for the project or project phase increases or decreases in the most recent Zone Five-Year Transportation Improvement Program.

A public agency entering a reimbursement agreement with WRCOG will need to complete and submit the following documents to WRCOG:

- Reimbursement Agreement Document – *Document template provided as **Attachment A** in **Section 6, Checklists and Forms**.*
- Scope of Work – *Provide descriptions of major tasks to complete the project. This document should indicate any project phasing and key project milestones.*
- Estimate of Cost – *Provide an estimate of total project costs. This document should include an estimate of Local Match Contribution per requirements of the TUMF program.*
- Project Schedule – *Provide an estimated timeline to complete key tasks identified in the Scope of Work. This document should include dates for project milestones.*

Step 3. Reimbursement Invoicing and Reporting by Public Agency

Invoices and Progress Reports

- Invoices should be submitted to WRCOG during the fiscal year at a:
  - Minimum of one (1) invoice every 9 months; and
  - Maximum of one (1) invoice per month
- Each invoice packet sent to WRCOG shall include the following (Refer to **Section 6, Checklist and Forms**, for **Checklist 3** and model form templates):
  - Quarterly Invoice Cover Letter (**Attachment F: Form Template 1**)
  - Quarterly Progress Report (**Attachment G**: **Form Template 2**)
  - Quarterly Invoice (**Attachment H: Form Template 3**)
  - Detailed consultant/contractor invoices
  - Documents showing payment of consultant/contractor invoices by public agency

Invoice Submittal

- Credit reimbursement agreements shall be submitted electronically to WRCOG.
- Credit reimbursement agreements shall be submitted to the following WRCOG staff email address: **Daniel Ramirez-Cornejo**, dcornejo@wrcog.us
- A notice will be sent from WRCOG confirming receipt.

STEP 3
Public Agency submits Invoice Packet to WRCOG for Review

Send invoice packets to WRCOG electronically
- [ ] Minimum of One Invoice Every 9 Months
- [ ] Maximum of One Invoice Per Month

Required Documents for Invoice Packet, Items listed in Checklist 3
- [ ] Invoice Cover Letter
- [ ] Progress Report
- [ ] Summary Invoice
- [ ] Detailed consultant/ contractor invoices
- [ ] Documents showing payment of consultant/ contractor invoices by public agency

Step 4. Review by WRCOG

Upon receipt of an invoice packet, WRCOG will review and provide a written notification following **Attachment H**: **Form Template 3** in **Section 6, Checklists and Forms**, to the public agency stating:

a. Approved Project Costs;

b. Rejected Project Costs: Project costs that do not comply with the TUMF Program. WRCOG will provide reasons why specific project costs were not approved.

STEP 4
WRCOG Reviews Invoice Packet and notifies the Public Agency of Review Status

Required Documents
- [ ] Form Template #3

Step 5. Approved/Rejected Project Costs

Upon approval of the invoice, WRCOG will initiate the payment process for the approved amount to the public agency.

STEP 5
Approved Project Costs; WRCOG will initiate the payment process for the approved amount

3.2 Obligation of TUMF Funds

Funding for a project programmed on a Zone Five-Year TIP is not considered obligated by WRCOG until certain steps outlined below have been completed by the public agency:

a. Ensure that funding for the project phase is programmed in the current year of an adopted Five-Year TIP.

b. 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 Five-Year TIP.

c. Submit the first invoice for TUMF eligible work starting in September of the fiscal year. At the time of submitting the first invoice, the public agency will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.

If the first invoice has not been submitted to WRCOG by December, there will be a review of the project status. Based on the review of the project status, WRCOG will either:

a. Extend the fund obligation for up to an additional nine (9) months so 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

b. De-obligate the funds.

WRCOG TUMF

4. Developer TUMF Credits

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4. Developer TUMF Credits

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4. Developer TUMF Credits

Per the TUMF Program, developers proposing certain types of development within WRCOG member agencies are required to pay TUMF fees as outlined in the TUMF Nexus Study. These fees represent the developer's "TUMF obligation." Through the TUMF Program, developers may qualify for credits against their TUMF obligation. Developers may be eligible to earn TUMF credit for the following:

- Construction of TUMF improvements identified on the Regional System of Highways and Arterials (RSHA) Network;
- Right-of-Way (ROW) dedication for RSHA improvements; and
- Monetary contributions to construct TUMF improvements.

Figure 4.1 – 4.3 and Sections 4.1 – 4.3 illustrate and summarize the separate processes for obtaining TUMF credits.

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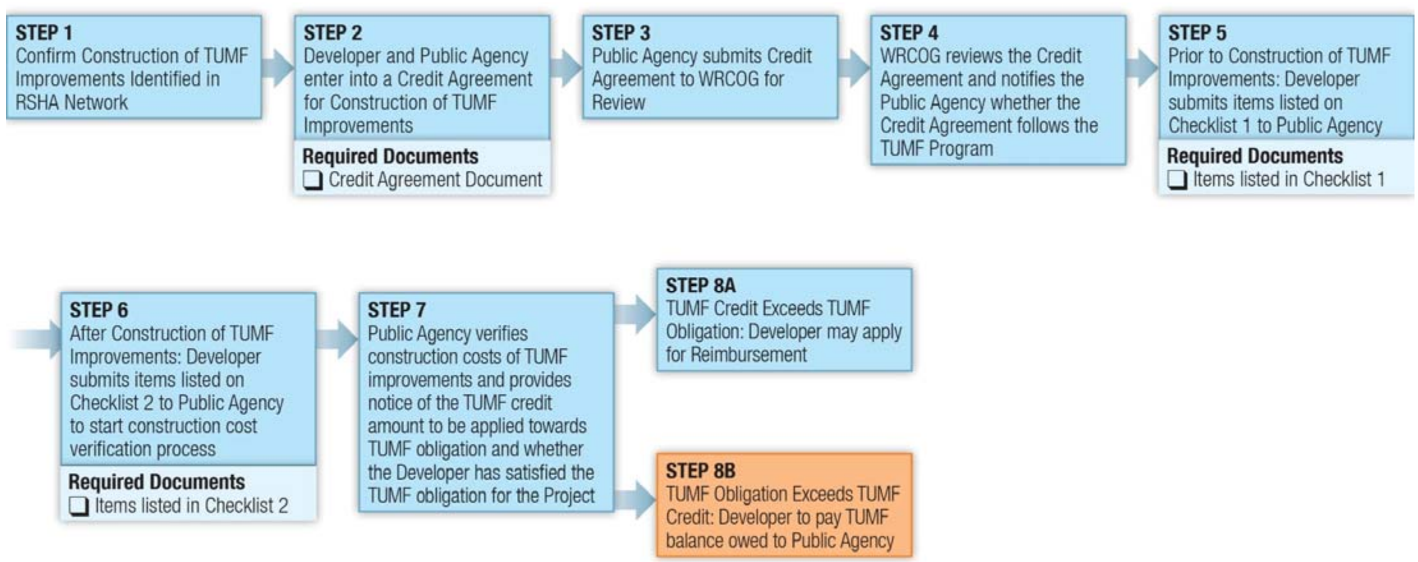

Figure 4.1: Credit for Construction of TUMF Improvements Process

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4.1 Credit for Construction of TUMF Improvements

For construction of TUMF improvements as identified on the RSHA Network, developers are entitled to a TUMF credit of up to 100% of the TUMF obligation fee, not to exceed the maximum TUMF share. TUMF credit shall be determined based on approved improvement plans and after conditions of approval have been determined.

The following are the typical steps to obtain TUMF Credits for the construction of TUMF improvements:

Step 1. Determine if Improvements Qualify for TUMF Credits

The public agency shall confirm that construction of TUMF improvements are identified in the RSHA Network.

STEP 1
Confirm Construction of TUMF Improvements Identified in RSHA Network

Step 2. Credit Agreement with Public Agency

Developers are required to enter into a Credit Agreement for Construction of TUMF Improvements with the public agency to be eligible to receive TUMF credits. A model Credit/Reimbursement Master Agreement document template is provided in **Section 6, Checklists and Forms.**

STEP 2
Developer and Public Agency enter into a Credit Agreement for Construction of TUMF Improvements

Required Documents
❏ Credit Agreement Document

Step 3. Credit Agreement Submittal to WRCOG

The public agency shall submit the Credit Agreement for Construction of TUMF Improvements to WRCOG for approval in accordance to the following:

- Credit reimbursement agreements shall be submitted electronically to WRCOG.
- Credit reimbursement agreements shall be submitted to the following WRCOG staff email address: **Daniel Ramirez-Cornejo**, dcornejo@wrcog.us
- A notice will be sent from WRCOG confirming receipt.

STEP 3
Public Agency submits Credit Agreement to WRCOG for Review

Step 4. Review by WRCOG

Upon receipt of a Credit Reimbursement Agreement, WRCOG will review and provide a written notification to the public agency stating:

a. Approved: The agreement complies with the TUMF Program; or

b. Denied: The agreement does not comply with the TUMF Program. WRCOG will provide reasons agreement does not comply.

<u>Denied Credit Agreement</u>

In the event WRCOG denies the credit agreement, the public agency may revise and resubmit the credit agreement for approval.

STEP 4
WRCOG reviews the Credit Agreement and notifies the Public Agency whether the Credit Agreement follows the TUMF Program

Step 5. Prior to Construction of TUMF Improvements: Submit Items on Checklist 1

The developer will initiate project delivery of TUMF improvements by preparing a bid package per the public agency's requirements. Prior to construction of TUMF improvements, the developer is required to submit the items listed on **Checklist 1** found in **Section 6, Checklists and Forms**, to the public agency prior to start of construction. The public agency will make Checklist items available to WRCOG upon request.

STEP 5
Prior to Construction of TUMF Improvements: Developer submits items listed on Checklist 1 to Public Agency

Required Documents
❑ Items listed in Checklist 1

Step 6. Post Construction of TUMF Improvements: Submit Items on Checklist 2

After TUMF improvements have been constructed, the developer is required to submit the items listed on **Checklist 2** found in **Section 6, Checklists and Forms**, to initiate the construction cost verification process to the public agency after project construction is complete.

STEP 6
After Construction of TUMF Improvements: Developer submits items listed on Checklist 2 to Public Agency to start construction cost verification process

Required Documents
❑ Items listed in Checklist 2

Step 7. Review by Public Agency

Upon receipt of items listed on **Checklist 2**, the public agency will verify the construction costs and provide a written notice determining the TUMF Credit amount to be applied towards the project to offset the TUMF Obligation and whether the Developer has fully satisfied the TUMF Obligation for the project.

STEP 7
Public Agency verifies construction costs of TUMF improvements and provides notice of the TUMF credit amount to be applied towards TUMF obligation and whether the Developer has satisfied the TUMF obligation for the Project

Step 8. TUMF Credit and TUMF Obligation

<u>TUMF Credit Exceeds TUMF Obligation</u>

If the TUMF credit amount exceeds the TUMF Obligation for the project, the project will be deemed to have completely satisfied its TUMF Obligation and the developer may apply for reimbursement as discussed in **Section 5, Developer TUMF Reimbursement**.

<u>TUMF Obligation Exceeds TUMF Credit</u>

If the TUMF Obligation exceeds the TUMF credit amount for the project, the amount of the difference is the TUMF balance owed by the developer. The developer shall pay the TUMF balance to the public agency to fully satisfy the TUMF obligation for the project.

STEP 8A
TUMF Credit Exceeds TUMF Obligation: Developer may apply for Reimbursement

STEP 8B
TUMF Obligation Exceeds TUMF Credit: Developer to pay TUMF balance owed to Public Agency

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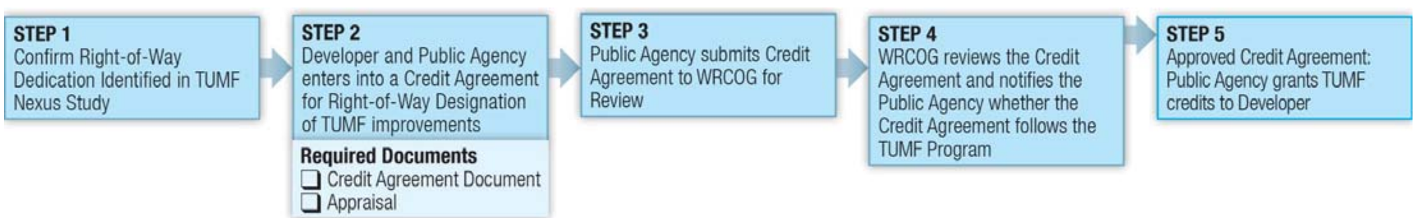

Figure 4.2: Credit for Right-of-Way Dedication Process

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4.2 Credit for Right-of-Way Dedication

A developer may receive TUMF credits for Right-of-Way (ROW) dedications. The ROW dedications that may be eligible for TUMF credits are required to be:

- ROW dedications for RSHA improvements; and
- ROW dedications not part of construction projects.

The following are the typical steps to obtain TUMF Credits for Right-of-Way Dedication:

Step 1. Determine if ROW Dedication Qualifies for TUMF Credits

The public agency shall confirm that the ROW dedication is identified in the TUMF Nexus Study.

STEP 1
Confirm Right-of-Way Dedication Identified in TUMF Nexus Study

Step 2. Credit Agreement with Public Agency

The developer is required to enter into an WRCOG - approved Credit Agreement for ROW Dedication with the public agency to be eligible to receive TUMF credits. A model Credit/Reimbursement Master Agreement document template is provided in **Section 6, Checklists and Forms**. Each Credit Agreement for ROW Dedication shall include the following:

- Credit Agreement for ROW Dedication between developer and public agency; and
- Appraisal

STEP 2
Developer and Public Agency enters into a Credit Agreement for Right-of-Way Designation of TUMF improvements

Required Documents
❑ Credit Agreement Document
❑ Appraisal

<u>Appraisals</u>

An appraisal is required as part of the Credit Agreement and will be determined using one of the following methods:

- The developer provides to the public agency a current appraisal (no more than two years old), of the ROW to be dedicated. The public agency reviews it and determines if the appraisal is valid and acceptable; or
- The developer accepts the appraisal of the public agency.

The appraisal will determine the value of the ROW being dedicated and the amount eligible for credit, but will not exceed the maximum share of credits available for ROW dedication as identified in the current WRCOG TUMF Nexus Study.

Step 3. Credit Agreement Submittal to WRCOG

The public agency shall submit the Credit Agreement to WRCOG for approval in accordance to the following:

- Credit agreements shall be submitted electronically to WRCOG.
- Credit agreements shall be submitted to the following WRCOG staff email address: **Daniel Ramirez-Cornejo**, dcornejo@wrcog.us
- A notice will be sent from WRCOG confirming receipt.

STEP 3
Public Agency submits Credit Agreement to WRCOG for Review

Step 4. Review by WRCOG

Upon receipt of the Credit Agreement, WRCOG will review and provide a written notification to the public agency within 20 days stating:

a. Approved: The agreement complies with the TUMF Program; or

b. Denied: The agreement does not comply with the TUMF Program. WRCOG will provide reasons agreement does not comply.

<u>Denied Credit Agreement</u>

In the event WRCOG denies the credit agreement, the public agency may revise and resubmit the credit agreement for approval.

STEP 4
WRCOG reviews the Credit Agreement and notifies the Public Agency whether the Credit Agreement follows the TUMF Program

Step 5. Public Agency Grants TUMF Credits

Upon approval of the Credit Agreement, the public agency will initiate the process to issue to the developer TUMF credits against the TUMF obligation paid by the developer.

STEP 5
Approved Credit Agreement: Public Agency grants TUMF credits to Developer

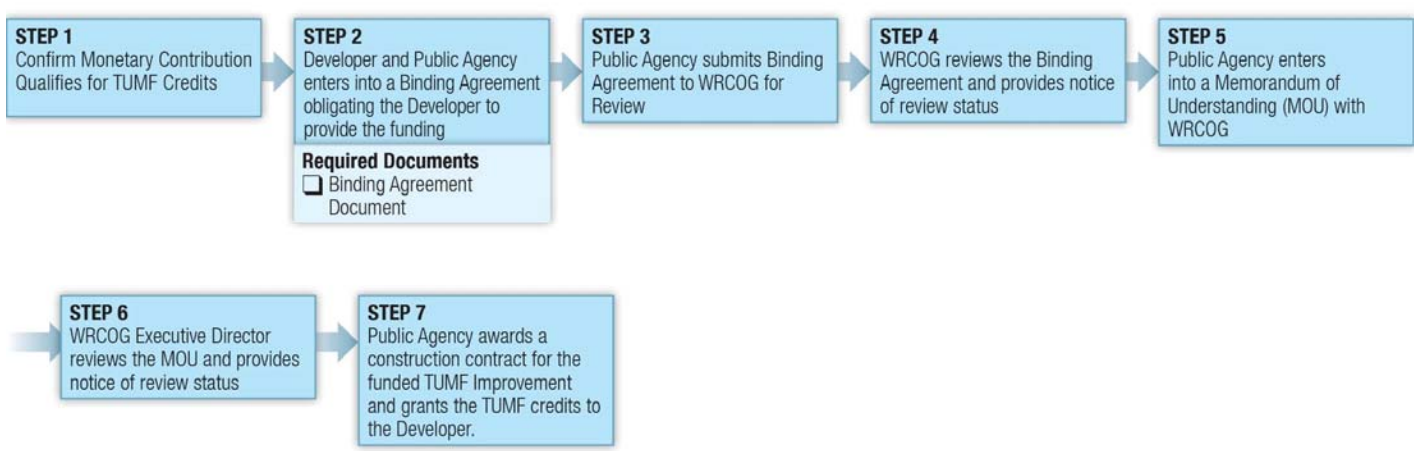

Figure 4.3: Credit for Monetary Contributions Process

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4.3 Credit for Monetary Contributions

For monetary contributions from developers to fund improvements, developers are entitled to a TUMF credit up to 100% of the TUMF obligation, not to exceed the maximum TUMF share as identified in the TUMF Nexus Study.

Provisions for Monetary Contributions

The following provisions apply to the public agency responsible for the monetary contribution:

- The public agency shall be responsible for implementation of the improvement for which funding is provided by the developer;
- Improvements for which funding is provided shall not be eligible for TUMF Program prioritization or funding;
- In the event that not all funds contributed by a developer are spent within 3-years of contribution, the public agency shall remit any unspent funds received from the developer to WRCOG. The 3-year term may be extended by action of the WRCOG Executive Committee upon request of the public agency.

The following are the steps to obtain TUMF Credits for Monetary Contributions:

Step 1. Determine if Monetary Contribution Qualifies for TUMF Credits

STEP 1
Confirm Monetary Contribution Qualifies for TUMF Credits

The public agency shall confirm that the improvement is identified in the TUMF Nexus Study. A developer may receive TUMF credit for monetary contributions funding one of the following types of improvements:

- Any Type 1, 2, or 3 interchange on an interstate or state highway. Any Type 1, 2, or 3 interchange includes all phases of the project, including any pre-construction activities (PSR/PDS, PA&ED, PS&E, ROW).

Step 2. Binding Agreement with Public Agency

The developer is required to enter into a Binding Agreement for Monetary Contributions with the public agency obligating the developer to provide the funding and to be eligible to receive TUMF Credits.

STEP 2
Developer and Public Agency enters into a Binding Agreement obligating the Developer to provide the funding

Required Documents
- ☐ Binding Agreement Document

Step 3. Binding Agreement Submittal to WRCOG

The public agency shall submit the executed Binding Agreement to WRCOG for approval in accordance to the following:

- Binding agreements shall be submitted electronically to WRCOG.
- Binding agreements shall be submitted to the following WRCOG staff email address: **Daniel Ramirez-Cornejo**, dcornejo@wrcog.us
- A notice will be sent from WRCOG confirming receipt.

STEP 3
Public Agency submits Binding Agreement to WRCOG for Review

Step 4. Review by WRCOG

Upon receipt of a Binding Agreement, WRCOG will review and provide a written notification to the public agency within stating:

a. Approved: The agreement complies with the TUMF Program; or

b. Denied: The agreement does not comply with the TUMF Program. WRCOG will provide reasons agreement does not comply.

STEP 4
WRCOG reviews the Binding Agreement and provides notice of review status

Denied Credit Agreement

In the event WRCOG denies the binding agreement, the public agency may revise and resubmit the binding agreement for approval.

Step 5. Memorandum of Understanding (MOU) with WRCOG

The public agency shall enter a MOU with WRCOG and provide information, as requested by WRCOG, to account for the credit and provide an explanation of why the improvement to be funded with the monetary contribution cannot be constructed by the developer.

STEP 5
Public Agency enters into a Memorandum of Understanding (MOU) with WRCOG

Step 6. Approval from WRCOG Executive Director

Upon receipt of the MOU, the WRCOG Executive Director will review and provide a written approval of the MOU. The Executive Director is encouraged to consult with the WRCOG Public Works Committee before approving the award of credit.

In the event the WRCOG Executive Director rejects the MOU, the public agency may revise and resubmit for approval.

STEP 6
WRCOG Executive Director reviews the MOU and provides notice of review status

Step 7. Public Agency to Grant Credits

Upon approval of the MOU, the public agency will award the contract for the TUMF improvement phase for which the funding is contributed. Credit will only be granted to a developer after the public agency has awarded a contract for the improvement phase for which the funding is contributed has been awarded. Credits will be granted to the developer after the contract has been awarded and TUMF eligible expenses are incurred and verified by a member agency.

STEP 7
Public Agency awards a construction contract for the funded TUMF Improvement and grants the TUMF credits to the Developer.

4.4 Provisions for Developers Use of Credit

The following additional provisions apply to developers use of credits granted through the TUMF Program:

- All TUMF credits shall be used first by the developer to offset the TUMF obligation for the project.
- Credits may not be transferred or sold to other development projects, unless:
    - The property to which the credits are being transferred or sold is contiguous to the same TUMF facility and owned and conditioned for improvement by the same developer; and
    - The transfer is approved by WRCOG in writing.
- WRCOG may place conditions on the use, transfer, or sale of credits in order to maintain the integrity of the TUMF program. In some cases, a public agency may be required to acknowledge that the property is one contiguous project.
- Developers must exhaust all credits before they are eligible for reimbursements. Any reimbursement shall be made only in accordance with a reimbursement agreement as discussed in **Section 5, Developer TUMF Reimbursements.**

4.5 Provisions for Public Agencies Use of Credits

The following additional provisions apply to public agencies use of credits granted through the TUMF Program:

- Each public agency shall be responsible for the administration of TUMF credit agreements.
- Each public agency shall transmit all TUMF credit agreements to WRCOG within 60 days of execution by that public agency.
- A public agency may not allow a developer to pay the TUMF obligation fees before entering into a credit agreement with the expectation of receiving a refund.
- Any improvement made to the RSHA that is obligated through an existing fee district (prior to June 1, 2003 shall not be eligible for TUMF credit.
- Should it be determined that a public agency granted credits exceeding the maximum TUMF credit, that public agency shall provide WRCOG payment in the amount equal to the excess credit amount.
- Any project that is exempt from the fee is not entitled to fee credits or reimbursement.

4.6 New Financing Districts and Bond Issues

The local jurisdiction shall compare facilities in local fee programs against the RSHA and eliminate any overlap in its local fee program.

A financing district is defined as a community facilities district, a local road and bridge district, or an assessment district. For a financing district created or bonds or other evidence of indebtedness issued on or after June 1, 2003, the local jurisdiction may allow a property owner, in lieu of the payment of TUMF to participate in such a financing district and receive credit against the TUMF obligation if the district is funding the following facilities:

- A Regionally Significant Transportation Improvement – facilities that typically are proposed to have six lanes at build out and extend between multiple jurisdictions, or discrete useable segment thereof, as determined by WRCOG;
- Any Type 1, 2, or 3 Interchange or an Interstate or State Highway;
- Any Railroad Crossing with an estimated construction cost of more than ten million dollars ($10,000,000); and
- Any Bridge located on a regionally significant arterial as defined above.

4.6.1. <u>Credit in Lieu of TUMF Payment</u>

A. Prior to and in lieu of payment of TUMF under other funding programs, the local jurisdiction must do all of the following:

   1. Sell bonds within 3 years in an amount sufficient to construct the improvement for which the financing district is created;
   2. Receive written approval from the WRCOG Executive Director, or designee; and
   3. In the event that a local jurisdiction is unable to satisfy the requirements described in note 1, above, the local jurisdiction may still excuse the payment of bonds if the local jurisdiction enters into an agreement with WRCOG in which it commits to pay the full amount of any excused Fee, plus interest at the average rate earned by WRCOG over the past twelve months, in the event that the bonds may be extended up to an additional 5 years with the approval of the WRCOG Executive Committee.

B. If a local jurisdiction proposed to issue a credit in lieu of requiring the payment of TUMF as provided in this section, then the jurisdiction shall enter into an MOU with WRCOG, and provide reasonable information to account for the credit.

C. If credit is issued in lieu of requiring the payment of TUMF as provided in this section, then the jurisdiction shall be responsible for construction of the improvements and those improvements shall not be eligible for TUMF Program prioritization or funding.

D. Any dispute regarding the implementation of this section may be appealed by the local jurisdiction to the WRCOG Executive Committee for a final determination.

E. Where there is an existing financing district or an existing fee program established prior to June 1, 2003, with bonded indebtedness, then the local jurisdiction may credit payment of the TUMF for that portion of the facility identified in both programs. Notwithstanding the previous sentence, a local jurisdiction shall not issue a TUMF credit for any facilities for which bonds have been issued after February 4, 2008, regardless of when the financing district was first created.

This section is not intended to impact the administration of credits as included in this manual.

WRCOG TUMF

5. Developer TUMF Reimbursements

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5. Developer TUMF Reimbursements

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5. Developer TUMF Reimbursements

Developers may be eligible for reimbursement for the construction of TUMF facilities in certain instances. If a developer constructs TUMF improvements that cost more than the TUMF obligation, the developer may be reimbursed for the actual project costs that exceed the TUMF obligation. Reimbursements shall be made through an agreement between the developer and the public agency, and contingent upon funds being available.

In all cases, reimbursements under such agreements be programmed in the Zone Five-Year Transportation Improvement Program adopted annually by WRCOG for all approved TUMF improvements. **Figure 5.1, Developer TUMF Reimbursement Process,** illustrates the typical TUMF reimbursement process for developers.

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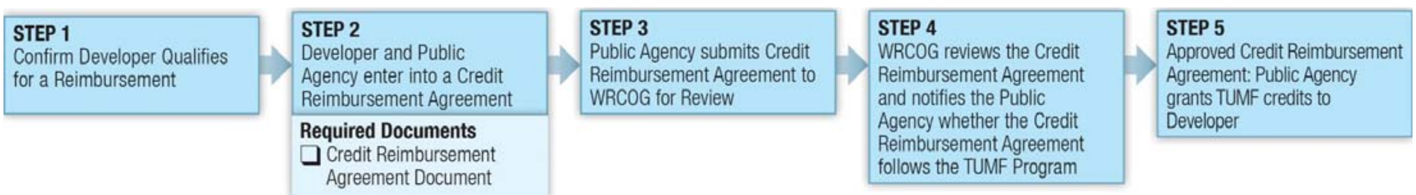

Figure 5.1: Developer TUMF Reimbursement Process

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5.1 Obtaining a Reimbursement

The following illustrates the steps for developer reimbursements:

Step 1. Determine if Developer Qualifies for a Reimbursement

The developer may enter into a reimbursement agreement with the jurisdiction to reimburse the developer/owner for the direct and verifiable costs of constructing improvements to the Regional System of Highways and Arterials (RSHA) when all of the following conditions have been met:

- All available credits have been exhausted;
- The improvements received prior approval from the jurisdiction and WRCOG based on review of the TUMF project priority list; and
- The jurisdiction and WRCOG have reviewed and approved the scope of the project to be constructed.

In no event, shall the developer be reimbursed for improvements to the RSHA in excess of the most current approved Maximum TUMF Share for the facility on the TUMF network at the time that the Credit Reimbursement Agreement is executed.

STEP 1
Confirm Developer Qualifies for a Reimbursement

Step 2. Credit Reimbursement Agreement with Public Agency

The developer is required to enter into a Credit Reimbursement Agreement with the Public Agency to be eligible to receive a reimbursement. A model Credit/Reimbursement Master Agreement document template is provided in **Section 6, Checklists and Forms.**

STEP 2
Developer and Public Agency enter into a Credit Reimbursement Agreement

Required Documents
❑ Credit Reimbursement Agreement Document

Step 3. Credit Reimbursement Agreement Submittal to WRCOG

The public agency shall submit the Credit Reimbursement Agreement to WRCOG for review in accordance to the following:

- Credit reimbursement agreements shall be submitted electronically to WRCOG.
- Credit reimbursement agreements shall be submitted to the following WRCOG staff email address: **Daniel Ramirez-Cornejo**, dcornejo@wrcog.us
- A notice will be sent from WRCOG confirming receipt.

STEP 3
Public Agency submits Credit Reimbursement Agreement to WRCOG for Review

Step 4. Review by WRCOG

Upon receipt of a Credit Reimbursement Agreement, WRCOG will review and provide a written notification to the public agency stating:

a. Approved: The agreement complies with the TUMF Program; or

b. Denied: The agreement does not comply with the TUMF Program. WRCOG will provide reasons agreement does not comply.

<u>Denied Credit Reimbursement Agreement</u>

In the event WRCOG denies the credit reimbursement agreement, the public agency may revise and resubmit the credit reimbursement agreement for approval.

STEP 4
WRCOG reviews the Credit Reimbursement Agreement and notifies the Public Agency whether the Credit Reimbursement Agreement follows the TUMF Program

Step 5. Approved Credit Reimbursement Agreement

Upon approval of the Credit Reimbursement Agreement, the public agency will initiate the payment process for the approved amount to the developer.

STEP 5
Approved Credit Reimbursement Agreement: Public Agency grants TUMF credits to Developer

5.2 Provisions

The following additional provisions apply to reimbursements granted through the TUMF Program. TUMF Reimbursements shall be in accordance with the following:

- A development that is exempt from paying the TUMF is not eligible for reimbursement.

WRCOG TUMF

6. Checklists and Forms

6. Checklists & Forms

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6. Checklists and Forms

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6. Checklists and Forms

The following Checklists and Forms are provided as model form templates:

- WRCOG TUMF Public Agency Reimbursement Agreement **(Attachment A)***
- WRCOG TUMF Developer Credit and Reimbursement Master Agreement **(Attachment B)***
- Checklist 1: Developer Credit Agreement to Construct TUMF Improvements- List of Documents and Requirements Prior to Construction of TUMF Improvements **(Attachment C)**
- Checklist 2: Developer Credit Agreement to Construct TUMF Improvements- List of Documents and Requirements to Initiate Construction Cost Verification Process **(Attachment D)**
- Checklist 3: Public Agency Reimbursement – Invoice Packet Forms List **(Attachment E)**
- Form Template 1: Invoice Cover Letter (MS Word) **(Attachment F)**
- Form Template 2: Progress Report (MS Word) **(Attachment G)**
- Form Template 3: Reimbursement Invoice (MS Excel) **(Attachment H)**

***** Latest versions found at http://www.wrcog.cog.ca.us/199/Administration-Fees

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ATTACHMENT A

WRCOG TUMF Public Agency Reimbursement Agreement

Latest versions found at http://www.wrcog.cog.ca.us/199/Administration-Fees

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**IMPROVEMENT AND CREDIT / REIMBURSEMENT AGREEMENT
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM**

This **IMPROVEMENT AND CREDIT AGREEMENT** ("Agreement") is entered into this ___ day of ___________________, 20___, by and between the [**INSERT "City" OR "County"] of ___________, [**a California municipal corporation or a subdivision of the State of California **] ("AGENCY"), and ________________________________, a California [**INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity**], with its principal place of business at [**ENTER ADDRESS**] ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, Developer owns ____ acres of real property located within the AGENCY of ___________, California, which is more specifically described in the legal description set forth in Exhibit "A", attached hereto and incorporated herein by this reference ("Property");

WHEREAS, Developer has requested from AGENCY-certain entitlements and/or permits for the construction of improvements on the Property, which are more particularly described as ____ ____ ____ ("Project");

WHEREAS, the AGENCY is a member agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and 17 cities located in Western Riverside County. WRCOG is the administrator for the Transportation Uniform Mitigation Fee ("TUMF") Program;

WHEREAS, as part of the TUMF Program, the AGENCY has adopted "Transportation Uniform Mitigation Fee Nexus Study: 2009 Update" ("2009 Nexus Study")

WHEREAS, as a condition to AGENCY's approval of the Project, AGENCY has required Developer to construct certain street and transportation system improvement(s) of regional importance ("TUMF Improvements");

WHEREAS, pursuant to the TUMF Program, the AGENCY requires Developer to pay the TUMF which covers the Developer's fair share of the costs to deliver those TUMF Improvements that help mitigate the Project's traffic impacts and burdens on the Regional System of Highways and Arterials (also known as the "TUMF Network"), generated by the Project and that are necessary to protect the safety, health and welfare of persons that travel to and from the Project using the TUMF Network;

WHEREAS, the TUMF Improvements have been designated as having Regional or Zonal Significance as further described in the 2009 Nexus Study and the 5 year Transportation Improvement Program as may be amended;

WHEREAS, AGENCY and Developer now desire to enter into this Agreement for the following purposes: (1) to provide for the timely delivery of the TUMF Improvements, (2) to ensure that delivery of the TUMF Improvements is undertaken as if the TUMF Improvements were constructed under the direction and authority of the AGENCY, (3) to provide a means by which the Developer's costs for project delivery of the TUMF Improvements and related right-of-ways is offset against Developer's obligation to pay the applicable TUMF for the Project in accordance with the TUMF Administrative Plan adopted by WRCOG, and (4) to provide a means, subject to the separate approval of WRCOG, for Developer to be reimbursed to the extent the actual and authorized costs for the delivery of the TUMF Improvements exceeds Developer's TUMF obligation.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, Developer and AGENCY hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Construction of TUMF Improvements. Developer shall construct or have constructed at its own cost, expense, and liability certain street and transportation system improvements generally described as **[INSERT TUMF IMPROVEMENTS]**________________
____
____
____, and as shown more specifically on the plans, profiles, and specifications which have been or will be prepared by or on behalf of Developer and approved by AGENCY, and which are incorporated herein by this reference ("TUMF Improvements"). Construction of the TUMF Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. Developer shall be responsible for the replacement, relocation, or removal of any component of any existing public or private improvement in conflict with the construction or installation of the TUMF Improvements. Such replacement, relocation, or removal shall be performed to the complete satisfaction of AGENCY and the owner of such improvement. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the TUMF Improvements.

2.1 Pre-approval of Plans and Specifications. Developer is prohibited from commencing work on any portion of the TUMF Improvements until all plans and specifications for the TUMF Improvements have been submitted to and approved by AGENCY. Approval by AGENCY shall not relieve Developer from ensuring that all TUMF Improvements conform with all other requirements and standards set forth in this Agreement.

2.2 Permits and Notices. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the TUMF Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer.

2.3 Public Works Requirements. In order to insure that the TUMF Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, AGENCY, Developer shall comply with all of the following requirements with respect to the construction of the TUMF Improvements:

(a) Developer shall obtain bids for the construction of the TUMF Improvements, in conformance with the standard procedures and requirements of AGENCY with respect to its public works projects, or in a manner which is approved by the Public Works Department.

(b) The contract or contracts for the construction of the TUMF Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of the TUMF Improvements.

(c) Developer shall require, and the specifications and bid and contract documents shall require, all such contractors to pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and to otherwise comply with applicable provisions of the Labor Code, the Government Code and the Public Contract Code relating to public works projects of cities/counties and as required by the procedures and standards of AGENCY with respect to the construction of its public works projects or as otherwise directed by the Public Works Department.

(d) All such contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the TUMF Improvements which they will construct in conformance with AGENCY's standard procedures and requirements.

(e) Developer and all such contractors shall comply with such other requirements relating to the construction of the TUMF Improvements which AGENCY may impose by written notification delivered to Developer and each such contractor at any time, either prior to the receipt of bids by Developer for the construction of the TUMF Improvements, or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof.

Developer shall provide proof to AGENCY, at such intervals and in such form as AGENCY may require that the foregoing requirements have been satisfied as to the TUMF Improvements.

2.4 Quality of Work; Compliance With Laws and Codes. The construction plans and specifications for the TUMF Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements. The TUMF Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and special amendments thereto on file with AGENCY, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required, constructing the TUMF Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to TUMF Improvements. All work shall be done and the TUMF Improvements completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation it is determined that the public interest requires alterations in the TUMF Improvements, Developer shall undertake such design and construction changes as may be reasonably required by AGENCY. Any and all alterations in the plans and specifications and the TUMF Improvements to be completed may be accomplished without first giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of TUMF Improvements. AGENCY shall not be responsible or liable for the maintenance or care of the TUMF Improvements until AGENCY approves and accepts them. AGENCY shall exercise no control over the TUMF Improvements until accepted. Any use by any person of the TUMF Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to AGENCY's acceptance of the TUMF Improvements. Developer shall maintain all of the TUMF Improvements in a state of good repair until they are completed by Developer and approved and accepted by AGENCY, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by AGENCY. If Developer fails to properly prosecute its maintenance obligation under this section, AGENCY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. AGENCY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the TUMF Improvements or their condition prior to acceptance.

4.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay all fees, charges, and taxes arising out of the construction of the TUMF Improvements, including, but not limited to, all plan check, design review, engineering, inspection, sewer treatment connection fees, and other service or impact fees established by AGENCY.

5.0 AGENCY Inspection of TUMF Improvements. Developer shall, at its sole cost, expense, and liability, and at all times during construction of the TUMF Improvements, maintain reasonable and safe facilities and provide safe access for inspection by AGENCY of the TUMF Improvements and areas where construction of the TUMF Improvements is occurring or will occur.

6.0 Liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 8412 and 8414 of the Civil Code with respect to the TUMF Improvements, Developer shall provide to AGENCY such evidence or proof as AGENCY shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the TUMF Improvements, have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Rather than await the expiration of the said time for the recording of claims of liens, Developer may elect to provide to AGENCY a title insurance policy or other security acceptable to AGENCY guaranteeing that no such claims of liens will be recorded or become a lien upon any of the Property.

7.0 Acceptance of TUMF Improvements; As-Built or Record Drawings. If the TUMF Improvements are properly completed by Developer and approved by AGENCY, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, AGENCY shall be authorized to accept the TUMF Improvements. AGENCY may, in its sole and absolute discretion, accept fully completed portions of the TUMF Improvements prior to such time as all of the TUMF Improvements are complete, which shall not release or modify Developer's obligation to complete the remainder of the TUMF Improvements. Upon the total or partial acceptance of the TUMF Improvements by AGENCY, Developer shall file with the Recorder's Office of the County of Riverside a notice of completion for the accepted TUMF Improvements in accordance with California Civil Code sections 8182, 8184, 9204, and 9208 ("Notice of Completion"), at which time the accepted TUMF Improvements shall become the sole and exclusive property of AGENCY without any payment therefore. Notwithstanding the foregoing, AGENCY may not accept any TUMF Improvements unless and until Developer provides one (1) set of "as-built" or record drawings or plans to the AGENCY for all such TUMF Improvements. The drawings shall be certified and shall reflect the condition of the TUMF Improvements as constructed, with all changes incorporated therein.

8.0 Warranty and Guarantee. Developer hereby warrants and guarantees all the TUMF Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the TUMF Improvements, for a period of one (1) year following completion of the work and acceptance by AGENCY ("Warranty"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise unsatisfactory portion of the TUMF Improvements, in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of AGENCY, and to the approval of AGENCY. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any TUMF Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer and its surety hereby agree to extend the Warranty for an additional one (1) year period following AGENCY's acceptance of the repaired, replaced, or reconstructed TUMF Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any TUMF Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

9.0 Administrative Costs. If Developer fails to construct and install all or any part of the TUMF Improvements, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to AGENCY for all administrative expenses, fees, and costs, including reasonable attorney's fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

10.0 Default; Notice; Remedies.

10.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if AGENCY determines there is a violation of any federal, state, or local law, ordinance, regulation, code, standard, or other requirement, AGENCY may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("Notice"). Developer shall substantially commence the work required to remedy the default or violation within five (5) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, AGENCY may provide the Notice verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon AGENCY's issuance of the Notice, Developer and its surety shall be liable to AGENCY for all costs of construction and installation of the TUMF Improvements and all other administrative costs or expenses as provided for in this Section 10.0 of this Agreement.

10.2 Failure to Remedy; AGENCY Action. If the work required to remedy the noticed default or violation is not diligently prosecuted to a completion acceptable to AGENCY within the time frame contained in the Notice, AGENCY may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. AGENCY's right to take such actions shall in no way be limited by the fact that Developer or its surety may have constructed any of the TUMF Improvements at the time of AGENCY's demand for performance. In the event AGENCY elects to complete or arrange for completion of the remaining work and the TUMF Improvements, AGENCY may require all work by Developer or its surety to cease in order to allow adequate coordination by AGENCY.

10.3 Other Remedies. No action by AGENCY pursuant to this Section 10.0 et seq. of this Agreement shall prohibit AGENCY from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. AGENCY may exercise its rights and remedies independently or cumulatively, and AGENCY may pursue inconsistent remedies. AGENCY may institute an action for damages, injunctive relief, or specific performance.

11.0 Security; Surety Bonds. Prior to the commencement of any work on the TUMF Improvements, Developer or its contractor shall provide AGENCY with surety bonds in the amounts and under the terms set forth below ("Security"). The amount of the Security shall be based on the estimated actual costs to construct the TUMF Improvements, as determined by AGENCY after Developer has awarded a contract for construction of the TUMF Improvements to the lowest responsive and responsible bidder in accordance with this Agreement ("Estimated Costs"). If AGENCY determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer or its contractor shall adjust the Security in the amount requested by AGENCY. Developer's compliance with this Section 11.0 et seq. of this Agreement shall in no way limit or modify Developer's indemnification obligation provided in Section 12.0 of this Agreement.

11.1 Performance Bond. To guarantee the faithful performance of the TUMF Improvements and all the provisions of this Agreement, to protect AGENCY if Developer is in default as set forth in Section 10.0 et seq. of this Agreement, and to secure the one-year guarantee and warranty of the TUMF Improvements, Developer or its contractor shall provide AGENCY a faithful performance bond in an amount which sum shall be not less than one hundred percent (100%) of the Estimated Costs. The AGENCY may, in its sole and absolute discretion, partially release a portion or portions of the security provided under this section as the TUMF Improvements are accepted by AGENCY, provided that Developer is not in default on any provision of this Agreement and the total remaining security is not less than _______________ (___%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, or any extension thereof as provided in Section 11.0 of this Agreement, provided that Developer is not in default on any provision of this Agreement.

11.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, materialmen, and other persons furnishing labor, materials, or equipment for performance of the TUMF Improvements and this Agreement, Developer or its contractor shall provide AGENCY a labor and materials bond in an amount which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section may be released by written authorization of AGENCY after six (6) months from the date AGENCY accepts the TUMF Improvements. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which AGENCY is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of AGENCY's anticipated administrative and legal expenses arising out of such claims.

11.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best rating of at least "A" and FSC-VIII, shall be licensed to do business in California, and shall be satisfactory to AGENCY. As part of the obligation secured by the Security and in addition to the face amount of the Security, Developer, its contractor or the surety shall secure the costs and reasonable expenses and fees, including reasonable attorney's fees and costs, incurred by AGENCY in enforcing the obligations of this Agreement. Developer, its contractor and the surety shall stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the TUMF Improvements, or the plans and specifications for the TUMF Improvements shall in any way affect its obligation on the Security.

11.4 Evidence and Incorporation of Security. Evidence of the Security shall be provided on the forms set forth in Exhibit "B", unless other forms are deemed acceptable by the AGENCY, and when such forms are completed to the satisfaction of AGENCY, the forms and evidence of the Security shall be attached hereto as Exhibit "B" and incorporated herein by this reference.

12.0 Indemnification. Developer shall defend, indemnify, and hold harmless AGENCY, its elected officials, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its employees, contractors, or agents in connection with the performance of this Agreement, or arising out of or in any way related to or caused by the TUMF Improvements or their condition prior to AGENCY's approval and acceptance of the TUMF Improvements ("Claims"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys fees, and related costs or expenses, and the reimbursement of AGENCY, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any Claim which is caused solely and exclusively by the negligence or willful misconduct of AGENCY as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by AGENCY, its elected officials, employees, or agents.

13.0 Insurance.

13.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during performance of this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

13.1.1 General Liability. Occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than Two Million Dollars ($2,000,000) per occurrence for bodily injury, personal injury, and property damage.

13.1.2 Business Automobile Liability. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

13.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than One Million Dollars ($1,000,000) per occurrence, at all times during which insured retains employees.

13.1.4 Professional Liability. For any consultant or other professional who will engineer or design the TUMF Improvements, liability insurance for errors and omissions with limits not less than Two Million Dollars ($2,000,000) per occurrence, shall be procured and maintained for a period of five (5) years following completion of the TUMF Improvements. Such insurance shall be endorsed to include contractual liability.

13.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by AGENCY. At the option of AGENCY, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects AGENCY, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to AGENCY guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

13.3 Additional Insured; Separation of Insureds. The Required Insurance, except for the professional liability and workers' compensation insurance, shall name AGENCY, its elected officials, officers, employees, and agents as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including any materials, parts, or equipment furnished in connection therewith. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to AGENCY, its elected officials, officers, employees, or agents.

13.4 Primary Insurance; Waiver of Subrogation. The Required Insurance shall be primary with respect to any insurance or self-insurance programs covering AGENCY, its elected officials, officers, employees, or agents. The policy required for workers' compensation insurance shall provide that the insurance company waives all right of recovery by way of subrogation against AGENCY in connection with any damage or harm covered by such policy.

13.5 Certificates; Verification. Developer and its contractors shall furnish AGENCY with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by AGENCY before work pursuant to this Agreement can begin. AGENCY reserves the right to require complete, certified copies of all required insurance policies, at any time.

13.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days' prior written notice to AGENCY.

13.7 Insurer Rating. Unless approved in writing by AGENCY, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least "A" and FSC-VIII.

14.0 TUMF Credit.

14.1 Developer's TUMF Obligation. Developer hereby agrees and accepts that as of the date of this Agreement, the amount Developer is obligated to pay to AGENCY _ pursuant to (insert appropriate reference for city or county) as part of the TUMF Program is **[INSERT DOLLAR VALUE OF TUMF REQUIREMENT]** ____________________________________ ($______________) ("TUMF Obligation"). This TUMF Obligation shall be initially determined under the nexus study and fee schedule in effect for the AGENCY at the time the Developer submits a building permit application for the TUMF Improvement. Notwithstanding, this TUMF Obligation does not have to be paid until the Certificate of Occupancy is obtained.

14.2 Fee Adjustments. Notwithstanding the foregoing, Developer agrees that this Agreement shall not estop AGENCY from adjusting the TUMF in accordance with the provisions of (insert appropriate reference for city or county).

14.3 Credit Offset Against TUMF Obligation. Pursuant to (insert appropriate reference for city or county) and in consideration for Developer's obligation under this Agreement for the delivery of TUMF Improvements, credit shall be applied by AGENCY to offset the TUMF Obligation ("Credit") subject to adjustment and reconciliation under Section 14.5 of this agreement. Developer hereby agrees that the amount of the Credit shall be applied after Developer has initiated the process of project delivery of TUMF Improvements to the lowest responsible bidder in accordance with this Agreement. Developer further agrees that the dollar amount of the Credit shall be equal to the lesser of: (A) the bid amount set forth in the contract awarded to the lowest responsible bidder, or (B) the unit cost assumptions for the TUMF Improvement in effect at the time of the contract award, as such assumptions are identified and determined in the 2009 Nexus Study and the TUMF Administrative Plan adopted by WRCOG ("Unit Cost Assumptions").

The bid amount and the Unit Cost Assumptions shall hereafter be collectively referred to as "Estimated Credit". At no time will the Credit exceed the Developer's TUMF Obligation. If the dollar amount of the Estimated Credit exceeds the dollar amount of the TUMF Obligation, Developer will be deemed to have completely satisfied its TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. If the dollar amount of the Estimated Credit is less than the dollar amount of the TUMF Obligation, the Developer agrees the Credit shall be applied to offset the TUMF Obligation as follows:

(1)For residential units in the Project, the Credit shall be applied to all residential units to offset and/or satisfy the TUMF Obligation. The residential units for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to each unit, shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

(2)For commercial and industrial structures in the Project, the Credit shall be applied to all commercial and industrial development to offset and/or satisfy the TUMF Obligation. The commercial or industrial structure(s) for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to such structure(s), shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section, including how the Credit is applied to offset the TUMF Obligation as described above.

14.4 Verified Cost of the TUMF Improvements. Upon recordation of the Notice of Completion for the TUMF Improvements and acceptance of the TUMF Improvements by AGENCY, Developer shall submit to the AGENCY Public Works Director the information set forth in the attached Exhibit "C". The AGENCY Public Works Director, or his or her designee, shall use the information provided by Developer to calculate the total actual costs incurred by Developer in delivering the TUMF Improvements covered under this Agreement ("Verified Costs"). The AGENCY Public Works Director will use his or her best efforts to determine the amount of the Verified Costs and provide Developer written notice thereof within thirty (30) calendar days of receipt of all the required information from Developer.

14.5 Reconciliation; Final Credit Offset Against TUMF Obligation. The Developer is aware of and accepts the fact that Credits are speculative and conceptual in nature. The actual amount of Credit that shall be applied by AGENCY to offset the TUMF Obligation shall be equal to the lesser of: (A) the Verified Costs or (B) Unit Cost Assumptions for the TUMF Improvements as determined in accordance with Section 14.3 of this Agreement ("Actual Credit"). No Actual Credit will be awarded until the Verified Costs are determined through the reconciliation process. Please be advised that while a Developer may use an engineer's estimates in order to estimate Credits for project planning purposes, the Actual Credit awarded will only be determined by the reconciliation process.

(a) TUMF Balance. If the dollar amount of the Actual Credit is less than the dollar amount of the TUMF Obligation, the AGENCY Public Works Director shall provide written notice to Developer of the amount of the difference owed ("TUMF Balance") and Developer shall pay the TUMF Balance in accordance with (insert appropriate reference for city or county) to fully satisfy the TUMF Obligation (see Exhibit "F" - Example "A").

(b) TUMF Reimbursement. If the dollar amount of the Actual Credit exceeds the TUMF Obligation, Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section (see Exhibit "F" - Example "B").

(c) TUMF Overpayment. If the dollar amount of the Actual Credit exceeds the Estimated Credit, but is less than the TUMF Obligation, but the Actual Credit plus additional monies collected by AGENCY from Developer for the TUMF Obligation exceed the TUMF Obligation ("TUMF Overpayment"), Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may be entitled to a refund. The AGENCY's Public Works Director shall provide written notice to WRCOG and the Developer of the amount of the TUMF Overpayment and AGENCY shall direct WRCOG to refund the Developer in accordance with (insert appropriate reference for city or county) (see Exhibit "F" - Example C).

14.6 Reimbursement Agreement. If authorized under either Section 14.3 or Section 14.5 Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the Actual Credit exceeds the TUMF Obligation, as determined pursuant to Section 14.3 of this Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement Agreement"). If AGENCY and WRCOG agree to a Reimbursement Agreement with Developer, the Reimbursement Agreement shall be executed on the form set forth in Exhibit "D," and shall contain the terms and conditions set forth therein. The Parties agree that the Reimbursement Agreement shall be subject to all terms and conditions of this Agreement, and that upon execution, an executed copy of the Reimbursement Agreement shall be attached hereto and shall be incorporated herein as a material part of this Agreement as though fully set forth herein.

15.0 Miscellaneous.

15.1 Assignment. Developer may assign all or a portion of its rights pursuant to this Agreement to a purchaser of a portion or portions of the Property ("Assignment"). Developer and such purchaser and assignee ("Assignee") shall provide to AGENCY such reasonable proof as it may require that Assignee is the purchaser of such portions of the Property. Any assignment pursuant to this section shall not be effective unless and until Developer and Assignee have executed an assignment agreement with AGENCY in a form reasonably acceptable to AGENCY, whereby Developer and Assignee agree, except as may be otherwise specifically provided therein, to the following: (1) that Assignee shall receive all or a portion of Developer's rights pursuant to this Agreement, including such credit as is determined to be applicable to the portion of the Property purchased by Assignee pursuant to Section 14.0 et seq. of this Agreement, and (2) that Assignee shall be bound by all applicable provisions of this Agreement.

15.2 Relationship Between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between AGENCY and Developer. Developer’s contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of AGENCY.

15.3 Warranty as to Property Ownership; Authority to Enter Agreement. Developer hereby warrants that it owns fee title to the Property and that it has the legal capacity to enter into this Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

15.4 Prohibited Interests. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer, to solicit or secure this Agreement. Developer also warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Developer, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon the making of this Agreement. For breach of this warranty, AGENCY shall have the right to rescind this Agreement without liability.

15.5 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

To AGENCY: [INSERT “CITY” OR “COUNTY”] OF ___________

Fax No. (909) ______________

To Developer: __________________________

Attn: ______________________
____
____
Fax No. (___) ______________

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

15.6 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

15.7 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to AGENCY include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

15.8 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

15.9 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

15.10 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

15.11 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

15.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

15.13 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Riverside, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

15.14 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

15.15 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

15.16 Entire Agreement. This Agreement contains the entire agreement between AGENCY and Developer and supersedes any prior oral or written statements or agreements between AGENCY and Developer.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

DEVELOPER:

[**INSERT NAME OF DEVELOPER**]

By: ______________________________

Its: ______________________________

ATTEST:

By: ________________________________

Its: ________________________________

[**INSERT "CITY" OR "COUNTY"] OF ___________**]:

By: ________________________________

Its: ________________________________

ATTEST:

By: ________________________________

Its: ________________________________

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[ATTACH BEHIND THIS PAGE]

EXHIBIT "B"

FORMS FOR SECURITY

[ATTACHED BEHIND THIS PAGE]

BOND NO. ____________________
INITIAL PREMIUM: ____________________
SUBJECT TO RENEWAL

PERFORMANCE BOND

WHEREAS, the [INSERT "City" OR "County"] of ___________ ("AGENCY") has executed an agreement with ____ (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter the "Work");

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain TUMF Improvement and Credit/Reimbursement Agreement dated ____________________________, (hereinafter the "Agreement"); and

WHEREAS, the Agreement is hereby referred to and incorporated herein by this reference; and

WHEREAS, Developer or its contractor is required by the Agreement to provide a good and sufficient bond for performance of the Agreement, and to guarantee and warranty the Work constructed thereunder.

NOW, THEREFORE, we the undersigned, ______________________________, as Principal and __________________________________, a corporation organized and existing under the laws of the State of _________________________ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY in the sum of ____ ($______________), said sum being not less than one hundred percent (100%) of the total cost of the Work as set forth in the Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Developer and its contractors, or their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless AGENCY, its officers, employees, and agents, as stipulated in the Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by AGENCY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this ____ day on ______________________, 20__.

____
Principal

By: ____________________________
President

____
Surety

By: ____________________________
Attorney-in-Fact

EXHIBIT B

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ____________________________________)

On ____________________________, before me, ____
Date Here Insert Name and Title of the Officer

personally appeared ____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_______________________________________
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title of Type of Document:_______________________________________ Document Date:_____________
Number of Pages: ___________ Signer(s) Other Than Named Above:________________

Capacity(ies) Claimed by Signer(s)

Signer's Name:_________________________________	Signer's Name:_________________________________
☐ Corporate Officer – Title(s):____________________	☐ Corporate Officer – Title(s):____________________
☐ Partner - ☐ Limited ☐ General	☐ Partner - ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:_______________________________________	☐ Other:_______________________________________
Signer is Representing: __________________________	Signer is Representing: __________________________

EXHIBIT B

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________, certify that I am the ________________ Secretary of the corporation named as principal in the attached bond, that ______________________________________ who signed the said bond on behalf of the principal was then _____________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal) __________________________________
Signature

____
Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

EXHIBIT B

BOND NO. __________________
INITIAL PREMIUM: __________________
SUBJECT TO RENEWAL

LABOR & MATERIAL BOND

WHEREAS, the [INSERT "City" OR "County"] of ___________ ("AGENCY") has executed an agreement with ______________________________________ (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter "Work");

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain Improvement and Credit / Reimbursement Agreement dated ____________________________, (hereinafter the "Agreement"); and

WHEREAS, Developer or its contractor is required to furnish a bond in connection with the Agreement providing that if Developer or any of his or its contractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the provisions of 3248 of the California Civil Code, with respect to such work or labor, that the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we the undersigned, ______________________________, as Principal and _____________________________________, a corporation organized and existing under the laws of the State of __________________________ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY and to any and all material men, persons, companies or corporations furnishing materials, provisions, and other supplies used in, upon, for or about the performance of the said Work, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to said Work to be done, and all persons performing work or labor upon the same and all persons supplying both work and materials as aforesaid, the sum of ____ ($_______________), said sum being not less than 100% of the total amount payable by Developer under the terms of the Agreement, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Developer or its contractors, or their heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development

Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein.

In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Sections 8024, 8400, 8402, 8404, 8430, 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this ____ day on ______________________, 20__.

____
Principal

By: ____________________________
President

____
Surety

By: ____________________________
Attorney-in-Fact

EXHIBIT B

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ________________________________)

On ________________________, before me, ____
Date Here Insert Name and Title of the Officer

personally appeared ____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_________________________________
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title of Type of Document:_______________________________ Document Date:____________
Number of Pages: __________ Signer(s) Other Than Named Above:______________

Capacity(ies) Claimed by Signer(s)

Signer's Name:____________________________	Signer's Name:____________________________
☐ Corporate Officer – Title(s):_______________	☐ Corporate Officer – Title(s):_______________
☐ Partner - ☐ Limited ☐ General	☐ Partner - ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:________________________________	☐ Other:________________________________
Signer is Representing: ____________________	Signer is Representing: ____________________

EXHIBIT B

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________, certify that I am the ________________ Secretary of the corporation named as principal in the attached bond, that ______________________________________ who signed the said bond on behalf of the principal was then _____________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal) __________________________________
Signature

____
Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

EXHIBIT B

EXHIBIT "C"

DOCUMENTATION TO BE PROVIDED TO AGENCY BY DEVELOPER FOR DETERMINATION OF CONSTRUCTION COSTS

To assist AGENCY in determining the Construction Costs for a completed TUMF Improvement, Developer shall provide the following documents to AGENCY:

1. Plans, specifications and Developer's civil engineer's cost estimate;

2. List of bidders from whom bids were requested;

3. Construction schedules and progress reports;

4. Contracts, insurance certificates and change orders with each contractor or vendor;

5. Invoices received from all vendors;

6. Canceled checks for payments made to contractors and vendors (copy both front and back of canceled checks);

7. Spreadsheet showing total costs incurred in and related to the construction of each TUMF Improvement and the check number for each item of cost and invoice;

8. Final lien releases from each contractor and vendor; and

9. Such further documentation as may be reasonably required by AGENCY to evidence the completion of construction and the payment of each item of cost and invoice.

EXHIBIT "D"

REIMBURSEMENT AGREEMENT
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into this ___ day of ____________________, 20___, by and between the [INSERT "City" OR "County"] of ___________, [**INSERT "a California municipal corporation" FOR CITY OR "a subdivision of the State of California" FOR COUNTY**] ("AGENCY"), and _________________________________, a California [**INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity**], with its principal place of business at [**ENTER ADDRESS**] ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, AGENCY and Developer are parties to an agreement dated ________________, 20___, entitled "Improvement and Credit Agreement - Transportation Uniform Mitigation Fee Program" (hereinafter "Credit Agreement");

WHEREAS, Sections 14.1 through 14.3 of the Credit Agreement provide that Developer is obligated to pay AGENCY the TUMF Obligation, as defined therein, but shall receive credit to offset the TUMF Obligation if Developer constructs and AGENCY accepts the TUMF Improvements in accordance with the Credit Agreement;

WHEREAS, Section 14.5 of the Credit Agreement provides that if the dollar amount of the credit to which Developer is entitled under the Credit Agreement exceeds the dollar amount of the TUMF Obligation, Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the credit exceeds the TUMF Obligation;

WHEREAS, Section 14.5 additionally provides that a reimbursement agreement executed pursuant to the Credit Agreement (i) shall be executed on the form attached to the Credit Agreement, (ii) shall contain the terms and conditions set forth therein, (iii) shall be subject to all terms and conditions of the Credit Agreement, and (iv) shall be attached upon execution to the Credit Agreement and incorporated therein as a material part of the Credit Agreement as though fully set forth therein; and

WHEREAS, AGENCY and WRCOG have consented to execute a reimbursement agreement with Developer pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Effectiveness. This Agreement shall not be effective unless and until the Credit Agreement is effective and in full force in accordance with its terms.

3.0 Definitions. Terms not otherwise expressly defined in this Agreement, shall have the meaning and intent set forth in the Credit Agreement.

4.0 Amount of Reimbursement. Subject to the terms, conditions, and limitations set forth in this Agreement, the Parties hereby agree that Developer is entitled to receive the dollar amount by which the Actual Credit exceeds the dollar amount of the TUMF Obligation as determined pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement"). The Reimbursement shall be subject to verification by WRCOG. AGENCY and Developer shall provide any and all documentation reasonably necessary for WRCOG to verify the amount of the Reimbursement. The Reimbursement shall be in an amount not exceeding [INSERT DOLLAR AMOUNT] ("Reimbursement Amount"). AGENCY shall be responsible for obtaining the Reimbursement Amount from WRCOG and transmitting the Reimbursement Amount to the Developer. In no event shall the dollar amount of the Reimbursement exceed the difference between the dollar amount of all credit applied to offset the TUMF Obligation pursuant to Section 14.3, 14.4, and 14.5 of the Credit Agreement, and one hundred (100%) of the approved unit awarded, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG.

5.0 Payment of Reimbursement; Funding Contingency. The payment of the Reimbursement Amount shall be subject to the following conditions:

5.1 Developer shall have no right to receive payment of the Reimbursement unless and until (i) the TUMF Improvements are completed and accepted by AGENCY in accordance with the Credit Agreement, (ii) the TUMF Improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, (iii) WRCOG has funds available and appropriated for payment of the Reimbursement amount.

5.2 Developer shall not be entitled to any interest or other cost adjustment for any delay between the time when the dollar amount of the Reimbursement is determined and the time when payment of the Reimbursement is made to Developer by WRCOG through AGENCY.

6.0 Affirmation of Credit Agreement. AGENCY and Developer represent and warrant to each other that there have been no written or oral modifications or amendments of the Credit Agreement, except by this Agreement. AGENCY and Developer ratify and reaffirm each and every one of their respective rights and obligations arising under the Credit Agreement. AGENCY and Developer represent and warrant that the Credit Agreement is currently an effective, valid, and binding obligation.

7.0 Incorporation Into Credit Agreement. Upon execution of this Agreement, an executed original of this Agreement shall be attached as Exhibit "D" to the Credit Agreement and shall be incorporated therein as a material part of the Credit Agreement as though fully set forth therein.

8.0 Terms of Credit Agreement Controlling. Each Party hereby affirms that all provisions of the Credit Agreement are in full force and effect and shall govern the actions of the Parties under this Agreement as though fully set forth herein and made specifically applicable hereto, including without limitation, the following sections of the Credit Agreement: Sections 10.0 through 10.3, Section 12.0, Sections 13.0 through 13.7, Sections 14.0 through 14.6, and Sections 15.0 through 15.17.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

____
("Developer")

By: ________________________________

Its: ________________________________

ATTEST:

By: ________________________________

Its: ________________________________

[INSERT "City" OR "County") of ___________

By: ________________________________

Its: ________________________________

ATTEST:

By: ________________________________

Its: ________________________________

EXHIBIT D-4

EXHIBIT "E"

TUMF CREDIT / REIMBURSEMENT ELIGIBILITY PROCESS

1. Prior to the construction of any TUMF Improvement, Developer shall follow the steps listed below:
   a. Prepare a separate bid package for the TUMF Improvements.
   b. The plans, cost estimate, specifications and contract document shall require all contractors to pay prevailing wages and to comply with applicable provisions of the Labor Code, Government Code, and Public Contract Code relating to Public Works Projects.
   c. Bids shall be obtained and processed in accordance with the formal public works bidding requirements of the AGENCY.
   d. The contract(s) for the construction of TUMF Improvements shall be awarded to the lowest responsible bidder(s) for the construction of such facilities in accordance with the AGENCY's requirements and guidelines.
   e. Contractor(s) shall be required to provide proof of insurance coverage throughout the duration of the construction.
2. Prior to the determination and application of any Credit pursuant to a TUMF Improvement and Credit Agreement executed between AGENCY and Developer ("Agreement"), Developer shall provide the AGENCY and WRCOG with the following:
   a. Copies of all information listed under Item 1 above.
   b. Surety Bond, Letter of Credit, or other form of security permitted under the Agreement and acceptable to the AGENCY and WRCOG, guaranteeing the construction of all applicable TUMF Improvements.
3. Prior to the AGENCY's acceptance of any completed TUMF Improvement, and in order to initiate the construction cost verification process, the Developer shall comply with the requirements as set forth in Sections 7, 14.2 and 14.3 of the Agreement, and the following conditions shall also be satisfied:
   a. Developer shall have completed the construction of all TUMF Improvements in accordance with the approved Plans and Specifications.
   b. Developer shall have satisfied the AGENCY's inspection punch list.
   c. After final inspection and approval of the completed TUMF Improvements, the AGENCY shall have provided the Developer a final inspection release letter.
   d. AGENCY shall have filed a Notice of Completion with respect to the TUMF Improvements pursuant to Section 3093 of the Civil Code with the County Recorder's Office, and provided a copy of filed Notice of Completion to WRCOG.
   e. Developer shall have provided AGENCY a copy of the As-Built plans for the TUMF Improvements.
   f. Developer shall have provided AGENCY copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation and maintenance of any TUMF Improvements.
   g. Developer shall have submitted a documentation package to the AGENCY to determine the final cost of the TUMF Improvements, which shall include at a minimum, the following documents related to the TUMF Improvements:

i. Plans, specifications, and Developer's Civil Engineer’s cost estimates; or Engineer’s Report showing the cost estimates.
ii. Contracts/agreements, insurance certificates and change orders with each vendor or contractor.
iii. Invoices from all vendors and service providers.
iv. Copies of cancelled checks, front and back, for payments made to contractors, vendors and service providers.
v. Final lien releases from each contractor and vendor (unconditional waiver and release).
vi. Certified contract workers payroll for AGENCY verification of compliance with prevailing wages.
vii. A total cost summary, in spreadsheet format (MS Excel is preferred) and on disk, showing a breakdown of the total costs incurred. The summary should include for each item claimed the check number, cost, invoice numbers, and name of payee. See attached sample for details. [ATTACH SAMPLE, IF APPLICABLE; OTHERWISE DELETE REFERENCE TO ATTACHED SAMPLE]

EXHIBIT "F"

RECONCILIATION EXAMPLES

All examples are based on a single family residential development project of 200 dwelling units:
200 SF dwelling units @ $6,650 / dwelling unit = $1,330,000 in fees (TUMF Obligation)

Example A: **"TUMF BALANCE"**

CREDIT
TUMF Obligation: $1,330,000
Estimated Credit: Bid ($1,500,000) or unit Cost Assumption ($1,600,000) whichever is less $1,500,000
Potential Reimbursement: ($170,000)

RECONCILIATION
TUMF Obligation: $1,330,000
Actual Credit: $1,200,000
TUMF Balance (Payment to TUMF): **$130,000**

Example B: **"REIMBURSEMENT"**

CREDIT
TUMF Obligation: $1,330,000
Estimated Credit: Bid ($1,500,000) or unit Cost Assumption ($1,600,000) whichever is less $1,500,000
Potential Reimbursement: ($170,000)

RECONCILIATION
TUMF Obligation: $1,330,000
Actual Credit: $1,500,000
Reimbursement Agreement with Developer (Based on Priority Ranking): (**$170,000)**

Example C: **"TUMF OVERPAYMENT"**

CREDIT
TUMF Obligation: $1,330,000
Estimated Credit: Bid ($1,200,000) or unit Cost Assumption ($1,500,000) whichever is less $1,200,000
Remaining TUMF Obligation: $130,000
Prorated Fee: $130,000 / 200 du = $650 / du

RECONCILIATION
Actual Credit: $1,300,000
TUMF payments from Developer ($650 per unit x 200 units) $130,000
Actual Credit plus TUMF Payment $1,430,000

TUMF Obligation: $1,330,000
Actual Credit plus TUMF Payment $1,430,000
TUMF Overpayment (Refund to Developer): (**$100,000)**

EXHIBIT F-1

ATTACHMENT B

WRCOG TUMF Developer Credit and Reimbursement Master Agreement

Latest versions found at http://www.wrcog.cog.ca.us/199/Administration-Fees

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TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
[INSERT PROJECT NAME]

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 20__, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and ___________**[INSERT NAME OF AGENCY EITHER:****, a California municipal corporation or ______________, a subdivision of the State ("AGENCY")**]. WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The AGENCY proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the AGENCY for ___________________________ **[**INSERT NAME OF PROJECT**]**, (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the AGENCY and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

1) PA&ED – Project Approvals & Environmental Document
2) PS&E – Plans, Specifications and Estimates
3) R/W – Right of Way Acquisition and Utility Relocation
4) CON – Construction

2. WRCOG Funding Amount. WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **[INSERT DOLLAR AMOUNT IN TEXT FORM] ($________) [INSERT DOLLAR AMOUNT IN NUMBER FORM],** to be used for reimbursing the AGENCY for eligible Project expenses as described in Section 3 herein ("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time.

3. Project Costs Eligible for Advance/Reimbursement. The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) AGENCY and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) all costs associated with right-of-way acquisition, including right-of-way engineering, appraisal, acquisition, legal costs for condemnation procedures if authorized by the AGENCY, and costs of reviewing appraisals and offers for property acquisition; (5) costs reasonably incurred if condemnation proceeds; (6) costs incurred in the preparation of plans, specifications, and estimates by AGENCY or consultants; (7) AGENCY costs associated with bidding, advertising and awarding of the Project contracts; (8) construction costs, including change orders to construction contract approved by the AGENCY; (9) construction management, field inspection and material testing costs; and (10) any AGENCY administrative cost to deliver the Project.

4. Ineligible Project Costs. The Total Project Cost shall not include the following items which shall be borne solely by the AGENCY without reimbursement: (1) any AGENCY administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. Procedures for Distribution of TUMF Program Funds to AGENCY.

(a) Initial Payment by the AGENCY. The AGENCY shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the AGENCY shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the AGENCY, and documents evidencing the AGENCY's payment of the invoices or demands for payment. Documents evidencing the AGENCY'S payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The AGENCY shall submit invoices not more often than monthly and not less often than quarterly.

(b) Review and Reimbursement by WRCOG. Upon receipt of an invoice from the AGENCY, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG to the AGENCY within thirty (30) days. In the event that WRCOG disputes the eligibility of the

AGENCY for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the AGENCY may appeal WRCOG's decision as to the eligibility of one or more invoices to WRCOG's Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the AGENCY disagrees with the Executive Director's decision, the AGENCY may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the AGENCY submits its request for appeal to WRCOG within ten (10) days of the Executive Director's written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the AGENCY's submittal of invoices to WRCOG and WRCOG's consideration and payment of submitted invoices are set forth in Exhibit "B", attached hereto and incorporated herein by reference.

(c) Funding Amount/Adjustment. If a post Project audit or review indicates that WRCOG has provided reimbursement to the AGENCY in an amount in excess of the Maximum TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the AGENCY shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. Increases in Project Funding. The Funding Amount may, in WRCOG's sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG's Executive Director. In no case shall the amount of TUMF Program Funds allocated to the AGENCY exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG's Executive Director which shall be communicated to the AGENCY in writing.

7. No Funding for Temporary Improvements. Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. AGENCY's Funding Obligation to Complete the Project. In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the AGENCY shall provide such additional funds as may be required to complete the Project.

9. AGENCY's Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work. Except as otherwise expressly excepted within this paragraph, in the event that: (i) the AGENCY, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the AGENCY agrees that any TUMF Program Funds that were distributed to the AGENCY for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase,

AGENCY shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.

10. AGENCY's Local Match Contribution. The AGENCY shall provide at least ($_________)**[INSERT DOLLAR AMOUNT IN NUMBER FORM]**of funding toward the Work, as shown in Exhibit "A" and as called out in the AGENCY's Project Nomination Form submitted to WRCOG in response to its Call for Projects. [**IF NO LOCAL MATCH FUNDS ARE REQUIRED DELETE THE PRECEDING TEXT AND REPLACE IT WITH THE FOLLOWING:** "AGENCY local match funding is not required, as shown in Exhibit "A" and as called out in the AGENCY's Project Nomination Form submitted to WRCOG in response to its Call for Projects."]

11. Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the AGENCY has fully satisfied its obligations under this Agreement. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. Representatives of the Parties. WRCOG's Executive Director, or his or her designee, shall serve as WRCOG's representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The AGENCY hereby designates **[INSERT NAME AND TITLE]**, or his or her designee, as the AGENCY's representative to WRCOG. The AGENCY's representative shall have the authority to act on behalf of the AGENCY for all purposes under this Agreement and shall coordinate all activities of the Project under the AGENCY's responsibility. The AGENCY shall work closely and cooperate fully with WRCOG's representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. Expenditure of Funds by AGENCY Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the AGENCY from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the AGENCY understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the AGENCY's sole risk, and that some expenditures by the AGENCY may not be eligible for reimbursement under this Agreement.

14. Review of Services. The AGENCY shall allow WRCOG's Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. Termination.

(a) Notice. Either WRCOG or AGENCY may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

(b) Effect of Termination. In the event that the AGENCY terminates this Agreement, the AGENCY shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the AGENCY under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the AGENCY TUMF Program Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the AGENCY regarding the Project at the time of the notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights under Section 5(b), including but not limited to conducting a review of the invoices and requesting additional information. Upon such termination, the AGENCY shall, within 180 days, complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the amounts due to it hereunder and upon completion of the segment or portion of Project work for which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Prevailing Wages. The AGENCY and any other person or entity hired to perform services on the Project are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The AGENCY shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Project. The AGENCY shall defend, indemnify, and hold harmless WRCOG, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

17. Progress Reports. WRCOG may request the AGENCY to provide WRCOG with progress reports concerning the status of the Project.

18. Indemnification.

(a) AGENCY Responsibilities. In addition to the indemnification required under Section 16, the AGENCY agrees to indemnify and hold harmless WRCOG, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of the AGENCY or its subcontractors. The AGENCY will reimburse WRCOG for any expenditures, including reasonable attorneys' fees, incurred by WRCOG, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of the AGENCY.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold harmless the AGENCY, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the AGENCY for any expenditures, including reasonable attorneys' fees, incurred by the AGENCY, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) Effect of Acceptance. The AGENCY shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG's review, acceptance or funding of any services performed by the AGENCY or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the AGENCY shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the AGENCY's negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. Insurance. The AGENCY shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the AGENCY and WRCOG. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and AGENCY, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and AGENCY, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

(d) Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

20. Project Amendments. Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the AGENCY or WRCOG may be requested in writing by the AGENCY and are subject to the approval of WRCOG's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.;* "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. Conflict of Interest. For the term of this Agreement, no member, officer or employee of the AGENCY or WRCOG, during the term of his or her service with the AGENCY or WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. Limited Scope of Duties. WRCOG's and the AGENCY's duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of AGENCY or its contractors relating to the condemnation of property undertaken by AGENCY or construction related to the Project.

23. Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. Equal Opportunity Employment. The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-

discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California.

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

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

28. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. Public Acknowledgement. The AGENCY agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the AGENCY and WRCOG TUMF Program Funds.

30. No Joint Venture. This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the AGENCY for such purpose.

31. Compliance With the Law. The AGENCY shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. Notices. All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to AGENCY: ______________________________
____
____
____
Telephone: ____________________
Facsimile: _____________________

If to WRCOG: Western Riverside Council of Governments
Riverside County Administrative Center
4080 Lemon Street, Third Floor
Riverside, California 92501-3609
Attention: Christopher Gray, Director of Transportation

Telephone: (951) 955-8304
Facsimile: (951) 787-7991

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. Integration; Amendment. This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. Severability. If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the Agreement.

36. Independent Contractors. Any person or entities retained by the AGENCY or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the AGENCY or contractor, whichever is applicable. The AGENCY or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The AGENCY or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

37. Effective Date. This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By:______________________ Date:________
Rick Bishop
Executive Director

[INSERT AGENCY NAME]

By: ______________________ Date:________

Approved to Form:

By:______________________ Date:________
Steven C. DeBaun
General Counsel

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK: [DELETE THIS PARAGRAPH AND INSERT DETAIL THE PHASE(S) OF WORK TO BE PERFORMED UNDER THIS AGREEMENT. (Note: Detail the full Project description on Exhibit B.) Provide specific information regarding the Work to be performed, identify the reaches of the work and include a general location map and site map, if applicable.]

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED			
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL			

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

[DELETE THIS PARAGRAPH AND PROVIDE, AT A MINIMUM, THE BEGINNING AND ENDING DATES FOR EACH PHASE OF WORK INCLUDING MAJOR MILESTONES WITHIN A PHASE.]

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED			
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL			

Elements of Compensation

EXHIBIT "B"

PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. For professional services, WRCOG recommends that the AGENCY incorporate this Exhibit "B-1" into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the AGENCY and ultimately to WRCOG for reimbursement of AGENCY contractor costs.

2. Each month the AGENCY shall submit an invoice for eligible Project costs incurred during the preceding month. The original invoice shall be submitted to WRCOG's Executive Director with a copy to WRCOG's Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-2".

3. For jurisdictions with large construction projects (with the total construction cost exceeding $10 million) under construction at the same time, may with the approval of WRCOG submit invoices to WRCOG for payment at the same time they are received by the jurisdiction. WRCOG must receive the invoice by the 5th day of the month in order to process the invoice within 30 days. WRCOG will retain 10% of the invoice until all costs have been verified as eligible and will release the balance at regular intervals not more than quarterly and not less than semi-annually. If there is a discrepancy or ineligible costs that exceed 10% of the previous invoice WRCOG will deduct that amount from the next payment.

4. Each invoice shall include documentation from each contractor used by the AGENCY for the Project, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or subcontractor for the month and for the entire Project to date. Samples of acceptable task level documentation and progress reports are attached as Exhibits "B-4" and "B-5". All documentation from the Agency's contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit "B-3".

5. If the AGENCY is seeking reimbursement for direct expenses incurred by AGENCY staff for eligible Project costs, the AGENCY shall provide the same level of information for its labor and any expenses as required of its contractors pursuant to Exhibit "B" and its attachments.

6. Charges for each task and milestone listed in Exhibit "A" shall be listed separately in the invoice.

7. Each invoice shall include a certification signed by the AGENCY Representative or his or her designee which reads as follows:

"I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the contractors or subcontractors listed.

Signed ________________________________

Title __________________________________

Date __________________________________

Invoice No. ____________________________

8. WRCOG will pay the AGENCY within 30 days after receipt by WRCOG of an invoice. If WRCOG disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

9. The final payment under this Agreement will be made only after: (I) the AGENCY has obtained a Release and Certificate of Final Payment from each contractor or subcontractor used on the Project; (ii) the AGENCY has executed a Release and Certificate of Final Payment; and (iii) the AGENCY has provided copies of each such Release to WRCOG.

EXHIBIT "B-1"
[Sample for Professional Services]

For the satisfactory performance and completion of the Services under this Agreement, Agency will pay the Contractor compensation as set forth herein. The total compensation for this service shall not exceed (_____INSERT WRITTEN DOLLAR AMOUNT___) ($___INSERT NUMERICAL DOLLAR AMOUNT___) without written approval of Agency's City Manager [or applicable position] ("Total Compensation").

1. ELEMENTS OF COMPENSATION.

Compensation for the Services will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 DIRECT SALARY COSTS

Direct Salary Costs are the base salaries and wages actually paid to the Contractor's personnel directly engaged in performance of the Services under the Agreement. (The range of hourly rates paid to the Contractor's personnel appears in Section 2 below.)

1.1.2 MULTIPLIER

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is _________________, and is the sum of the following components:

1.1.2.1 Direct Salary Costs _____________________

1.1.2.2 Payroll Additives _____________________

The Decimal Ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 Overhead Costs _____________________

The Decimal Ratio of Allowable Overhead Costs to the Contractor Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier ____________________
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE.

1.2.1 The fixed fee is $______________________.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

1.3 ADDITIONAL DIRECT COSTS.

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

ITEM	REIMBURSEMENT RATE
	[___insert charges___]
Per Diem	$ /day
Car mileage	$ /mile
Travel	$ /trip
Computer Charges	$ /hour
Photocopies	$ /copy
Blueline	$ /sheet
LD Telephone	$ /call
Fax	$ /sheet
Photographs	$ /sheet

Travel by air and travel in excess of 100 miles from the Contractor's office nearest to Agency's office must have Agency's prior written approval to be reimbursed under this Agreement.

2. DIRECT SALARY RATES

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Contractor's adjustments to individual compensation. The Contractor shall notify Agency in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION	RANGE OF HOURLY RATES
[___sample___]	
Principal	$ .00 - $ .00/hour
Project Manager	$ .00 - $ .00/hour
Sr. Engineer/Planner	$ .00 - $ .00/hour
Project Engineer/Planner	$ .00 - $ .00/hour
Assoc. Engineer/Planner	$ .00 - $ .00/hour
Technician	$ .00 - $ .00/hour
Drafter/CADD Operator	$ .00 - $ .00/hour
Word Processor	$ .00 - $ .00/hour

2.3 The above rates are for the Contractor only. All rates for subcontractors to the Contractor will be in accordance with the Contractor's cost proposal.

3. INVOICING.

3.1 Each month the Contractor shall submit an invoice for Services performed during the preceding month. The original invoice shall be submitted to Agency's Executive Director with two (2) copies to Agency's Project Coordinator.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by Agency's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Services, shall be listed separately. The charges for each individual assigned by the Contractor under this Agreement shall be listed separately on an attachment to the invoice.

3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to Agency such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 If applicable, each invoice shall indicate payments to DBE subcontractors or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Contractor's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.

Signed ______________________________

Title ______________________________

Date ______________________________

Invoice No. ______________________________

4. PAYMENT

4.1 Agency shall pay the Contractor within four to six weeks after receipt by Agency of an original invoice. Should Agency contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

4.2 The final payment for Services under this Agreement will be made only after the Contractor has executed a Release and Certificate of Final Payment.

EXHIBIT B-2
Sample Cover Letter to WRCOG

Date
Western Riverside Council of Governments
Riverside County Administrative Center
4080 Lemon Street, Third Floor
Riverside, California 92501-3679
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice #__

Enclosed for your review and payment approval is the AGENCY's invoice for professional and technical services that was rendered by our contractors in connection with the 2002 Measure "A" Local Streets and Roads Funding per Agreement No. ________ effective __(Month/Day/Year)__. The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Authorized Agreement Amount:	$0,000,000.00
Total Invoiced to Date:	$0,000,000.00
Total Previously Invoiced:	$0,000,000.00
Balance Remaining:	$0,000,000.00
Amount due this Invoice:	**$0,000,000.00**
	===========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the contractors listed.

By: ______________________________
Name
Title

cc:

EXHIBIT B-3
Sample Letter from Contractor to AGENCY

Month/Date/Year

Western Riverside Council of Governments
Riverside County Administrative Center
4080 Lemon Street, Third Floor
Riverside, California 92501-3679
Attention: Deputy Executive Director
Attn: Accounts Payable   Invoice #____________

For **[type of services]** rendered by **[contractor name]** in connection with **[name of project]** This is per agreement No. XX-XX-XXX effective __Month/Date/Year__.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Base Contract Amount:	$000,000.00
Authorized Extra Work (if Applicable)	$000,000.00

TOTAL AUTHORIZED CONTRACT AMOUNT:	$000,000.00
Total Invoice to Date:	$000,000.00
Total Previously Billed:	$000,000.00
Balance Remaining:	$000,000.00
Amount Due this Invoice:	$000,000.00
	==========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed,

By: ____________________
Name
Title

EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)

EXHIBIT B-5
Sample Progress Report

REPORTING PERIOD: Month/Date/Year to Month/Date/Year
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL
1. Responded to Segment 1 comments from Department of Transportation
2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL
1. Completing and to submit Traffic Signal and Electrical Design plans
2. Responding to review comments

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ATTACHMENT C

Checklist 1: Developer Credit Agreement to Construct TUMF Improvements

List of Documents and Requirements Prior to Construction of TUMF Improvements

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CHECKLIST 1
Developer Credit Agreement to Construct TUMF Improvements
List of Documents and Requirements Prior to Construction of TUMF Improvements

DEVELOPER must provide the following:

- Bid package prepared per bidding processes and requirements of Public Agency public works department
- Copies of plans, cost estimate, specifications, and contract documents showing that contractor will pay prevailing wages and comply with applicable provisions of the Labor Code, Governments Code, and Public Contract Code relating to Public Works Projects
- Copies of the contract(s) for the construction of TUMF improvements awarded to the lower responsible bidder(s) for the construction of such facilities in accordance with the public agency's requirements and guidelines
- Copies of contractor(s) proof of insurance coverage throughout the duration of construction
- Copy of Surety Bond, Letter of Credit, or other form of security permitted under the Credit Agreement and acceptable to the Public Agency and WRCOG

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ATTACHMENT D

Checklist 2: Developer Credit Agreement to Construct TUMF Improvements

List of Documents and Requirements to Initiate Construction Cost Verification Process

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CHECKLIST 2

Developer Credit Agreement to Construct TUMF Improvements
List of Documents and Requirements to Initiate Construction Cost Verification Process

- € Complete construction by DEVELOPER of all TUMF Improvements in accordance with the approved Plans and Specifications
- € Satisfaction by DEVELOPER of the PUBLIC AGENCY's inspection punch list for constructed TUMF improvements
- € Final inspection release letter from PUBLIC AGENCY to DEVELOPER after final inspection and approval of completed TUMF improvements
- € Notice of Completion with respect to the TUMF Improvements pursuant to Section 3093 of the Civil Code filed by PUBLIC AGENCY at the County Recorder's Office; PUBLIC AGENCY should submit a copy of the Notice of Completion to WRCOG
- € DEVELOPER should submit copies of the As-Built plans for the TUMF improvements to the PUBLIC AGENCY
- € DEVELOPER should submit copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation, and maintenance of any TUMF Improvements to the PUBLIC AGENCY
- € DEVELOPER should submit a documentation package to the PUBLIC AGENCY to determine the final cost of the TUMF Improvements, which shall include, at a minimum, the following documents related to the TUMF Improvements:
  - o Plans, specifications, and DEVELOPER's Civil Engineer's cost estimates; or Engineer's Report showing the cost estimates
  - o Contracts/agreements, insurance certificates and change orders with each vendor or contractor
  - o Invoices from all vendors and service providers
  - o Copies of cancelled checks, front and back, for payments made to contractors, vendors, and service providers
  - o Final lien releases from each contractor and vendor (unconditional waiver and release)
  - o Certified contract workers' payroll for PUBLIC AGENCY verification of compliance with prevailing wages
  - o A total cost summary, in spreadsheet (MS Excel), showing a breakdown of the total costs incurred; the summary should include for each item claimed, the check number, cost, invoice numbers, and name of payee

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ATTACHMENT E

Checklist 3: Public Agency Reimbursement Invoice Packet Forms List

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CHECKLIST 3
Public Agency Reimbursement
Invoice Packet Forms List

- Invoice Cover Letter (FORM TEMPLATE 1)
- Progress Report (FORM TEMPLATE 2)
- Summary Invoice (FORM TEMPLATE 3)
- Detailed Consultant/Contractor Invoices
- Documents Showing Payment of Consultant/Contractor Invoices by Public Agency

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ATTACHMENT F

Form Template 1: Invoice Cover Letter

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FORM TEMPLATE 1
INVOICE COVER LETTER

Date
Attention: Director of Transportation
Western Riverside Council of Governments
Riverside County Administrative Center
4080 Lemon Street, Third Floor
Riverside, California 92501-3679
ATTN: Accounts Payable

Re: Project Title - Invoice #__

Enclosed for your review and payment approval is the AGENCY's invoice for professional and technical services that was rendered by our contractors in connection with TUMF Agreement No. ________ effective (Month/Day/Year).

The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year.

	TUMF Phase (PA&ED, PS&E, etc.)	TUMF TOTAL
Total Authorized Agreement Amount		
Total Invoiced to Date		
Total Previously Invoiced		
Balance Remaining		

Amount due this Invoice: **$0,000,000.00**
===========

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the contractors listed.

By: ______________________________
Name
Title

cc:

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ATTACHMENT G

Form Template 2: Progress Report

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FORM TEMPLATE 2
PROGRESS REPORT

PROJECT TITLE: ____

TUMF AGREEMENT #__________

QUARTERLY PROGRESS REPORT # ___________

DATE: _______________________ REPORTING PERIOD: From: ____________ To: ______________

PUBLIC AGENCY: ____

Quarterly Progress Report

A. Activities and Work Complete During Current Work Periods
   A.1
   A.2
   A.3
   Etc.

B. Current/Potential Problems Encountered and Corrective Action
   B.1
   B.2
   B.3
   Etc.

C. Work Planned Next Period
   C.1
   C.2
   C.3
   Etc.

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ATTACHMENT H

Form Template 3: Reimbursement Invoice

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FORM TEMPLATE 3
Reimbursement Invoice

Project Title: ______________________

Agency: ______________________ **Invoice Date:** ____________

To: Western Riverside Council of Governments
4080 Lemon Street, 3rd Floor
MS 1032
Riverside, CA 92501-3609
Attn: Accounts Payable

Invoice Number ____________
TUMF Agreement Number ____________
Total Reimbursement Requested **$ -**

FOR PUBLIC AGENCY USE	
Invoice Description	*Summary Description of Invoice Project Tasks*
Consultant/Contractor	*Name of Consultant/Contractor Completing Project Tasks on Invoice*
TUMF Phase	*PA&ED (Project Approvals & Environmental Documentation; PS&E (Plans, Specifications, and Estimates); R/W (Right-of-Way Acquisition); CON (Construction)*
Total Invoice Amount	*Total Amount Indicated on Invoice*
Local Share Amount	*Portion of Total Amount on Invoice Reimbursed through Local Share (if applicable)*
Total Reimbursement Requested	*Total Reimbursement Amount Requested minus Local Share*
FOR WRCOG USE	
Invoice Approved	*YES= Approved; NO= Denied; PARTIAL= Portion of invoice amount approved*
Amount Approved	*Amount of Submitted Invoice Approved by WRCOG*
Reason for Denial of Invoice Amount	*Reason(s) for Denial of Submitted Invoice Amounts*

FOR PUBLIC AGENCY USE						FOR WRCOG USE		
Invoice Description	Consultant/Contractor	TUMF Phase	Total Invoice Amount	Local Share Amount	Total Reimbursement Requested	Invoice Approved? (YES, NO, PARTIAL)	Amount Approved	Reason(s) for Denial of Invoice Amounts
			$ -	$ -	$ -		$ -	
			$ -	$ -	$ -		$ -	
			$ -	$ -	$ -		$ -	
			$ -	$ -	$ -		$ -	
			Total Reimbursement Requested		$ -	Total Reimbursement Approved	$ -	

The invoice is a true, complete and correct statement of work performed, reimbursable costs and progress. The backup information included with the invoice is true, complete and correct in all material respects.

______________________ Signed

____________ Date

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WRCOG TUMF

7. Frequently Asked Questions (FAQ)

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7. Frequently Asked Questions (FAQ)

1. **What is WRCOG's TUMF Program?**
   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 and the March JPA participates in the TUMF Program through an adopted ordinance, collects fees from new development, and remits the fees to WRCOG. As administrator of the TUMF Program, WRCOG allocates TUMF funds to the Riverside County Transportation Commission, the Riverside Transit Agency (RTA), the Western Riverside Regional Conservation Authority (RCA), and groupings of jurisdictions—referred to as TUMF zones. Collected fees are used for planning, engineering, right-of-way acquisition, and construction of eligible TUMF facilities and acquisition of open space.

2. **How are TUMF fees determined?**
   For a fee program to be established, State law (Mitigation Fee Act) requires that a "Nexus Study" be prepared to establish the relationship between new growth in the region and the need for transportation improvements to mitigate the traffic impacts from new development. WRCOG prepares the Nexus Study that involves a multi-step process that examines, among other variables, future growth in the region, the road network needed to serve new development, and the estimated cost of needed improvements.

3. **Are there exemptions to the TUMF fees?**
   Several development types are exempt from TUMF fees, as described in the TUMF Ordinance and Administrative Plan. Low-income residential housing, government and public buildings, public and private schools (K-12, non-profit), rehabilitation or reuse of an existing building, development agreements prior to July 2003, and the sanctuary building of a church or a house of worship are exempt from paying TUMF fees.

4. **Where can I find the current TUMF fees?**
   The current TUMF fee schedule can be found on WRCOG's website (http://www.wrcog.cog.ca.us/199/Administration-Fees), and in the TUMF Nexus Study.

5. **What is the TUMF Network?**
   The TUMF Network is the system of roadways that serve inter-community trips within Western Riverside County. The TUMF Network (also known as the Western Riverside County Regional System of Highways and Arterials) represents the extents of the network of highways and roadways that are eligible for TUMF funded improvements.

6. **What is the Maximum TUMF Share?**
   The Maximum TUMF Share is the maximum amount of a project's total cost that is eligible for funding through the TUMF Program. The TUMF Nexus Study provides cost calculations for each segment on the TUMF Network along with the maximum TUMF share.

7. **Are all project costs eligible for TUMF reimbursement?**
The TUMF Administrative Plan provides a list of specific project costs eligible for TUMF reimbursement. These costs are also summarized in Section 2 of this TUMF Credit/Reimbursement Manual.

8. **Are Developers eligible for a TUMF reimbursement?**
Developers are eligible for TUMF reimbursement for the construction of TUMF facilities in certain instances. If a developer constructs TUMF improvements that cost more than the TUMF obligation, the developer may be reimbursed for eligible expenses based on actual project costs.

9. **When should a Public Agency submit invoices for TUMF reimbursement?**
Public agencies should submit reimbursement invoices to WRCOG quarterly beginning in September of each fiscal year.

Item 6.A

Proposed New TUMF Calculation Policy

Attachment 7

Draft TUMF Model Improvement and Credit Agreement

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IMPROVEMENT AND CREDIT / REIMBURSEMENT AGREEMENT
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

This **IMPROVEMENT AND CREDIT AGREEMENT** ("Agreement") is entered into this ___ day of ___________________, 20___, (the "Effective Date") by and between the [**INSERT "City" OR "County"] of ___________, [**a California municipal corporation or a subdivision of the State of California **] ("AGENCY"), and ________________________________, a California [**INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity**], with its principal place of business at [**ENTER ADDRESS**] ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, Developer owns ____ acres of real property located within the AGENCY of ___________, California, which is more specifically described in the legal description set forth in Exhibit "A", attached hereto and incorporated herein by this reference ("Property");

WHEREAS, Developer has requested from AGENCY-certain entitlements and/or permits for the construction of improvements on the Property, which are more particularly described as ____
____
____ ("Project");

WHEREAS, the AGENCY is a member agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and 18 cities located in Western Riverside County. WRCOG is the administrator for the Transportation Uniform Mitigation Fee ("TUMF") Program;

WHEREAS, as part of the TUMF Program, the AGENCY has adopted "Transportation Uniform Mitigation Fee Nexus Study: 2016 Update" ("2016 Nexus Study")

WHEREAS, as a condition to AGENCY's approval of the Project, AGENCY has required Developer to construct certain street and transportation system improvement(s) of regional importance ("TUMF Improvements");

WHEREAS, pursuant to the TUMF Program, the AGENCY requires Developer to pay the TUMF which covers the Developer's fair share of the costs to deliver those TUMF Improvements that help mitigate the Project's traffic impacts and burdens on the Regional System of Highways and Arterials (also known as the "TUMF Network"), generated by the Project and that are necessary to protect the safety, health and welfare of persons that travel to and from the Project using the TUMF Network;

WHEREAS, the TUMF Improvements have been designated as having Regional or Zonal Significance as further described in the 2016 Nexus Study and the 5 year Transportation Improvement Program as may be amended;

WHEREAS, AGENCY and Developer now desire to enter into this Agreement for the following purposes: (1) to provide for the timely delivery of the TUMF Improvements, (2) to ensure that delivery of the TUMF Improvements is undertaken as if the TUMF Improvements were constructed under the direction and authority of the AGENCY, (3) to provide a means by which the Developer's costs for project delivery of the TUMF Improvements and related right-of-ways is offset against Developer's obligation to pay the applicable TUMF for the Project in accordance with the TUMF Administrative Plan adopted by WRCOG, and (4) to provide a means, subject to the separate approval of WRCOG, for Developer to be reimbursed to the extent the actual and authorized costs for the delivery of the TUMF Improvements exceeds Developer's TUMF obligation.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, Developer and AGENCY hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Construction of TUMF Improvements. Developer shall construct or have constructed at its own cost, expense, and liability certain street and transportation system improvements generally described as **[INSERT TUMF IMPROVEMENTS]**____, and as shown more specifically on the plans, profiles, and specifications which have been or will be prepared by or on behalf of Developer and approved by AGENCY, and which are incorporated herein by this reference ("TUMF Improvements"). Construction of the TUMF Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. Developer shall be responsible for the replacement, relocation, or removal of any component of any existing public or private improvement in conflict with the construction or installation of the TUMF Improvements. Such replacement, relocation, or removal shall be performed to the complete satisfaction of AGENCY and the owner of such improvement. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the TUMF Improvements.

2.1 Pre-approval of Plans and Specifications. Developer is prohibited from commencing work on any portion of the TUMF Improvements until all plans and specifications for the TUMF Improvements have been submitted to and approved by AGENCY. Approval by AGENCY shall not relieve Developer from ensuring that all TUMF Improvements conform with all other requirements and standards set forth in this Agreement.

2.2 Permits and Notices. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the TUMF Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer.

2.3 Public Works Requirements. In order to insure that the TUMF Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, AGENCY, Developer shall comply with all of the following requirements with respect to the construction of the TUMF Improvements:

(a) Developer shall obtain bids for the construction of the TUMF Improvements, in conformance with the standard procedures and requirements of AGENCY with respect to its public works projects, or in a manner which is approved by the Public Works Department.

(b) The contract or contracts for the construction of the TUMF Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of the TUMF Improvements.

(c) Developer shall require, and the specifications and bid and contract documents shall require, all such contractors to pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and to otherwise comply with applicable provisions of the Labor Code, the Government Code and the Public Contract Code relating to public works projects of cities/counties and as required by the procedures and standards of AGENCY with respect to the construction of its public works projects or as otherwise directed by the Public Works Department.

(d) All such contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the TUMF Improvements which they will construct in conformance with AGENCY's standard procedures and requirements.

(e) Developer and all such contractors shall comply with such other requirements relating to the construction of the TUMF Improvements which AGENCY may impose by written notification delivered to Developer and each such contractor at any time, either prior to the receipt of bids by Developer for the construction of the TUMF Improvements, or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof.

Developer shall provide proof to AGENCY, at such intervals and in such form as AGENCY may require that the foregoing requirements have been satisfied as to the TUMF Improvements.

2.4 Quality of Work; Compliance With Laws and Codes. The construction plans and specifications for the TUMF Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements. The TUMF Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and special amendments thereto on file with AGENCY, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required, constructing the TUMF Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to TUMF Improvements. All work shall be done and the TUMF Improvements completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation it is determined that the public interest requires alterations in the TUMF Improvements, Developer shall undertake such design and construction changes as may be reasonably required by AGENCY. Any and all alterations in the plans and specifications and the TUMF Improvements to be completed may be accomplished without first giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of TUMF Improvements. AGENCY shall not be responsible or liable for the maintenance or care of the TUMF Improvements until AGENCY approves and accepts them. AGENCY shall exercise no control over the TUMF Improvements until accepted. Any use by any person of the TUMF Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to AGENCY's acceptance of the TUMF Improvements. Developer shall maintain all of the TUMF Improvements in a state of good repair until they are completed by Developer and approved and accepted by AGENCY, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by AGENCY. If Developer fails to properly prosecute its maintenance obligation under this section, AGENCY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. AGENCY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the TUMF Improvements or their condition prior to acceptance.

4.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay all fees, charges, and taxes arising out of the construction of the TUMF Improvements, including, but not limited to, all plan check, design review, engineering, inspection, sewer treatment connection fees, and other service or impact fees established by AGENCY.

5.0 AGENCY Inspection of TUMF Improvements. Developer shall, at its sole cost, expense, and liability, and at all times during construction of the TUMF Improvements, maintain reasonable and safe facilities and provide safe access for inspection by AGENCY of the TUMF Improvements and areas where construction of the TUMF Improvements is occurring or will occur.

6.0 Liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 8412 and 8414 of the Civil Code with respect to the TUMF Improvements, Developer shall provide to AGENCY such evidence or proof as AGENCY shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the TUMF Improvements, have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Rather than await the expiration of the said time for the recording of claims of liens, Developer may elect to provide to AGENCY a title insurance policy or other security acceptable to AGENCY guaranteeing that no such claims of liens will be recorded or become a lien upon any of the Property.

7.0 Acceptance of TUMF Improvements; As-Built or Record Drawings. If the TUMF Improvements are properly completed by Developer and approved by AGENCY, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, AGENCY shall be authorized to accept the TUMF Improvements. AGENCY may, in its sole and absolute discretion, accept fully completed portions of the TUMF Improvements prior to such time as all of the TUMF Improvements are complete, which shall not release or modify Developer's obligation to complete the remainder of the TUMF Improvements. Upon the total or partial acceptance of the TUMF Improvements by AGENCY, Developer shall file with the Recorder's Office of the County of Riverside a notice of completion for the accepted TUMF Improvements in accordance with California Civil Code sections 8182, 8184, 9204, and 9208 ("Notice of Completion"), at which time the accepted TUMF Improvements shall become the sole and exclusive property of AGENCY without any payment therefore. Notwithstanding the foregoing, AGENCY may not accept any TUMF Improvements unless and until Developer provides one (1) set of "as-built" or record drawings or plans to the AGENCY for all such TUMF Improvements. The drawings shall be certified and shall reflect the condition of the TUMF Improvements as constructed, with all changes incorporated therein.

8.0 Warranty and Guarantee. Developer hereby warrants and guarantees all the TUMF Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the TUMF Improvements, for a period of one (1) year following completion of the work and acceptance by AGENCY ("Warranty"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise unsatisfactory portion of the TUMF Improvements, in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of AGENCY, and to the approval of AGENCY. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any TUMF Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer and its surety hereby agree to extend the Warranty for an additional one (1) year period following AGENCY's acceptance of the repaired, replaced, or reconstructed TUMF Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any TUMF Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

9.0 Administrative Costs. If Developer fails to construct and install all or any part of the TUMF Improvements, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to AGENCY for all administrative expenses, fees, and costs, including reasonable attorney's fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

10.0 Default; Notice; Remedies.

10.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if AGENCY determines there is a violation of any federal, state, or local law, ordinance, regulation, code, standard, or other requirement, AGENCY may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("Notice"). Developer shall substantially commence the work required to remedy the default or violation within five (5) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, AGENCY may provide the Notice verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon AGENCY's issuance of the Notice, Developer and its surety shall be liable to AGENCY for all costs of construction and installation of the TUMF Improvements and all other administrative costs or expenses as provided for in this Section 10.0 of this Agreement.

10.2 Failure to Remedy; AGENCY Action. If the work required to remedy the noticed default or violation is not diligently prosecuted to a completion acceptable to AGENCY within the time frame contained in the Notice, AGENCY may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. AGENCY's right to take such actions shall in no way be limited by the fact that Developer or its surety may have constructed any of the TUMF Improvements at the time of AGENCY's demand for performance. In the event AGENCY elects to complete or arrange for completion of the remaining work and the TUMF Improvements, AGENCY may require all work by Developer or its surety to cease in order to allow adequate coordination by AGENCY.

10.3 Other Remedies. No action by AGENCY pursuant to this Section 10.0 et seq. of this Agreement shall prohibit AGENCY from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. AGENCY may exercise its rights and remedies independently or cumulatively, and AGENCY may pursue inconsistent remedies. AGENCY may institute an action for damages, injunctive relief, or specific performance.

11.0 Security; Surety Bonds. Prior to the commencement of any work on the TUMF Improvements, Developer or its contractor shall provide AGENCY with surety bonds in the amounts and under the terms set forth below ("Security"). The amount of the Security shall be based on the estimated actual costs to construct the TUMF Improvements, as determined by AGENCY after Developer has awarded a contract for construction of the TUMF Improvements to the lowest responsive and responsible bidder in accordance with this Agreement ("Estimated Costs"). If AGENCY determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer or its contractor shall adjust the Security in the amount requested by AGENCY. Developer's compliance with this Section 11.0 et seq. of this Agreement shall in no way limit or modify Developer's indemnification obligation provided in Section 12.0 of this Agreement.

11.1 Performance Bond. To guarantee the faithful performance of the TUMF Improvements and all the provisions of this Agreement, to protect AGENCY if Developer is in default as set forth in Section 10.0 et seq. of this Agreement, and to secure the one-year guarantee and warranty of the TUMF Improvements, Developer or its contractor shall provide AGENCY a faithful performance bond in an amount which sum shall be not less than one hundred percent (100%) of the Estimated Costs. The AGENCY may, in its sole and absolute discretion, partially release a portion or portions of the security provided under this section as the TUMF Improvements are accepted by AGENCY, provided that Developer is not in default on any provision of this Agreement and the total remaining security is not less than ________________ (___%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, or any extension thereof as provided in Section 11.0 of this Agreement, provided that Developer is not in default on any provision of this Agreement.

11.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, materialmen, and other persons furnishing labor, materials, or equipment for performance of the TUMF Improvements and this Agreement, Developer or its contractor shall provide AGENCY a labor and materials bond in an amount which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section may be released by written authorization of AGENCY after six (6) months from the date AGENCY accepts the TUMF Improvements. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which AGENCY is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of AGENCY's anticipated administrative and legal expenses arising out of such claims.

11.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best rating of at least "A" and FSC-VIII, shall be licensed to do business in California, and shall be satisfactory to AGENCY. As part of the obligation secured by the Security and in addition to the face amount of the Security, Developer, its contractor or the surety shall secure the costs and reasonable expenses and fees, including reasonable attorney's fees and costs, incurred by AGENCY in enforcing the obligations of this Agreement. Developer, its contractor and the surety shall stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the TUMF Improvements, or the plans and specifications for the TUMF Improvements shall in any way affect its obligation on the Security.

11.4 Evidence and Incorporation of Security. Evidence of the Security shall be provided on the forms set forth in Exhibit "B", unless other forms are deemed acceptable by the AGENCY, and when such forms are completed to the satisfaction of AGENCY, the forms and evidence of the Security shall be attached hereto as Exhibit "B" and incorporated herein by this reference.

12.0 Indemnification. Developer shall defend, indemnify, and hold harmless AGENCY, the Western Riverside Council of Governments (WRCOG), their elected officials, board members, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its employees, contractors, or agents in connection with the performance of this Agreement, or arising out of or in any way related to or caused by the TUMF Improvements or their condition prior to AGENCY's approval and acceptance of the TUMF Improvements ("Claims"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys fees, and related costs or expenses, and the reimbursement of AGENCY, WRCOG, their elected officials, board members, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any Claim which is caused solely and exclusively by the negligence or willful misconduct of AGENCY as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by AGENCY, WRCOG, their elected officials, board members, employees, or agents.

13.0 Insurance.

13.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during performance of this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

13.1.1 General Liability. Occurrence form general liability insurance at least as broad as Insurance Services Office Form CG 00 01, or equivalent form, with an occurance limit of Two Million Dollars ($2,000,000) and aggregate limit of Four Million Dollars ($4,000,000) for bodily injury, personal injury, and property damage.

13.1.2 Business Automobile Liability. Business automobile liability insurance at least as broad as Insurance Services Office Form CA 00 01 (coverage symbol 1 – any auto), or equivalent form, with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

13.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than One Million Dollars ($1,000,000) per occurrence, at all times during which insured retains employees.

13.1.4 Professional Liability. For any consultant or other professional who will engineer or design the TUMF Improvements, liability insurance for errors and omissions with limits not less than Two Million Dollars ($2,000,000) per occurrence, shall be procured and maintained for a period of five (5) years following completion of the TUMF Improvements. Such insurance shall be endorsed to include contractual liability.

13.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by AGENCY. At the option of AGENCY, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects AGENCY, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to AGENCY guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

13.3 Additional Insured; Separation of Insureds. The Required Insurance, except for the professional liability and workers' compensation insurance, shall name AGENCY, WRCOG, their elected officials, board members, officers, employees, and agents as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including any materials, parts, or equipment furnished in connection therewith. For Required Insurance provided by Developer's contractors, WRCOG shall be added as an additional insured using ISO CG 2038 or an exact equivalent. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to AGENCY, WRCOG, their elected officials, board members, officers, employees, or agents.

13.4 Primary Insurance; Waiver of Subrogation. The Required Insurance, except for the professional liability and workers' compensation insurance shall be primary with respect to any insurance or self-insurance programs covering AGENCY, WRCOG, their elected officials, board members, officers, employees, or agents. The Required Insurance, except for the professional liability insurance, shall provide that the insurance company waives all right of recovery by way of subrogation against AGENCY and WRCOG in connection with any damage or harm covered by such policy.

13.5 Certificates; Verification. Developer and its contractors shall furnish AGENCY with original certificates of insurance and endorsements effecting coverage for the Required

Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by AGENCY before work pursuant to this Agreement can begin. AGENCY reserves the right to require complete, certified copies of all required insurance policies, at any time.

13.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days' prior written notice to AGENCY. If such notice of cancellation endorsements are unavailable, Developer shall provide such thirty (30) days' written notice of cancellation.

13.7 Insurer Rating. Unless approved in writing by AGENCY, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least "A" and FSC-VIII.

14.0 TUMF Credit.

14.1 Developer's TUMF Obligation. Developer hereby agrees and accepts that as of the date of this Agreement, the amount Developer is obligated to pay to AGENCY pursuant to Ordinance No. (insert appropriate reference for city or county) as part of the TUMF Program is **[INSERT DOLLAR VALUE OF TUMF REQUIREMENT]** ____________________________________ ($______________) ("TUMF Obligation"). This TUMF Obligation shall be initially determined under the TUMF fee schedule in effect for the AGENCY at the time the Developer submits a building permit application for the TUMF Improvement. Notwithstanding, this TUMF Obligation does not have to be paid until the Certificate of Occupancy is obtained.

14.2 Fee Adjustments. Notwithstanding the foregoing, Developer agrees that this Agreement shall not estop AGENCY from adjusting the TUMF in accordance with the provisions of Ordinance No. (insert appropriate reference for city or county).

14.3 Credit Offset Against TUMF Obligation. Pursuant to Ordinance No. (insert appropriate reference for city or county) and in consideration for Developer's obligation under this Agreement for the delivery of TUMF Improvements, credit shall be applied by AGENCY to offset the TUMF Obligation ("Credit") subject to adjustment and reconciliation under Section 14.5 of this agreement. Developer hereby agrees that the amount of the Credit shall be applied after Developer has initiated the process of project delivery of TUMF Improvements to the lowest responsible bidder in accordance with this Agreement. Developer further agrees that the dollar amount of the Credit shall be equal to the lesser of: (A) the bid amount set forth in the contract awarded to the lowest responsible bidder, or (B) the unit cost assumptions for the TUMF Improvement in effect at the time of the contract award, as such assumptions are identified and determined in the most recent TUMF Nexus Study and the TUMF Administrative Plan adopted by WRCOG ("Unit Cost Assumptions").

The bid amount and the Unit Cost Assumptions shall hereafter be collectively referred to as "Estimated Credit". At no time will the Credit exceed the Developer's TUMF Obligation. If the dollar amount of the Estimated Credit exceeds the dollar amount of the TUMF Obligation, Developer will be deemed to have completely satisfied its TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. If the dollar amount of the Estimated Credit is less than the dollar amount of the TUMF Obligation, the Developer agrees the Credit shall be applied to offset the TUMF Obligation as follows:

(i) For residential units in the Project, the Credit shall be applied to all residential units to offset and/or satisfy the TUMF Obligation. The residential units for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to each unit, shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

(ii) For commercial and industrial structures in the Project, the Credit shall be applied to all commercial and industrial development to offset and/or satisfy the TUMF Obligation. The commercial or industrial structure(s) for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to such structure(s), shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section, including how the Credit is applied to offset the TUMF Obligation as described above.

14.4 <u>Verified Cost of the TUMF Improvements</u>. Upon recordation of the Notice of Completion for the TUMF Improvements and acceptance of the TUMF Improvements by AGENCY, Developer shall submit to the AGENCY Public Works Director the information set forth in the attached <u>Exhibit "C"</u>. The AGENCY Public Works Director, or his or her designee, shall remit such information provided by Developer within five (5) days to the officer or staff-person at WRCOG responsible for calculating the total actual costs incurred by Developer in delivering the TUMF Improvements covered under this Agreement ("Verified Costs"). The AGENCY Public Works Director will use his or her best efforts to obtain the Verified Costs from WRCOG, as calculated by WRCOG, and provide Developer written notice thereof within thirty (30) calendar days of receipt by WRCOG of all the required information from the AGENCY Public Works Director. So long as AGENCY remits information provided by Developer to WRCOG within five (5) days of receipt of such information from Developer, neither AGENCY nor WRCOG shall be held responsible for any delay in delivery of the written notice required herein.

14.5 Reconciliation; Final Credit Offset Against TUMF Obligation. The Developer is aware of and accepts the fact that Credits are speculative and conceptual in nature. The actual amount of Credit calculated by WRCOG that shall be applied by AGENCY to offset the TUMF Obligation shall be equal to the lesser of: (A) the Verified Costs or (B) Unit Cost Assumptions for the TUMF Improvements as determined in accordance with Section 14.3 of this Agreement ("Actual Credit"). No Actual Credit will be awarded until the Verified Costs are determined through the reconciliation process. Please be advised that while a Developer may use an engineer's estimates in order to estimate Credits for project planning purposes, the Actual Credit awarded will only be determined by the reconciliation process.

(a) TUMF Balance. If the dollar amount of the Actual Credit is less than the dollar amount of the TUMF Obligation, the AGENCY Public Works Director shall work with WRCOG to provide written notice to Developer of the amount of the difference owed ("TUMF Balance") and Developer shall pay the TUMF Balance in accordance with (insert appropriate reference for city or county) to fully satisfy the TUMF Obligation (see Exhibit "F" - Example "A").

(b) TUMF Reimbursement. If the dollar amount of the Actual Credit exceeds the TUMF Obligation, Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. AGENCY shall work with WRCOG to provide Developer written notice of the determinations that AGENCY, in coordination with WRCOG, makes pursuant to this section (see Exhibit "F" - Example "B").

(c) TUMF Overpayment. If the dollar amount of the Actual Credit exceeds the Estimated Credit, but is less than the TUMF Obligation, but the Actual Credit plus additional monies collected by or on behalf of AGENCY from Developer for the TUMF Obligation exceed the TUMF Obligation ("TUMF Overpayment"), Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may be entitled to a refund. The AGENCY's Public Works Director shall work with WRCOG to provide written notice to WRCOG and the Developer of the amount of the TUMF Overpayment and AGENCY shall direct WRCOG to refund the Developer in accordance with (insert appropriate reference for city or county) (see Exhibit "F" - Example C).

14.6 Reimbursement Agreement. If authorized under either Section 14.3 or Section 14.5 Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the Actual Credit exceeds the TUMF Obligation, as determined pursuant to Section 14.3 of this Agreement, Ordinance No. (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement Agreement"). If AGENCY and WRCOG agree to a Reimbursement Agreement with Developer, the Reimbursement Agreement shall be executed on the form set forth in Exhibit "D," and shall contain the terms and conditions set forth therein. The Parties agree that the Reimbursement Agreement shall be subject to all terms and conditions of this Agreement, and that upon execution, an executed copy of the Reimbursement Agreement shall be attached hereto and shall be incorporated herein as a material part of this Agreement as though fully set forth herein.

15.0 Miscellaneous.

15.1 Assignment. Developer may, as set forth herein, assign all or a portion of its rights pursuant to this Agreement to a purchaser of a portion or portions of the Property ("Assignment"). Developer and such purchaser and assignee ("Assignee") shall provide to AGENCY such reasonable proof as it may require that Assignee is the purchaser of such portions of the Property. Any assignment pursuant to this Section shall not be effective unless and until Developer and Assignee have executed an assignment agreement with AGENCY in a form reasonably acceptable to AGENCY, whereby Developer and Assignee agree, except as may be otherwise specifically provided therein, to the following: (1) that Assignee shall receive all or a portion of Developer's rights pursuant to this Agreement, including such credit as is determined to be applicable to the portion of the Property purchased by Assignee pursuant to Section 14.0 et seq. of this Agreement, and (2) that Assignee shall be bound by all applicable provisions of this Agreement.

15.2 Relationship Between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between or among AGENCY. WRCOG and Developer. Developer’s contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of AGENCY. This Agreement shall be interpreted and administered in a manner consistent with the TUMF Administrative Plan in effect at the time this Agreement is executed.

15.3 Warranty as to Property Ownership; Authority to Enter Agreement. Developer hereby warrants that it owns fee title to the Property and that it has the legal capacity to enter into this Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

15.4 Prohibited Interests. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer, to solicit or secure this Agreement. Developer also warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Developer, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon the making of this Agreement. For breach of this warranty, AGENCY shall have the right to rescind this Agreement without liability.

15.5 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

To AGENCY: [INSERT “CITY” OR “COUNTY”] OF ___________
____
____
Fax No. (909) ______________

To Developer: ____________________________
Attn: ______________________
____
____
Fax No. (___) _______________

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

15.6 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

15.7 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to AGENCY include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

15.8 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

15.9 Termination. This Agreement shall terminate 10 years after the Effective Date, unless extended in writing by the Parties. In addition, this Agreement shall terminate 5 years after the Effective Date in the event that the TUMF Improvements as specified in the Credit Agreement is not commenced within 5 years of the Effective Date.

15.9.1 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

15.9.2 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

15.9.3 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

15.9.4 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

15.9.5 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Riverside, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

15.9.6 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

15.9.7 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

15.9.8 Entire Agreement. This Agreement contains the entire agreement between AGENCY and Developer and supersedes any prior oral or written statements or agreements between AGENCY and Developer.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

DEVELOPER:
[**INSERT NAME OF DEVELOPER**]

By: ____

Its: ____

ATTEST:

By: ________________________________
Its: ________________________________

[**INSERT “CITY” OR “COUNTY”] OF ___________**]:

By: ____
Its: ____

ATTEST:

By: ________________________________
Its: ________________________________

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[ATTACH BEHIND THIS PAGE]

EXHIBIT “B”

FORMS FOR SECURITY

[ATTACHED BEHIND THIS PAGE]

BOND NO. ____________________
INITIAL PREMIUM: ____________________
SUBJECT TO RENEWAL

PERFORMANCE BOND

WHEREAS, the [INSERT "City" OR "County"] of ___________ ("AGENCY") has executed an agreement with ____ (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter the "Work");

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain TUMF Improvement and Credit/Reimbursement Agreement dated ____________________________, (hereinafter the "Agreement"); and

WHEREAS, the Agreement is hereby referred to and incorporated herein by this reference; and

WHEREAS, Developer or its contractor is required by the Agreement to provide a good and sufficient bond for performance of the Agreement, and to guarantee and warranty the Work constructed thereunder.

NOW, THEREFORE, we the undersigned, ______________________________, as Principal and ___________________________________, a corporation organized and existing under the laws of the State of _________________________ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY in the sum of ____ ($_______________), said sum being not less than one hundred percent (100%) of the total cost of the Work as set forth in the Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Developer and its contractors, or their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless AGENCY, its officers, employees, and agents, as stipulated in the Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by AGENCY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this ____ day on ______________________, 20__.

____
Principal

By: ____________________________
President

____
Surety

By: ____________________________
Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ________________________________)

On ___________________________, before me, ____
Date Here Insert Name and Title of the Officer

personally appeared ____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_______________________________________
Signa
ture of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title of Type of Document:_____________________________________ Document Date:____________
Number of Pages: ___________ Signer(s) Other Than Named Above:________________

Capacity(ies) Claimed by Signer(s)

Signer's Name:________________________________

☐ Corporate Officer – Title(s):____________________
☐ Partner - ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other:____
Signer is Representing:___________________________

Signer's Name:________________________________

☐ Corporate Officer – Title(s):____________________
☐ Partner - ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other:____
Signer is Representing:___________________________

EXHIBIT B-4

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________, certify that I am the ________________ Secretary of the corporation named as principal in the attached bond, that ______________________________________ who signed the said bond on behalf of the principal was then _____________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal)

____
Signature

____
Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

BOND NO. ___________________
INITIAL PREMIUM: ___________________
SUBJECT TO RENEWAL

LABOR & MATERIAL BOND

WHEREAS, the [INSERT "City" OR "County"] of ___________ ("AGENCY") has executed an agreement with ____ (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter "Work");

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain Improvement and Credit / Reimbursement Agreement dated ____________________________, (hereinafter the "Agreement"); and

WHEREAS, Developer or its contractor is required to furnish a bond in connection with the Agreement providing that if Developer or any of his or its contractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the provisions of 3248 of the California Civil Code, with respect to such work or labor, that the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we the undersigned, ________________________________, as Principal and _______________________________________, a corporation organized and existing under the laws of the State of ___________________________ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY and to any and all material men, persons, companies or corporations furnishing materials, provisions, and other supplies used in, upon, for or about the performance of the said Work, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to said Work to be done, and all persons performing work or labor upon the same and all persons supplying both work and materials as aforesaid, the sum of ____ ($________________), said sum being not less than 100% of the total amount payable by Developer under the terms of the Agreement, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Developer or its contractors, or their heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein.

In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Sections 8024, 8400, 8402, 8404, 8430, 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this ____ day on ______________________, 20__.

____
Principal

By: ____________________________
President

____
Surety

By: ____________________________
Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ________________________________)

On ____________________________, before me, ____
Date Here Insert Name and Title of the Officer

personally appeared ____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_______________________________________
Signa
ture of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title of Type of Document:______________________________________ Document Date:_____________
Number of Pages: ___________ Signer(s) Other Than Named Above:________________

Capacity(ies) Claimed by Signer(s)

Signer's Name:________________________________
____
☐ Corporate Officer – Title(s):____________________
☐ Partner - ☐ Limited☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐Other:____
Signer is Representing:___________________________
____

Signer's Name:________________________________
____
☐ Corporate Officer – Title(s):____________________
☐ Partner - ☐ Limited☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐Other:____
Signer is Representing:___________________________
____

EXHIBIT B-8

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________, certify that I am the ________________ Secretary of the corporation named as principal in the attached bond, that ______________________________________ who signed the said bond on behalf of the principal was then _____________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal) __________________________________

Signature

____

Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

EXHIBIT "C"

DOCUMENTATION TO BE PROVIDED TO AGENCY BY DEVELOPER FOR DETERMINATION OF CONSTRUCTION COSTS

To assist AGENCY in determining the Construction Costs for a completed TUMF Improvement, Developer shall provide the following documents to AGENCY:

1. Plans, specifications and Developer's civil engineer's cost estimate;

2. List of bidders from whom bids were requested;

3. Construction schedules and progress reports;

4. Contracts, insurance certificates and change orders with each contractor or vendor;

5. Invoices received from all vendors;

6. Canceled checks for payments made to contractors and vendors (copy both front and back of canceled checks);

7. Spreadsheet showing total costs incurred in and related to the construction of each TUMF Improvement and the check number for each item of cost and invoice;

8. Final lien releases from each contractor and vendor; and

9. Such further documentation as may be reasonably required by AGENCY to evidence the completion of construction and the payment of each item of cost and invoice.

EXHIBIT "D"

REIMBURSEMENT AGREEMENT
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into this ___ day of ____________________, 20___, by and between the [INSERT "City" OR "County"] of ___________, [**INSERT "a California municipal corporation" FOR CITY OR "a subdivision of the State of California" FOR COUNTY**] ("AGENCY"), and __________________________________, a California [**INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity**], with its principal place of business at [**ENTER ADDRESS**] ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, AGENCY and Developer are parties to an agreement dated _________________, 20___, entitled "Improvement and Credit Agreement - Transportation Uniform Mitigation Fee Program" (hereinafter "Credit Agreement");

WHEREAS, Sections 14.1 through 14.3 of the Credit Agreement provide that Developer is obligated to pay AGENCY the TUMF Obligation, as defined therein, but shall receive credit to offset the TUMF Obligation if Developer constructs and AGENCY accepts the TUMF Improvements in accordance with the Credit Agreement;

WHEREAS, Section 14.5 of the Credit Agreement provides that if the dollar amount of the credit to which Developer is entitled under the Credit Agreement exceeds the dollar amount of the TUMF Obligation, Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the credit exceeds the TUMF Obligation;

WHEREAS, Section 14.5 additionally provides that a reimbursement agreement executed pursuant to the Credit Agreement (i) shall be executed on the form attached to the Credit Agreement, (ii) shall contain the terms and conditions set forth therein, (iii) shall be subject to all terms and conditions of the Credit Agreement, and (iv) shall be attached upon execution to the Credit Agreement and incorporated therein as a material part of the Credit Agreement as though fully set forth therein; and

WHEREAS, AGENCY and WRCOG have consented to execute a reimbursement agreement with Developer pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Effectiveness. This Agreement shall not be effective unless and until the Credit Agreement is effective and in full force in accordance with its terms.

3.0 Definitions. Terms not otherwise expressly defined in this Agreement, shall have the meaning and intent set forth in the Credit Agreement.

4.0 Amount of Reimbursement. Subject to the terms, conditions, and limitations set forth in this Agreement, the Parties hereby agree that Developer is entitled to receive the dollar amount by which the Actual Credit exceeds the dollar amount of the TUMF Obligation as determined pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement"). The Reimbursement shall be subject to verification by WRCOG. AGENCY and Developer shall provide any and all documentation reasonably necessary for WRCOG to verify the amount of the Reimbursement. The Reimbursement shall be in an amount not exceeding [INSERT DOLLAR AMOUNT] ("Reimbursement Amount"). AGENCY shall be responsible for obtaining the Reimbursement Amount from WRCOG and transmitting the Reimbursement Amount to the Developer. In no event shall the dollar amount of the Reimbursement exceed the difference between the dollar amount of all credit applied to offset the TUMF Obligation pursuant to Section 14.3, 14.4, and 14.5 of the Credit Agreement, and one hundred (100%) of the approved unit awarded, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG.

5.0 Payment of Reimbursement; Funding Contingency. The payment of the Reimbursement Amount shall be subject to the following conditions:

5.1 Developer shall have no right to receive payment of the Reimbursement unless and until (i) the TUMF Improvements are completed and accepted by AGENCY in accordance with the Credit Agreement, (ii) the TUMF Improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, (iii) WRCOG has funds available and appropriated for payment of the Reimbursement amount.

5.2 Developer shall not be entitled to any interest or other cost adjustment for any delay between the time when the dollar amount of the Reimbursement is determined and the time when payment of the Reimbursement is made to Developer by WRCOG through AGENCY.

6.0 Affirmation of Credit Agreement. AGENCY and Developer represent and warrant to each other that there have been no written or oral modifications or amendments of the Credit Agreement, except by this Agreement. AGENCY and Developer ratify and reaffirm each and every one of their respective rights and obligations arising under the Credit Agreement. AGENCY and Developer represent and warrant that the Credit Agreement is currently an effective, valid, and binding obligation.

7.0 Incorporation Into Credit Agreement. Upon execution of this Agreement, an executed original of this Agreement shall be attached as Exhibit "D" to the Credit Agreement and shall be incorporated therein as a material part of the Credit Agreement as though fully set forth therein.

8.0 Terms of Credit Agreement Controlling. Each Party hereby affirms that all provisions of the Credit Agreement are in full force and effect and shall govern the actions of the Parties under this Agreement as though fully set forth herein and made specifically applicable hereto, including without limitation, the following sections of the Credit Agreement: Sections 10.0 through 10.3, Section 12.0, Sections 13.0 through 13.7, Sections 14.0 through 14.6, and Sections 15.0 through 15.17.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

____
("Developer")

By: _______________________________________

Its: ____

ATTEST:

By: _________________________________

Its: _________________________________

[INSERT "City" OR "County") of ___________

By: _______________________________________

Its: ____

ATTEST:

By: _________________________________

Its: _________________________________

EXHIBIT “E”

TUMF CREDIT / REIMBURSEMENT ELIGIBILITY PROCESS

1. Prior to the construction of any TUMF Improvement, Developer shall follow the steps listed below:

(a) Prepare a separate bid package for the TUMF Improvements.

(b) The plans, cost estimate, specifications and contract document shall require all contractors to pay prevailing wages and to comply with applicable provisions of the Labor Code, Government Code, and Public Contract Code relating to Public Works Projects.

(c) Bids shall be obtained and processed in accordance with the formal public works bidding requirements of the AGENCY.

(d) The contract(s) for the construction of TUMF Improvements shall be awarded to the lowest responsible bidder(s) for the construction of such facilities in accordance with the AGENCY’s requirements and guidelines.

(e) Contractor(s) shall be required to provide proof of insurance coverage throughout the duration of the construction.

2. Prior to the determination and application of any Credit pursuant to a TUMF Improvement and Credit Agreement executed between AGENCY and Developer ("Agreement"), Developer shall provide the AGENCY and WRCOG with the following:

(a) Copies of all information listed under Item 1 above.

(b) Surety Bond, Letter of Credit, or other form of security permitted under the Agreement and acceptable to the AGENCY and WRCOG, guaranteeing the construction of all applicable TUMF Improvements.

3. Prior to the AGENCY’s acceptance of any completed TUMF Improvement, and in order to initiate the construction cost verification process, the Developer shall comply with the requirements as set forth in Sections 7, 14.2 and 14.3 of the Agreement, and the following conditions shall also be satisfied:

(a) Developer shall have completed the construction of all TUMF Improvements in accordance with the approved Plans and Specifications.

(b) Developer shall have satisfied the AGENCY’s inspection punch list.

(c) After final inspection and approval of the completed TUMF Improvements, the AGENCY shall have provided the Developer a final inspection release letter.

(d) AGENCY shall have filed a Notice of Completion with respect to the TUMF Improvements pursuant to Section 3093 of the Civil Code with the County Recorder's Office, and provided a copy of filed Notice of Completion to WRCOG.

(e) Developer shall have provided AGENCY a copy of the As-Built plans for the TUMF Improvements.

(f) Developer shall have provided AGENCY copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation and maintenance of any TUMF Improvements.

(g) Developer shall have submitted a documentation package to the AGENCY to determine the final cost of the TUMF Improvements, which shall include at a minimum, the following documents related to the TUMF Improvements:

(i) Plans, specifications, and Developer's Civil Engineer's cost estimates; or Engineer's Report showing the cost estimates.

(ii) Contracts/agreements, insurance certificates and change orders with each vendor or contractor.

(iii) Invoices from all vendors and service providers.

(iv) Copies of cancelled checks, front and back, for payments made to contractors, vendors and service providers.

(v) Final lien releases from each contractor and vendor (unconditional waiver and release).

(vi) Certified contract workers payroll for AGENCY verification of compliance with prevailing wages.

(vii) A total cost summary, in spreadsheet format (MS Excel is preferred) and on disk, showing a breakdown of the total costs incurred. The summary should include for each item claimed the check number, cost, invoice numbers, and name of payee. See attached sample for details. [ATTACH SAMPLE, IF APPLICABLE; OTHERWISE DELETE REFERENCE TO ATTACHED SAMPLE

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