Western Riverside Council of Governments
Executive Committee

REVISED AGENDA

Monday, October 4, 2021
2:00 PM

Western Riverside Council of Governments
3390 University Avenue, Suite 200
Riverside, CA 92501

WRCOG'S OFFICE IS CURRENTLY CLOSED TO THE PUBLIC DUE TO COVID-19

BECAUSE OF THE CDC MANDATE, MEMBERS OF THE PUBLIC WILL ONLY BE ABLE TO ATTEND THIS MEETING VIRTUALLY VIA ZOOM

Join Zoom Meeting
Meeting ID: 865 4442 1534
Password: 198568
Dial in: (669) 900-9128 U.S.

SPECIAL NOTICE – COVID-19 RELATED PROCEDURES IN EFFECT

Due to the State and local recommendations for social distancing resulting from the threat of Novel Coronavirus (COVID-19), this meeting is being held via Zoom under Assembly Bill 361 (Government Code Section 54953) (AB 361). Pursuant to AB 361, WRCOG does not need to make a physical location available for members of the public to observe a public meeting and offer public comment. AB 361 allows WRCOG to hold Committee meetings via teleconferencing or other electronic means and allows for members of the public to observe and address the committee telephonically or electronically.

In addition to commenting at the Committee meeting, members of the public may also submit written comments before or during the meeting, prior to the close of public comment to jleonard@wrcog.us.

Any member of the public requiring a reasonable accommodation to participate in this meeting in light of this announcement shall contact Janis Leonard 72 hours prior to the meeting at (951) 405-6702 or jleonard@wrcog.us. Later requests accommodated to the extent feasible.

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

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC COMMENTS

At this time members of the public can address the Committee regarding any items within the subject matter jurisdiction of the 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 Committee in writing and only pertinent points presented orally.

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

A. Summary Minutes from the September 13, 2021, Executive Committee Meeting

Requested Action(s):

1. Approve the Summary Minutes from the September 13, 2021, Executive Committee meeting.

B. Finance Department Activities Update

Requested Action(s):

1. Receive and file.

C. WRCOG Committees and Agency Activities Update

Requested Action(s):

1. Receive and file.

D. Report out of WRCOG Representatives on Various Committees

Requested Action(s):

1. Receive and file.

E. TUMF Program Activities Update: Approval of Reimbursement Agreement and Reimbursement Agreement Amendments

Requested Action(s):

1. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Menifee for the Planning, Engineering, Right-Of-Way, and Construction Phases of the McCall Blvd Widening (Aspel Rd to Menifee Rd) in an amount not to exceed $2,517,000.
2. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Planning, Engineering, and Right-of-Way Phases of the I-215 / McCall Blvd Interchange Project in an amount not to exceed $3,209.188.
3. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Construction Phase of the I-215 / Holland Rd Overpass Project in an amount not to exceed $8,255,000.
4. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of

Menifee for the Planning, Engineering, and Right-Of-Way Phases of the Bundy Canyon / Scott Road Widening (Sunset Rd to Haun Rd) in an amount not to exceed $5,179,000.

6. REPORTS / DISCUSSION

A. Cal Cities Activities Update

Requested Action(s):

1. Receive and file.

B. TUMF Program Nexus Study Update

Requested Action(s):

1. Direct staff to begin work on a TUMF Nexus Study update.
2. Direct staff to update the TUMF Administrative Plan to expand the TUMF-eligible project list to include Intelligent Transportation Systems (ITS) projects.
3. Direct staff to work with the Riverside County Transportation Commission and Riverside Transit Agency to evaluate options to mitigate VMT impacts from new development outside of the TUMF Nexus Study update.
4. Direct staff to begin work on an update of the Analysis of Development Impact Fees in Western Riverside County.

C. Activities Update from the Eastern Municipal Water District / Western Municipal Water District

Requested Action(s):

1. Receive and file.

D. PACE Programs Activities Update: Deferral of Judicial Foreclosures on Delinquent PACE Properties

Requested Action(s):

1. Adopt Resolution Number 23-21; A Resolution of the Executive Committee of the Western Riverside Council of Governments waiving judicial foreclosure proceeding requirements for delinquent payments of assessments of the Energy Efficiency and Water Conservation Program for Western Riverside County and the California HERO Program.

7. REPORTS FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR
Jeff Van Wagenen, County of Riverside

8. REPORT FROM COMMITTEE REPRESENTATIVES
CALCOG, Brian Tisdale
SANDAG Borders Committee, Crystal Ruiz
SAWPA OWOW Committee, Ted Hoffman
SCAQMD, Ben Benoit
SCAG Regional Council and Policy Committee Representatives

9. REPORT FROM THE EXECUTIVE COMMITTEE CHAIR
Karen Spiegel, County of Riverside - District 2

10. **REPORT FROM THE EXECUTIVE DIRECTOR**
Dr. Kurt Wilson

11. **ITEMS FOR FUTURE AGENDAS ~ Members**
Members are invited to suggest additional items to be brought forward for discussion at future Executive Committee meetings.

12. **GENERAL ANNOUNCEMENTS ~ Members**
Members are invited to announce items / activities which may be of general interest to the Executive Committee.

13. **CLOSED SESSION**
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Renovate America, Inc., et al., Case No. 20-13172 (LSS)
San Diego County Superior Court, Case No. 37-2021-00007702-CU-MC-NC (Zuniga/Sanchez)
San Diego County Superior Court, Case No. 37-2019-00055692-CU-OR-CTL (Delgado)
Orange County Superior Court, Case No. 30-2019-01104434-CU-CO-CJC (Bertuzzi)
Riverside County Superior Court, Case No. RIC2004271 (Baxter/Mitchell)
San Diego County Superior Court, Case No. 37-00008300-CU-MC-CTL (Carey)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: 1 Case

14. **NEXT MEETING**
The next Executive Committee meeting is scheduled for Monday, November 1, 2021, at 2:00 p.m., virtually via Zoom.

15. **ADJOURNMENT**

Executive Committee

Minutes

1. CALL TO ORDER

The meeting of the Executive Committee was called to order by Chair Karen Spiegel at 2:00 p.m. on September 13, 2021, in WRCOG's office.

2. PLEDGE OF ALLEGIANCE

WRCOG Executive Director Kurt Wilson led the Committee members and guests in the Pledge of Allegiance.

3. ROLL CALL

- City of Banning - David Happe
- City of Beaumont - Mike Lara
- City of Calimesa - Wendy Hewitt
- City of Canyon Lake - Kasey Castillo
- City of Corona - Jacque Casillas
- City of Eastvale - Christian Dinco
- City of Jurupa Valley - Chris Barajas
- City of Lake Elsinore - Brian Tisdale
- City of Menifee - Matt Liesemeyer
- City of Moreno Valley - Victoria Baca
- City of Murrieta - Lori Stone
- City of Norco - Kevin Bash
- City of Perris - Rita Rogers
- City of Riverside - Ronaldo Fierro
- City of San Jacinto - Crystal Ruiz
- City of Temecula - Maryann Edwards*
- City of Wildomar - Ben Benoit
- County, District 1 - Kevin Jeffries
- County, District 2 - Karen Spiegel
- County, District 3 - Chuck Washington
- County, District 5 - Jeff Hewitt
- Eastern Municipal Water District (EMWD) - Phil Paule
- Western Municipal Water District (WMWD) - Brenda Dennstedt
- WRCOG Executive Director - Dr. Kurt Wilson

*Arrived after Roll Call

4. PUBLIC COMMENTS

There were no public comments.

5. CONSENT CALENDAR

RESULT: **APPROVED AS RECOMMENDED**
MOVER: Menifee
SECONDER: Moreno Valley
AYES: Banning, Beaumont, Calimesa, Canyon Lake, Corona, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Wildomar, District 1, District 2, District 3, District 5, EMWD, WMWD
NO ANSWER: Eastvale

A. Summary Minutes from the August 2, 2021, Executive Committee Meeting

Action:
1. Approved the Summary Minutes from the August 2, 2021, Executive Committee meeting.

B. WRCOG Committees and Agency Activities Update

Action:
1. Received and filed.

C. Approval of Revised TUMF Credit Agreement Template

Action:
1. Approved the revised TUMF Credit Agreement Template.

D. Report out of WRCOG Representatives on Various Committees

Action:
1. Received and filed.

E. Approval of the 2021 TUMF Zone 5-Year Transportation Improvement Programs

Actions:
1. Approved the 2021 TUMF Central Zone 5-Year Transportation Improvement Program.
2. Approved the 2021 TUMF Hemet / San Jacinto Zone 5-Year Transportation Improvement Program.
3. Approved the 2021 TUMF Northwest Zone 5-Year Transportation Improvement Program.
4. Approved the 2021 TUMF Pass Zone 5-Year Transportation Improvement Program.
5. Approved the 2021 TUMF Southwest Zone 5-Year Transportation Improvement Program.

F. Finance Department Activities Update

Action:
1. Received and filed.

G. Energy Department Activities Update

<u>Action</u>:

1. Received and filed.

H. Single Signature Authority Report

<u>Action</u>:

1. Received and filed.

6. REPORTS / DISCUSSION

A. Cal Cities Activities Update

Erin Sasse, Cal Cities Representative, reported that the legislature ended on Friday, September 10, 2021.

SB 9 (Atkins. Housing development: approvals.) is on the Governor's desk. Cal Cities is encouraging local jurisdictions submit letters of veto.

AB 215 (Chiu. Planning and Zoning Law: housing element: violations.) would have required a mid-cycle review with the California Department of Housing and Community Development (HCD) under certain situations. This Bill was amended and the mid-cycle review was removed, and some of HCD's enforcement capabilities was increased. This Bill is on the Governor's desk. Cal Cities recommends that local jurisdictions keep an eye on this Bill.

AB 989 (as amended, Gabriel. Housing Accountability Act: appeals: Office of Housing Appeals.) would create a Housing Appeals Committee. This Bill was killed for the year but will likely return next year.

There are various bills regarding broadband that Cal Cities has supported; these bills are now on the Governor's desk.

SB 556 (Dodd. Street light poles, traffic signal poles: small wireless facilities attachments.) was amended to allow telecommunications companies to return with a remedy if they were denied permitting requests. Cal Cities is still opposed to this Bill.

SB 619 (Laird. Organic waste: reduction regulations: local jurisdiction compliance.) was amended so that penalties would not be enforced if it could be explained on why deadlines might not be able to be met. A budget trailer bill included $60M in funding to assist with implementation costs.

SB 60 (Glazer. Residential short-term rental ordinances: health or safety infractions: maximum fines.) is on the Governor's desk. Cal Cities supports this Bill, as it would allow cities and counties to impose larger fines for short-term rentals ordinance violations.

AB 361 (Robert Rivas. Open meetings: state and local agencies: teleconferences.) would allow for the continuance of some of the virtual meeting options as long as there is a declared state of emergency. This Bill is on the Governor's desk. Larger jurisdictions with a population of 250,000 or more will have to provide in-person and virtual options. State requirements are not the same as city and county requirements. Urgency was added so as soon as this Bill is signed it goes into effect. Cal Cities opposes this Bill.

Cal Cities is hosting a Sign and Veto webinar on Thursday, September 16, 2021.

Action:
1. Received and filed.

B. SCAG Activities Update

Clint Lorimore, City of Eastvale Mayor Pro Tem and SCAG President, reported that SCAG recently conducted a strategic planning workshop with its Executive Committee. One key takeaway is to have closer relationships with SCAG's regional partners.

SCAG has implementation resources for its Connect SoCal long-range visioning plan. SCAG's Go Human campaign is a community outreach and advertising campaign with the goals of making streets safer. SCAG's Regional Housing Needs Assessment (RHNA) is a state-mandated program to update housing elements. In the RHNA 6th Cycle, a change in methodology took place in that it went further out towards the coast, whereas, in the past, the Inland Empire had usually taken the brunt of housing unit allocations.

Committee member Christian Dinco asked if northern California's allocation numbers are the same as southern California.

Mr. Lorimore responded that while he is unsure of northern California's allocation numbers, SCAG unsuccessfully appealed southern California's allocation numbers.

Committee member Chuck Washington indicated that the 5-County region of Los Angeles, Orange, Riverside, San Diego, and San Bernardino make up half of the state's population.

Committee member Maryann Edwards indicated that there has to be a fixed formula, and if northern California is being treated differently, then something needs to be done about that.

Committee member Kevin Bash indicated that the City of Norco was recently forced to permit a 320-unit apartment complex.

Action:
1. Received and filed.

C. Overview of PACE Program

Dr. Kurt Wilson, WRCOG Executive Director, reported that discussions on PACE activities will be continuous over the next couple of months. PACE is a program that encourages and facilitates environmentally friendly equipment added on to homes and business buildings, such as solar panels, windows, energy efficient doors, etc. The PACE Program is a property-based financing program.

AB 811 establishes the authority and parameters for the PACE Program. Local jurisdictions must opt-in in order for their constituents to be able to participate in the Program. Salespersons gain interest and educate property owners and contractors complete the project. The PACE provider vets and trains contractors and underwrites the financing. WRCOG issues the bond.

WRCOG has its own set of quality control measures such as verifying the property owner's identity, the project, the project's completion, and the certificate of completion. It is at this time that a lien is placed on the property.

WRCOG contracts with dta, which calculates funding estimates. Upon payoff, WRCOG initiates a release of lien, and the county in which the property is located then releases the lien.

Criticisms of the Program include the Federal Housing Administration's (FHA) refusal to transfer liens. There have also been allegations of predatory practices and/or lack of quality control.

Commercial PACE operates differently that the residential Program, and is active and thriving. Commercial PACE is available for new construction, is utilized by highly sophisticated participants, and is usually a high dollar project. WRCOG receives .7% of the project's value with a cap of $250k. WRCOG has the authority to charge up to a $50.00 admin fee; however, WRCOG currently does not collect that fee. There are four Commercial PACE providers.

At the start of the residential PACE Program in 2012, WRCOG partnered with Renovate America, which made up 97% to 98% of WRCOG's revenues. WRCOG implemented above state requirements increased consumer protections which included audio recordings of confirmed terms calls, ability to pay criteria, and longer approval times, to name a few.

2016 was a pivotal year for the Program. New providers were added and there was market saturation from non-WRCOG PACE providers. Renovate America also began offering a different financing program, Benji, which was essentially a competing program. The Benji Program was potentially a violation of WRCOG's agreement with Renovate America, and allowed for an unsecured process; it was less restrictive, had decreased oversight, and faster approvals.

Renovate America, to the surprise of WRCOG, filed for bankruptcy in December 2020 and sold its Benji Program, and is no longer included in WRCOG's indemnification agreement.

WRCOG contracts with First National Assets (FNA) to manage assessment delinquencies. This contract ensures that bondholders are paid, avoids foreclosures when a property owner is delinquent, and is a small revenue source for WRCOG.

Action:

1. Received and filed.

7. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

The Technical Advisory Committee Chair was not present.

8. REPORT FROM COMMITTEE REPRESENTATIVES

Committee member Ted Hoffman, SAWPA OWOW Steering Committee representative, reported that the Committee will be working on scoring criteria next month for the first round of the Proposition 1 - Round 2 grant funding. Applications will likely be made available in October 2021, and will be accepted through January 2022.

For jurisdictions in the Santa Ana River Watershed, SAWPA has regional documentation and reports available for the preparation of Environmental Impact Reports surrounding development.

9. REPORT FROM THE EXECUTIVE COMMITTEE CHAIR

Chair Spiegel reported that people will be able to pay homage to the local fallen Marine Corps soldiers, who will be coming home this week.

WRCOG leadership is working with the Executive Director to begin the process of working on a strategic plan for the Agency; details are forthcoming.

10. REPORT FROM THE EXECUTIVE DIRECTOR

Dr. Kurt Wilson thanked the leadership for their time in meeting with him.

11. ITEMS FOR FUTURE AGENDAS

There were no item requests for future agendas.

12. GENERAL ANNOUNCEMENTS

There were no general announcements.

13. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO SECTION 54956.9(d)(1)
Case No. 6-12-12821 (US Bankruptcy Court, Central Division)

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Renovate America, Inc., et al. Case Number: 20-13172 (LSS)
San Diego County Superior Court, Case No. 37-2021-00007702-CU-MC-NC (Zuniga/Sanchez)
San Diego County Superior Court, Case No. 37-2019-00055692-CU-OR-CTL (Delgado)
Orange County Superior Court, Case No. 30-2019-01104434-CU-CO-CJC (Bertuzzi)
Riverside Superior Court, Case No. RIC2004271 (Baxter/Mitchell)
San Diego Superior Court, Case No. 37-00008300-CU-MC-CTL (Carey)

14. NEXT MEETING

The next Executive Committee meeting is scheduled for Monday, October 4, 2021, at 2:00 p.m., on the Zoom platform. Committee members will have the option of attending in person.

15. ADJOURNMENT

The meeting was adjourned at 3:15 p.m., in memory of local fallen Marine Corps soldiers Corporal Hunter Lopez, Lance Corporal Dylan Merola, and Lance Corporal Kareem Nikoui.

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Finance Department Activities Update**

Contact: **Andrew Ruiz, Chief Financial Officer, aruiz@wrcog.us, (951) 405-6740**

Date: **October 4, 2021**

Requested Action(s):

1. Receive and file.

Purpose:
The purpose of this item is to provide an update on the Agency Audit for Fiscal Year 2020/2021 and financials through July 2021.

Background:

Fiscal Year 2020/2021 Agency Audit

WRCOG's annual Agency audit is tentatively scheduled to begin in October 2021. Staff anticipate the audit to be completed by November 2021 and begin presentations to the various committees in December 2021. WRCOG has received the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting for the past seven years and will be applying for the award once the audit has been completed.

Additionally, WRCOG will be submitting a Request for Proposals (RFP) for financial audit services. WRCOG has utilized the services of the audit firm Rogers, Anderson, Malody, and Scott (RAMS) for the past five years to conduct its financial audit.

Financial Report Summary Through July 2021

The Agency Financial Report summary through July 2021, a monthly overview of WRCOG's financial statements in the form of combined Agency revenues and costs, is provided as Attachment 1. These are preliminary numbers and have not yet been finalized for the fiscal year.

Prior Action(s):
None.

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

Attachment(s):
July 2021 Agency Financials.pdf

Western Riverside Council of Governments
Budget to Actuals
For Month Ending July 31, 2021

Total Agency Budget

	Approved Budget 6/30/2022	Actual Thru 7/31/2021	Remaining Budget 6/30/2022
Revenues			
Member Dues	286,640	286,640	-
Overhead Transfer In	2,000,000	166,667	1,833,333
TUMF Commercial	4,800,000	173,618	4,626,382
TUMF Retail	4,800,000	190,339	4,609,661
TUMF Industrial	7,680,000	402,312	7,277,688
TUMF Single Family	19,200,000	3,174,773	16,025,227
TUMF Multi Family	9,600,000	378,617	9,221,383
TUMF Commerical - Admin Fee	200,000	7,234	192,766
TUMF Retail - Admin Fee	200,000	7,931	192,069
TUMF Industrial - Admin Fee	320,000	16,763	303,237
TUMF Single Family - Admin Fee	800,000	132,282	667,718
TUMF Multi-Family - Admin	400,000	15,776	384,224
Grant Revenue	1,663,000	138,583	1,524,417
Clean Cities Revenue	240,000	151,000	89,000
Solid Waste Revenue	112,970	112,970	-
Used Oil Grants	168,023	168,023	-
Total Revenues	**$ 57,669,021**	**$ 5,523,528**	**$ 52,145,493**
Expenses			
Salaries & Wages - Fulltime	2,745,899	276,239	2,469,660
Fringe Benefits	1,319,884	83,618	1,236,266
Overhead Allocation	1,682,458	140,205	1,542,253
General Legal Services	968,100	180,833	787,267
Commissioners Per Diem	57,500	5,050	52,450
Parking Cost	20,000	4,687	15,314
Office Lease	350,000	37,366	312,634
Fuel Expense	1,500	28	1,472
General Assembly Expense	300,000	58	299,942
Parking Validations	15,450	1,063	14,387
Staff Recognition	1,000	337	663
Coffee and Supplies	3,000	931	2,069
Event Support	95,737	12,560	83,177
Program/Office Supplies	13,700	7,090	6,610
Computer Equipment/Supplies	2,000	1,988	12
Computer Software	102,000	4,000	98,000
Membership Dues	31,750	70	31,680
Subscriptions/Publications	4,250	767	3,483
Postage	5,350	817	4,533
Other Household Expenses	3,250	253	2,997
Storage	5,000	1,058	3,942
Communications - Regular Phone	16,000	3,789	12,211
Communications - Cellular Phones	13,500	3,386	10,114
Communications - Computer Services	53,000	4,617	48,383
Insurance - Errors & Omissions	15,000	9,265	5,735
Insurance - Gen/Busi Liab/Auto	99,500	48,820	50,680
TUMF Project Reimbursement	46,080,000	247,425	45,832,575
Seminars/Conferences	9,650	45	9,605
Travel - Mileage Reimbursement	9,500	183	9,317
Travel - Airfare	4,250	350	3,900
Consulting Labor	2,924,616	373,554	2,551,062
Total Expenses	**$ 57,513,228**	**$ 1,831,242**	**$ 56,062,777**

Item 5.C

Western Riverside Council of Governments
Executive Committee

Staff Report

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

Contact: **Chris Gray, Deputy Executive Director, cgray@wrcog.us, (951) 405-6710**

Date: **October 4, 2021**

Requested Action(s):

1. Receive and file.

Purpose:
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.

Background:
Attached are summary recaps of actions and activities from recent WRCOG standing Committee meetings that occurred during the month of September 2021.

Prior Action(s):
September 13, 2021: The Executive Committee received and filed.

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

Attachment(s):
Sept meetings recaps.pdf

Western Riverside Council of Governments
Administration & Finance Committee
Meeting Recap
September 1, 2021

Following is a summary of key items discussed at the last Administration & Finance Committee meeting.

Agenda Packet: https://www.wrcog.us/AgendaCenter/ViewFile/Agenda/_09012021-522

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9160/af-0921pp-FINAL

WRCOG Sponsorship / Membership Policy

- As a part of WRCOG's external affairs efforts, the Agency's current approach to sponsorship / membership incorporates three categories: 1) membership of various chambers of commerce; 2) sponsorship of member annual events; and 3) membership of regional or statewide partner agencies.
- The current approach is routine in nature; however, some sponsorship / membership requests have a heightened sensitivity including a recent request from the University of California, Riverside's Inland Center for Sustainable Development (ISCD).
- While funding is available and ICSD aligns with WRCOG's mission to provide regional perspective, the Committee requested that staff coordinate a presentation from ICSD during a future committee meeting to provide additional information about the organization and sponsorship opportunity.

TUMF Program Nexus Study Update

- Staff recommendation to prepare an update to the TUMF Nexus Study. The five reasons to update the study include the idea that regular updates for fee studies are best practice, updated growth forecasts for the WRCOG subregion, changes in travel behavior, the ability to update the TUMF project list, and the ability to add new types of projects.
- Staff is recommending the addition of ITS-type projects as an eligible project type if the TUMF Nexus Study is updated.
- Staff is also recommending that WRCOG undertake two additional activities. First, WRCOG would like to formally work on a regional VMT Mitigation Program with RCTC and RTA to address the need for projects to mitigation its impacts under SB 743. Second, WRCOG would also like to prepare an update of the Fee Comparison Study which was last updated in 2019.
- The Administration & Finance Committee voted to forward staff's recommendations to the Executive Committee for consideration at its October 4, 2021, meeting for consideration.

PACE Programs Activities Update

- An overview was provided regarding the process to defer judicial foreclosures on properties with delinquent PACE assessments.
- WRCOG has engaged First National Assets (FNA) to purchase delinquent PACE assessments which provide funding to offset any costs to WRCOG or the bondholders related to these delinquencies. This process ensures that no homeowner loses their home because of a delinquent PACE assessment.
- The Administration & Finance Committee voted to forward staff's recommendations regarding the deferral of these judicial foreclosures to the Executive Committee at its October 4, 2021, meeting for consideration.

Next Meeting

The next Administration & Finance Committee meeting is scheduled for Wednesday, October 13, 2021, at 12:00 p.m., virtually on the Zoom platform and in-person at WRCOG's offices.

Western Riverside Council of Governments
Planning Directors Committee
Meeting Recap
September 9, 2021

Following is a list of key items discussed at the last Planning Directors Committee meeting.

Agenda Packet: https://wrcog.us/DocumentCenter/View/9170/pdc0921

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9176/pdc0921pp

Climate Action Plan Activities Update

- The Subregional CAP Update was undertaken by WRCOG beginning in 2019. The Update was mostly funded through a Caltrans Sustainable Transportation Planning Grant. Jurisdictions were provided the opportunity to opt-in to participate in the Update and 13 jurisdictions chose to participate. CAPs are most effective when conducted at a local jurisdiction since jurisdictions vary in policies, goals, size, geography, etc.
- The Plan was developed to serve as a planning resource to each participating jurisdiction. Since there are many varying elements for each jurisdiction, the Update was structured to include a "baseline" of measures that are common best practices in CAPs. The end deliverable for each participating jurisdiction is a draft local plan that is meant to be a framework that may be customized.
- There has been interest from some jurisdictions to conduct additional work to ensure its 2030 GHG targets are met. WRCOG may assist in administering the additional work needed; however, WRCOG is unable to commit further funding, at this point, to conduct this additional work needed.
- Another next step is to determine if jurisdictions are interested in pursuing a qualified CAP. An EIR must be conducted for the CAP since a CAP needs to go through CEQA review. The benefit of a qualified CAP is through CEQA streamlining so that a proposed new development project would not be subject to the GHG analysis portion of CEQA if it is consistent with the jurisdiction's General Plan.
- WRCOG is able to continue administering the project if there is interest.

TUMF Program Nexus Study Update

- Staff recommendation is to prepare an update to the TUMF Nexus Study. The five reasons to update the Study include the idea that regular updates for fee studies are best practice, updated growth forecasts for the WRCOG subregion, changes in travel behavior, the ability to update the TUMF project list, and the ability to add new types of projects.
- Staff is recommending the addition of ITS-type projects as an eligible project type if the TUMF Nexus Study is updated.
- Staff is also recommending that WRCOG undertake two additional activities. First, WRCOG would like to formally work on a regional VMT Mitigation Program with RCTC and RTA to address the need for projects to mitigation its impacts under SB 743. Second, WRCOG would also like to prepare an update of the Fee Comparison Study which was last updated in 2019.
- The Planning Directors' Committee voted to forward staff's recommendations to the Executive Committee for consideration at its October 4, 2021, meeting for consideration.
- Staff will also bring back an item to the Committee at a future meeting to discuss TUMF fees on special sub-land use categories, such as senior housing.

Ready for Tomorrow Program Introduction – Grant Writing Assistance Opportunity

- Staff from Climate Resolve presented on the Ready for Tomorrow Program. The Program focuses on municipalities with a high number of disadvantaged communities (CalEnviroScreen 3.0) to pursue federal, state, and foundation grants for climate planning.
- Their process is to identify needs, like active transportation or tree canopy and match them with related grants. Once a grant is identified, WRCOG will assist with narrative brainstorming, the grant timeline, GIS mapping, and narrative review.
- Climate Resolve is available to discuss a jurisdiction's needs with respect to climate policy, planning and capital projects, and the types of climate-related projects a jurisdiction is looking to fund.
- Please contact Woodrow Covington (wcovington@climateresolve.org) or Kristopher Eclarino (keclarino@climateresolve.org) to further discuss.

Legislative Activities Update

- Bill Blankenship provided a legislative update and highlighted the following bills: SB 9 – Allows for lot splits in Single-family residential areas; SB 10 – Allows agencies to up-zone residential density by up to 10 units in specific planning areas; SB 12 – Planning and Zoning for High-Risk Wildfire Areas; AB 602 – housing impact fees based on the square footage of a unit; AB 950 – the Department of Transportation may sell excess property to a city and county for affordable housing.
- WRCOG would like to pursue legislative action for Western Riverside County if there is interest from the member agencies. WRCOG is proposing to hold a meeting with members of the PDC and the affordable housing community to discuss and identify barriers to the construction of affordable housing and formulate legislative ideas from the discussion. Any action items will be brought back to the PDC for review.
    - Representatives from the Cities of Beaumont and San Jacinto, and the County of Riverside volunteered to participate in the proposed meeting.

Next Meeting

The next Planning Directors Committee meeting is scheduled for Thursday, October 14, 2021, at 9:30 a.m.

Western Riverside Council of Governments
Public Works Committee
Meeting Recap
September 9, 2021

Following is a list of key items discussed at the last Public Works Committee meeting.

Agenda Packet: https://wrcog.us/DocumentCenter/View/9169/pwc0921

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9178/pwc0921pp

VMT Mitigation Activities – City of Riverside

- Staff from the City of Riverside presented on its VMT mitigation activities.
- The City has found that, as anticipated, the practical implementation of VMT thresholds can result in developments finding that the City may need to complete an EIR. This has largely held true in developments within the outlying areas of the City where VMT is higher.
- Mitigating VMT impacts can be difficult for developments which far exceed baseline VMT levels in the City. Riverside staff have reached out to other agencies and found that mitigation in the VMT era of CEQA has posed similar challenges across Southern California.
- The City is seeking to discuss its planned implementation of a mitigation bank or exchange to better serve the development community and help to expedite projects with other interested jurisdictions. As the City takes its first steps to establish the mitigation bank / exchange it is interested to explore options with WRCOG member agencies.

TUMF Program Nexus Study Update

- Staff recommendation is to prepare an update to the TUMF Nexus Study. The five reasons to update the Study include the idea that regular updates for fee studies are best practice, updated growth forecasts for the WRCOG subregion, changes in travel behavior, the ability to update the TUMF project list, and the ability to add new types of projects.
- Staff is recommending the addition of ITS-type projects as an eligible project type if the TUMF Nexus Study is updated.
- Staff is also recommending that WRCOG undertake two additional activities. First, WRCOG would like to formally work on a regional VMT Mitigation Program with RCTC and RTA to address the need for projects to mitigation its impacts under SB 743. Second, WRCOG would also like to prepare an update of the Fee Comparison Study which was last updated in 2019.
- The Planning Directors' Committee voted to forward staff's recommendations to the Executive Committee for consideration at its October 4, 2021, meeting for consideration.
- Staff will also bring back an item to the Committee at a future meeting to discuss TUMF fees on special sub-land use categories, such as senior housing.

Western Riverside County Energy Resilience Plan Activities Update

- Staff, along with Sandy Mukherjee from AECOM and Walker Wells from Raimi + Associates, provided updates on development of the Western Riverside County Energy Resilience Plan.
- A literature review of existing project and planning documents revealed a variety of energy resilience strategies have been implemented or are in progress with varying degrees of positive and negative characteristics, including energy efficiency, solar and storage, as well as microgrids and resilience hubs.

Over a series of workshops and outreach activities, staff identified three goals for the Plan which were widely accepted by member agencies and have identified key resilience issues impacting each community.

- A facility vulnerability assessment is in progress to analyze climate hazards and social vulnerabilities that impact the proposed facilities, including extreme heat and wildfire, as well as disadvantaged communities and sensitive populations near the facilities. Staff will coordinate with member agencies for the next steps in the Plan: fill facility data gaps, validate and finalize the prioritized list of facilities, evaluate potential resilience strategies and interventions, and conduct a Fall workshop to present new findings.

Next Meeting

The next Public Works Committee meeting is scheduled for Thursday, October 14, 2021, at 2:00 p.m. on the Zoom platform. Committee members will have the option of attending this meeting in person at WRCOG's office.

Western Riverside Council of Governments
Executive Committee
Meeting Recap
September 13, 2021

Following is a summary of key items discussed at the last Executive Committee meeting.

Agenda Packet: https://wrcog.us/DocumentCenter/View/9174/ec0921

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9198/ec0921pp

TUMF Credit Agreement Template Approved

- WRCOG is revising the TUMF Credit Agreement Template so that WRCOG will become a third party of the Credit Agreement to verify TUMF obligation, total credit, and perform reconciliation at the request of member agencies. This change will only affect new agreements and not previous and current agreements.

TUMF Zone TIPs Approved

- WRCOG has conducted meetings with each TUMF Zone Executive Committees to approve 5-year Transportation Improvement Programs (TIPs) for each Zone.
- Each TIP was first vetted by members of the Public Works Committee before approval by the Executive Committee member from each agency.

SCAG Activities Update

- Clint Lorimore, SCAG President and City of Eastvale Mayor Pro Tem, provided an update on SCAG's recently conducted strategic planning workshop with its Executive Committee; one key takeaway is to have closer relationships with SCAG's regional partners.
- Implementation resources are availaboe for SCAG's Connect SoCal long-range visioning plan. SCAG's Go Human campaign is a community outreach and advertising campaign with the goals of making streets safer. SCAG's Regional Housing Needs Assessment (RHNA) is a state-mandated program to update housing elements. In the RHNA 6th Cycle, a change in methodology took place in that it went further out towards the coast, whereas, in the past, the Inland Empire had usually taken the brunt of housing unit allocations.
- Information on housing support for jurisdictions: https://scag.ca.gov/sites/main/files/file-attachments/2991_reapfactsheet_r7.pdf

Overview of PACE Program

- Dr. Kurt Wilson, WRCOG Executive Director, provided an update on the PACE Program.
- PACE is a program that encourages and facilitates environmentally friendly equipment added on to homes and business buildings, such as solar panels, windows, energy efficient doors, etc. The PACE Program is a property-based financing program.
- AB 811 establishes the authority and parameters for the PACE Program. Local jurisdictions must opt-in in order for their constituents to be able to participate in the Program.
- Commercial PACE operates differently that the residential Program, and is active and thriving. Commercial PACE is available for new construction, is utilized by highly sophisticated participants, and is usually a high dollar project.

- At the start of the residential PACE Program in 2012, WRCOG partnered with Renovate America. In 2016, Renovate America also began offering a different financing program, Benji, which was essentially a competing program. Renovate America, to the surprise of WRCOG, filed for bankruptcy in December 2020 and sold its Benji Program, and is no longer included in WRCOG's indemnification agreement.
- WRCOG contracts with First National Association (FNA) to manage assessment delinquencies. This contract ensures that bondholders are paid, avoids foreclosures when a property owner is delinquent, and is a small revenue source for WRCOG.

Executive Committee Chair Comments

- Today's meeting will adjoun in memory of local fallen Marine Corps soldiers Corporal Hunter Lopez, Lance Corporal Dylan Merola, and Lance Corporal Kareem Nikoui.

Next Meeting

The next Executive Committee meeting is scheduled for Monday, October 4, 2021, at 2:00 p.m., on the Zoom platform. Committee members will have the option of attending this meeting in person at WRCOG's office.

Western Riverside Council of Governments
Technical Advisory Committee
Meeting Recap
September 16, 2021

Following is a summary of key items discussed at the last Technical Advisory Committee meeting.

Agenda Packet: https://wrcog.us/DocumentCenter/View/9175/tac0921

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9194/tac0921pp

Energy Department Activities Update

- WRCOG and Michael Baker International (MBI) are developing a Smart Streetlights Implementation Plan to identify opportunities for member agencies and participants of the Regional Streetlight Program to utilize streetlights as smart city assets.
- A Community Assessment has been completed, which evaluates community "readiness" to start implementing smart technologies or infrastructure on streetlights. The survey showed that over 60% of respondents already provide Wi-Fi at government buildings and most have completed an LED streetlight retrofit with plans to convert more. Additionally, the survey also showed that most respondents do not have a policy regarding data collection and use.
- The Peer Agency Review is complete, which analyzed how other public agencies deployed smart streetlight solutions. Online research was conducted and phone interviews completed with staff from the Cities of Atlanta, Columbus, Detroit, Kansas City, Las Vegas, Los Angeles, and San Diego. Key findings from this review include identifying program parameters and metrics and establishing a business model so the technologies pay for themselves or recognize the expense to solve an identified issue or need. Staff is coordinating stakeholder meetings with member agencies to discuss agency interest towards smart city technologies and broadband.
- In 2016, the Streetlight Program, in coordination with Bank of America, developed and provided a financing framework that assisted eight agencies in the streetlight acquisition and LED retrofit project. In July 2021, staff received several inquiries from agencies regarding refinancing opportunities due to the low interest rate environment. As of September 15, 2021, three member agencies have refinanced their streetlight lease agreements resulting in significant savings over the term. Staff will be coordinating with remaining agencies and Bank of America to explore refinancing opportunities.

TUMF Program Nexus Study Update

- Staff recommendation is to prepare an update to the TUMF Nexus Study. The five reasons to update the Study include the idea that regular updates for fee studies are best practice, updated growth forecasts for the WRCOG subregion, changes in travel behavior, the ability to update the TUMF project list, and the ability to add new types of projects.
- Staff is recommending the addition of ITS-type projects as an eligible project type if the TUMF Nexus Study is updated.
- Staff is also recommending that WRCOG undertake two additional activities. First, WRCOG would like to formally work on a regional VMT Mitigation Program with RCTC and RTA to address the need for projects to mitigation its impacts under SB 743. Second, WRCOG would also like to prepare an update of the Fee Comparison Study which was last updated in 2019.
- Staff was asked to bring back an item regarding regional travel and how it impacts local infrastructure.

Water Districts Activities update

- Joe Mouawad, EMWD, and Craig Miller, WMWD, provided activities update from both water districts that included an update on California's drought emergency.
- As of July 8, 2021, 50 counties in California declared a drought emergency.
- Metropolitan Water District agencies are prepared for this year's drought conditions with over 3 million-acre feet of dry-year and emergency storage.
- Both water districts have undertaken a regional messaging outreach campaign that aligns with local water conditions and compliments agency programs. They also invited local government partners to support the effort.

Next Meeting

The next Technical Advisory Committee meeting is scheduled for Thursday, October 21, 2021, at 9:30 a.m., on the Zoom platform. Committee members will have the option of attending this meeting in person at WRCOG's office.

Item 5.D

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Report out of WRCOG Representatives on Various Committees**

Contact: **Chris Gray, Deputy Executive Director, cgray@wrcog.us, (951) 405-6710**

Date: **October 4, 2021**

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to inform the Executive Committee of activities occurring on the various Committees in which WRCOG has an appointed representative.

Background:

This item serves as a placeholder for WRCOG representatives' use in providing materials pertaining to meetings of the Committee they have been appointed to.

CALCOG Board of Directors (Brian Tisdale)

The CALCOG Board of Directors met on September 17, 2021. Agenda highlights include:

1. Budget Update
2. Legislative Update
3. AB 1147 (Friedman): Neutrality & Appreciation
4. Two Brown Act Reform Ideas

SANDAG Borders Committee (Crystal Ruiz)

The SANDAG Borders Committee met on September 17, 2021. Agenda highlights include:

1. Overview of the Draft Environmental Impact Report for San Diego Forward: The Regional Plan and its Sustainable Communities Strategy
2. TransNet Environmental Mitigation Program: Land Management Grant Program Call for Projects for Tenth Cycle of Grant Funding
3. Regional Bikeway Program: Program Status, Program Future, and Potential Budget Amendments
4. SANDAG Clean Transportation Program Update

SAWPA OWOW Steering Committee (Ted Hoffman)

The next SAWPA OWOW Steering Committee meeting is scheduled for September 23, 2021.

Prior Action(s):
September 13, 2021: The Executive Committee received and filed.

Fiscal Impact:
WRCOG stipends are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the General Fund.

Attachment(s):
Attachment 1 - CALCOG agenda attachment.pdf
Attachment 2 - SANDAG agenda attachment.pdf

Attachment 1

CALCOG Agenda
September 17, 2021

California Association of Councils of Governments

Effective Regions Through Partnership

BOARD OF DIRECTORS

MEETING AGENDA

September 17, 2021

1:00 pm to 3:00 pm

Meeting Connection Information:

Zoom:
https://us02web.zoom.us/j/85201241882?pwd=dUtYbWtMTmpaZ0JvOXdUMTF0bGt2Zz09

Meeting ID: 852 0124 1882
Passcode: CALCOG

Having trouble? Email Natalie at nzoma@calcog.org

BOARD MEETING AGENDA

TIME	ITEM	DESCRIPTION	PURPOSE	PAGE
1:00 pm	1	**Welcome & Roll Call.** Staff will mark attendance as members enter the virtual meeting space. Please have type your name in the Zoom identifier. For agency staff monitoring the meeting, please type in your name and turn off your video.		
1:05 pm	2	**Approval of the Minutes**	Action	9
1:10 pm	3	**Executive Director Report.** An update of developments in the work program.	Information	12
		POLICY ITEMS		
1:15 pm	4	**Budget Update.** A quick review of developments affecting regions related to late session budget actions.	Information	13
1:25 pm	5	**Legislative Update.** End of session update; presentation available day of meeting.	Information	15
1:40 pm	6	**AB 1147 (Friedman): Neutrality & Appreciation.** Staff recommends remaining neutral and drafting a letter to Assembly Transportation Committee Chair Friedman thanking her for working with CALCOG.	Action	16
1:55 pm	7	**Two Brown Act Reform Ideas.** Staff seeks direction in whether to begin the legwork needed to change the Brown Act to be more permissive to virtual meetings.	Action	20
		ORGANIZATION ITEMS		
2:00 pm	8	**In Person Board Meetings.** A discussion of how to return to in person meetings.	Direction	25
2:10 pm	9	**Joint Purchase Service Opportunity.** Staff is exploring the potential to offer a bulk or joint purchase program to pool member purchase power. A Sponsor has come forward with a proposal that requires research	Information & Direction	26
2:20 pm	10	**Final Announcements & Adjourn.**		

KEY DATES FOR CALCOG BOARD MEMBERS FOR 2021

Organization Events

- **March 6 -8, 2022:** Regional Leadership Forum, Riverside Convention Center

Board Meeting Dates

- **November (TBD)** Board Meeting. (Will be scheduled not to conflict with numerous conferences and meetings in November. This is the meeting where the Board reviews conducts a performance evaluation of the executive director and set goals and priorities for the upcoming year. Its typically a four to five hour meeting.

Attachment 2

SANDAG Agenda
September 17, 2021

SANDAG

Joint Meeting of the Transportation, Regional Planning, and Borders Committees Agenda

Friday, September 17, 2021
9 a.m.
****Teleconference Meeting****

MEETING ANNOUNCEMENT AMIDST COVID-19 PANDEMIC:

The joint meeting of the Transportation, Regional Planning, and Borders Committees meeting scheduled for Friday, September 17, 2021, will be conducted virtually in accordance with Governor Newsom's State of Emergency declaration regarding the COVID-19 outbreak, Executive Order N-29-20, and the Guidance for Gatherings issued by the California Department of Public Health. Transportation, Regional Planning, and Borders Committee members will primarily participate in the meeting virtually, while practicing social distancing, from individual remote locations.

To participate via Zoom webinar, click the link to join the meeting: https://zoom.us/j/92034343595

Webinar ID: 920 3434 3595

To participate via Telephone, dial a number based on your current location in the US:

+1 (669) 900-6833

+1 (253) 215-8782

+1 (346) 248-7799

+1 (312) 626-6799

+1 (929) 205-6099

+1 (301) 715-8592

International numbers available: https://zoom.us/u/adbRGB0U

SANDAG relies on commercial technology to broadcast the meeting via Zoom. With the increase of virtual meetings, platforms such as Microsoft Teams, WebEx, GoToMeeting, and Zoom are working to scale their systems to meet the new demand. If we experience technical difficulty or you are unexpectedly disconnected from the broadcast, please close and reopen your browser and click the link to rejoin the meeting. SANDAG staff will take all possible measures to ensure a publicly accessible experience.

Public Comments: Persons who wish to address the members on an item to be considered at this meeting, or on non-agendized issues, may email comments to the Clerk at clerkoftheboard@sandag.org (please reference Joint TC, RPC, and BC Meeting in your subject line and identify the item number(s) to which your comments pertain). Comments received by 4 p.m. on Thursday, September 16, 2021, will be provided to members prior to the meeting.

If you desire to provide live verbal comment during the meeting, please join the Zoom meeting by computer or phone and use the "Raise Hand" function to request to provide public comment. On a computer, the "Raise Hand" feature is on the Zoom toolbar. By phone, enter *9 to "Raise Hand" and *6 to unmute. Requests to provide live public comment must be made at the beginning of the relevant item, and no later than the end of any staff presentation on the item. The Clerk will call on members of the public who have timely requested to provide comment by name for those joining via a computer and by the last three digits of for those joining via telephone. All comments received prior to the close of the meeting will be made part of the meeting record. Please note that any available chat feature on the Zoom meeting platform should be used by panelists and attendees solely for procedural or other "housekeeping" matters as comments provided via the chat feature will not be retained as part of the meeting record. All comments to be provided for the record must be made via email or orally per the instructions above.

Welcome to SANDAG. Members of the public may speak to the Transportation, Regional Planning, and Borders Committees on any item at the time the Committees are considering the item. Public speakers are limited to three minutes or less per person. The Committees may only take action on any item appearing on the agenda.

In order to keep the public informed in an efficient manner and facilitate public participation, SANDAG also provides access to all agenda and meeting materials online at sandag.org/meetings. Additionally, interested persons can sign up for email notifications at sandag.org/subscribe.

SANDAG operates its programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. SANDAG has developed procedures for investigating and tracking Title VI complaints, and the procedures for filing a complaint are available to the public upon request. Questions concerning SANDAG nondiscrimination obligations or complaint procedures should be directed to the SANDAG General Counsel, John Kirk, at (619) 699-1997 or john.kirk@sandag.org. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the Federal Transit Administration.

In compliance with the Americans with Disabilities Act (ADA), SANDAG will accommodate persons who require assistance in order to participate in SANDAG meetings. If such assistance is required, please contact the Clerk of the Board at ClerkoftheBoard@sandag.org or at (619) 699-1985, at least 72 hours in advance of the meeting. To request this document or related reports in an alternative format, please call (619) 699-1900 or (619) 699-1904 (TTY), or fax (619) 699-1905 at least 72 hours in advance of the meeting.

SANDAG agenda materials can be made available in alternative languages. To make a request, call (619) 699-1900 in advance of the meeting.

Los materiales de la agenda de SANDAG están disponibles en otros idiomas. Para hacer una solicitud, llame al (619) 699-1900.

如有需要, 我们可以把SANDAG议程材料翻译成其他語言.

请在会议前至少 72 小时打电话 (619) 699-1900 提出请求.

Vision Statement
Pursuing a brighter future for all.

Mission Statement
We are the regional agency that connects people, places, and innovative ideas by implementing solutions with our unique and diverse communities.

Our Commitment to Equity
We hold ourselves accountable to the communities we serve. We acknowledge we have much to learn and much to change; and we firmly uphold equity and inclusion for every person in the San Diego region. This includes historically underserved, systemically marginalized groups impacted by actions and inactions at all levels of our government and society.

We have an obligation to eliminate disparities and ensure that safe, healthy, accessible, and inclusive opportunities are available to everyone. In 2021, SANDAG will develop an equity action plan that will inform how we plan, prioritize, fund, and build projects and programs; frame how we work with our communities; define how we recruit and develop our employees; guide our efforts to conduct unbiased research and interpret data; and set expectations for companies and stakeholders that work with us.

We are committed to creating a San Diego region where every person who visits, works, and lives can thrive.

San Diego Association of Governments
401 B Street, Suite 800, San Diego, CA 92101-4231 × (619) 699-1900 × Fax (619) 699-1905 × sandag.org

Joint Meeting of the Transportation, Regional Planning, and Borders Committees

Friday, September 17, 2021

Item No.		Action
1.	Public Comments/Communications/Member Comments Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Committees on any issue within the jurisdiction of SANDAG that is not on this agenda. Public speakers are limited to three minutes or less per person. If the number of public comments under this agenda item exceeds five, additional public comments will be taken at the end of the agenda. Subjects of previous agenda items may not again be addressed under public comment.	
2.	Chief Executive Officer's Report *Hasan Ikhrata, SANDAG* An update on key programs, projects, and agency initiatives will be presented.	Discussion

Reports

+3.	Overview of the Draft Environmental Impact Report for San Diego Forward: The Regional Plan and its Sustainable Communities Strategy *Keith Greer, SANDAG* An overview on the draft Environmental Impact Report for San Diego Forward: The 2021 Regional Plan will be presented.	Information
+4.	*TransNet* Environmental Mitigation Program: Land Management Grant Program Call for Projects for Tenth Cycle of Grant Funding *Kim Smith and Courtney Pesce, SANDAG* The Regional Planning and Transportation Committees are asked to review the eligibility, submittal, and evaluation criteria for the next call for projects of the TransNet Environmental Mitigation Program Land Management Grants Program and recommend for approval to the Board of Directors.	Recommend

+5. **Regional Bikeway Program: Program Status, Program Future, and Potential Budget Amendments** — Recommend

Chris Kluth, SANDAG

The Transportation Committee is asked to recommend the Board of Directors:

1) accept $12.057 million of Active Transportation Program Cycle 5 (ATP) grant funds for Inland Rail Trail Phase 4 (CIP No. 1223095) and authorize the Executive Director to execute a baseline agreement with the state.
2) accept $4.317 million for Orange Avenue Bikeway (CIP No. 1223087) of Active Transportation Program Cycle 5 (ATP) grant funds.
3) approve an amendment to the FY 2022 Program Budget, adding $18.6 million to Regional Bikeway projects in substantially the same form as show in Attachment 4.

+6. **SANDAG Clean Transportation Program Update** — Information

Susan Freedman and Jeff Hoyos, SANDAG

A status report on clean transportation programs that support the Regional Plan and state directives to transition to zero emission transportation, will be presented.

7. **Upcoming Meetings** — Information

The next meeting of the Transportation Committee is scheduled for Friday, October 1, 2021, at 9 a.m.

The next meeting of the Regional Planning Committee is scheduled for Friday, October 1, 2021, at 12:30 p.m.

The next meeting of the Borders Committee is scheduled for Friday, October 22, 2021, at 12:30 p.m.

8. **Adjournment**

+ next to an agenda item indicates an attachment

Item 5.E

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **TUMF Program Activities Update: Approval of Reimbursement Agreement and Reimbursement Agreement Amendments**

Contact: **Chris Gray, Deputy Executive Director, cgray@wrcog.us, (951) 405-6710**

Date: **October 4, 2021**

Requested Action(s):

1. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the City of Menifee for the Planning, Engineering, Right-Of-Way, and Construction Phases of the McCall Blvd Widening (Aspel Rd to Menifee Rd) in an amount not to exceed $2,517,000.
2. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Planning, Engineering, and Right-of-Way Phases of the I-215 / McCall Blvd Interchange Project in an amount not to exceed $3,209.188.
3. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Construction Phase of the I-215 / Holland Rd Overpass Project in an amount not to exceed $8,255,000.
4. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Planning, Engineering, and Right-Of-Way Phases of the Bundy Canyon / Scott Road Widening (Sunset Rd to Haun Rd) in an amount not to exceed $5,179,000.

Purpose:

The purpose of this item is to request approval of one Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement and three TUMF Reimbursement Agreement Amendments.

Background:

WRCOG's 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.

TUMF Reimbursement Agreements and Amendment

One Reimbursement Agreement and three Reimbursement Agreement Amendments are being presented for approval. A Reimbursement Agreement is a document between WRCOG and a member agency and allows WRCOG to provide funding for TUMF expenses incurred for the planning, design, and/or construction of a TUMF project. The requested Reimbursement Agreement and Reimbursement Agreement Amendments are listed below by member agency and project.

City of Menifee:

1. The McCall Widening (Aspel Rd to Menifee Rd) Project Agreement sets the amount of funding in the Planning, Engineering, Right-of-Way, and Construction Phases to an amount not to exceed $2,517,000.
2. The I-215 / McCall Blvd Interchange Project Agreement Amendment sets the amount of funding in the Planning, Engineering, and Right-of-Way Phases to an amount not to exceed $3,209,188.
3. The I-215 / Holland Rd Overpass Project Agreement Amendment sets the amount of funding in the Construction Phase to an amount not to exceed $8,255,000.
4. The Bundy Canyon / Scott Road Widening (Sunset Rd to Haun Rd) Agreement Amendment sets the amount of funding in the Planning, Engineering, and Right-of-Way Phases to an amount not to exceed $5,179,000.

Prior Action(s):

March 2, 2020: The Executive Committee authorized the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Construction Phase of the I-215 / Holland Rd Overpass Project in an amount not to exceed $6,455,000.

August 3, 2020: The Executive Committee authorized the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Planning, and Engineering phases of the Bundy Canyon / Scott Rd Widening (Sunset Rd to Haun Rd) Project in an amount not to exceed $2,370,000.

June 1, 2020: The Executive Committee authorized the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Menifee for the Planning and Engineering Phases of the McCall / I-215 Interchange Project in an amount not to exceed $2,852,230.

Fiscal Impact:

Transportation Department activities are included in the Agency's adopted Fiscal Year 2020/2021 Budget under the Transportation Department and each Reimbursement Agreement is consistent with the Central Zone TIP.

Attachment(s):

Attachment 1 - WRCOG- TUMF Reimbursement Agreement - McCall Widening
Attachment 2 - WRCOG - TUMF McCall and I-215 Interchange - Amendment No 1
Attachment 3 - WRCOG - TUMF Holland Road I 215 overpass - Amendment No 1
Attachment 4 - WRCOG - TUMF Scott Road Widening - Amendment No 2

TUMF Program Activities Update: Approval of Reimbursement Agreement and Reimbursement Agreement Amendments

Attachment 1

TUMF Reimbursement Agreement with the City of Menifee for the McCall Blvd Widening (Aspel Rd to Menifee Rd) Project

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
McCALL WIDENING (ASPEL ROAD TO MENIFEE ROAD)

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 2021, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and The City of Menifee, a California municipal corporation ("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. <u>Description of the Qualifying Project.</u> This Agreement is intended to distribute TUMF Program Funds to the AGENCY for McCall/I-215 Widening from Aspel Road to Menifee Road, (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 Two Million Five Hundred Seventeen Thousand Dollars ($2,517,000), 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 Armando G. Villa, City Manager, 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:

The City of Menifee
29844 Huan Road
Menifee, CA 92586
Attention: Jonathan Smith, Director of Public Works
Telephone: 951-723-3704
Mobile: 951-723-7594

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: ______________________________
Dr. Kurt Wilson,
Executive Director

Approved to Form:

By: ______________________________
Steven C. DeBaun
General Counsel

CITY OF MENIFEE

By: ______________________________
Armando Villa, City Manager

Approved to Form:

By: ______________________________
Jeffrey T. Melching, City Attorney

Attest:

By: ______________________________
Sarah Manwaring, City Clerk

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

PA&ED Phase includes completion of the CEQA environmental studies, documents, public meetings, submittals, and approvals by local agency and permitting agencies as required by the project.

PS&E Phase includes completion of field studies (survey, geotechnical, traffic), As-built and utility research, utility relocation coordination, public meetings, completion of plans, specification, and estimates.

R/W Phase includes all efforts related to right-of-way acquisition such as creation of R/W maps, research of title reports, preparation of R/W estimates, preparation of documents (plats and legals), appraisal, offers, negotiations, property acquisition, and property escrow.

EXHIBIT “A-1”

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$ 132,000		$ 132,000
PSE	$ 330,000		$ 330,000
RIGHT OF WAY	$ 548,000		$ 548,000
CONSTRUCTION	$1,507,000	$ 927,000	$2,434,000
TOTAL	$2,517,000	$ 927,000	$3,444,000

Note that these are only estimates, final costs for each phase of the project will not be know until the end of each project phase.

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	09/15/2022	$ 132,000	
PS&E	2/15/2023	$ 330,000	
RIGHT OF WAY	03/15/2023	$ 548,000	
CONSTRUCTION	7/15/2023	$2,434,000	
TOTAL		$3,444,000	

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

TUMF Program Activities Update: Approval of Reimbursement Agreement and Reimbursement Agreement Amendments

Attachment 2

TUMF Reimbursement Agreement Amendment with the City of Menifee for the I-215 / McCall Blvd Interchange Project

AMENDMENT NO. 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT

McCALL/I-215 INTERCHANGE

This Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement ("Amendment No. 1") is entered into this ______ day of _______________, 2021, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and the CITY OF MENIFEE ("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 numbered 20-CN-MEN-1183 titled "Transportation Uniform Mitigation Fee Program Agreement" that is dated June 15, 2020 ("Agreement"). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the PA&ED Phase and PS&E Phase of the McCall Road / I-215 Interchange (hereinafter the "Project").

B. The Parties desire to amend the Agreement by allowing Right of Way engineering costs to be included in the Scope of Work for the PS&E phase, and increasing the amount of TUMF funds pursuant to Sections 6 and 33 of the Agreement.

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 Hundred Fifty-Six Thousand Nine Hundred Fifty-Eight Dollars ($356,958) from Two Million Eight Hundred Fifty-Two Thousand Two Hundred Thirty Dollars ($2,852,230) to an amount not to exceed Three Million Two Hundred Nine Thousand One Hundred Eighty-Eight Dollars ($3,209,188). The funding amount for PA&ED and PS&E are being modified per Exhibit A-1, in addition, funding for ROW phase is added.

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

3. The change in scope for this project is amended to include identification, document preparation, engineering support, property appraisals, and other items as needed to acquire right-of-way as part of the PS&E phase. The scope does not include purchase of property, easements, and temporary construction easements. Property purchase and escrow will be paid by the AGENCY.

4. Section 10 of the Agreement is hereby deleted in its entirety and replaced with the following provision:

> "AGENCY's Local Match Contribution. The AGENCY shall provide at least Four Million Dollars ($4,000,000) of funding toward the Work, as shown in Exhibit "A".

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

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

1 .

7. 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: ______________________________
Dr. Kurt Wilson
Executive Director

Approved to Form:

By: ______________________________
Steven C. DeBaun
General Counsel

CITY OF MENIFEE

By: ______________________________
Armando Villa, City Manager

Approved to Form:

By: ______________________________
Jeffrey T. Melching, City Attorney

Attest:

By: ______________________________
Sarah Manwaring, City Clerk

EXHIBIT A

SCOPE OF WORK

1. **SCOPE OF WORK: The Scope of Work as contained in the original agreement shall remain intact and is amended to allow identification of needed right-of-way within the PS&E phase. In addition, the amounts included in table A-1 and A-2 are being amended to reflect current anticipated costs for the PA&ED Phase, PS&E Phase, and ROW phases as follows:**

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$1,423,493		$1,423,493
PS&E	$1,379,925		$1,379,925
RIGHT OF WAY	$ 405,770	$4,000,000	$4,405,770
CONSTRUCTION			
TOTAL	$3,209,188	$4,000,000	$7,209,188

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	February 2023	$1,423,493	In Process
PS&E	November 2024	$1,379,925	In Process
RIGHT OF WAY	August 2024	$4,405,770	In Process
CONSTRUCTION	January 2025		
TOTAL		$7,209,188	

TUMF Program Activities Update: Approval of Reimbursement Agreement and Reimbursement Agreement Amendments

Attachment 3

TUMF Reimbursement Agreement Amendment with the City of Menifee for the I-215 / Holland Rd Overpass Project

AMENDMENT NO. 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT

HOLLAND ROAD / I-215 OVERPASS

This Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement ("Amendment No. 1") is entered into this ______ day of _______________, 2021, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and the CITY OF MENIFEE ("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 numbered "18-CN-MEN-1181" titled "Transportation Uniform Mitigation Fee Program Agreement" that is dated March 3, 2020 ("Agreement"). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the construction phase of the Holland Road / I-215 Overpass (hereinafter the "Project").

B. The Parties desire to amend the Agreement by increasing the original construction phase funding amount pursuant to Sections 6 and 33 of the Agreement.

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 One Million Eight Hundred Thousand Dollars ($1,800,000) from Six Million Four Hundred Fifty-Five Thousand ($6,455,000) for the construction phase of the project which includes the Holland Road segment from Antelope Road to Haun Road, to an amount not to exceed Eight Million Two Hundred Fifty-Five Thousand Dollars ($8,255,000).

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

3. The change in scope for this project is amended to include the acquisition of needed right-of-way.

4. Exhibits “A-1” and “A-2” of the Agreement are hereby replaced in their entirety by Exhibits “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	CITY OF MENIFEE
By: ______________________________ Dr. Kurt Wilson, Executive Director	By: ______________________________ Armando Villa, City Manager
Approved to Form:	Approved to Form:
By: ______________________________ Steven C. DeBaun, General Counsel	By: ______________________________ Jeffrey T. Melching, City Attorney
	Attest:
	By: ______________________________ Sarah Manwaring, City Clerk

EXHIBIT A

SCOPE OF WORK

1. **SCOPE OF WORK: The Scope of Work as contained in the original agreement shall remain intact. The amounts included in table A-1 and A-2 are being increased as follows:**

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED		$ 800,000	$ 800,000
PS&E		$ 1,538,190	$ 1,538,190
RIGHT OF WAY		$3,110,000	$ 3,110,000
CONSTRUCTION	$8,255,000	$17,517,421	$25,772,421
TOTAL	$8,255,000	$22,965,611	$31,220,611

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	October 2020	$ 800,000	Completed
PS&E	February 2022	$ 1,538,190	In Process
RIGHT OF WAY	October 2021	$ 3,110,000	In Process
CONSTRUCTION	August 2022	$25,772,421	
TOTAL		$31,220,611	

TUMF Program Activities Update: Approval of Reimbursement Agreement and Reimbursement Agreement Amendments

Attachment 4

TUMF Reimbursement Agreement Amendment with the City of Menifee for the Scott Rd (Sunset Rd to Haun Rd) Widening Project

AMENDMENT NO. 2 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT

BUNDY CANYON ROAD/SCOTT ROAD WIDENING

FROM SUNSET ROAD TO HAUN ROAD

This Amendment No. 2 to Transportation Uniform Mitigation Fee Program Agreement ("Amendment No. 2") is entered into this ______ day of ________________, 2021, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and the CITY OF MENIFEE ("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 numbered 18-CN-MEN-1182 titled "Transportation Uniform Mitigation Fee Program Agreement" that is dated July 17, 2019. The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the PA&ED Phase and PS&E Phase of the Bundy Canyon Road/Scott Road Widening from Sunset Road to Haun Road (hereinafter the "Project").

B. WRCOG and Agency have entered into an amendment to the Agreement titled "Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement" that is dated September 16, 2020 ("Amendment No. 1")

B. The Parties desire to amend the Agreement by allowing Right of Way acquisition costs to be included in the Scope of Work for the ROW phase and increasing the original funding amount pursuant to Sections 6 and 33 of the Agreement.

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 as amended by Amendment No. 1 is hereby increased by Two Million Eight Hundred Nine Thousand Dollars ($2,809,000) from Two Million Three Hundred Seventy Thousand Dollars ($2,370,000) for right-of-way acquisition, to an amount not to exceed Five Million One Hundred Seventy-Nine Thousand Dollars ($5,179,000).

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

3. The change in scope for this project is amended to include acquisition of needed right-of-way.

4. Section 10 of the Agreement, as amended, is hereby deleted in its entirety and replaced with the following provision:

> **“**<u>AGENCY’s Local Match Contribution</u>. The AGENCY shall provide at least Five Hundred Thirty-One Thousand Dollars ($531,000) 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.”

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

6. The above-stated Recitals are hereby fully incorporated into this Amendment No. 2 .

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

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 2 to be executed by their duly authorized representatives to be effective on the day and year first written above.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS	CITY OF MENIFEE
By: ____________________________ Dr. Kurt Wilson Executive Director	By: ____________________________ Armando Villa, City Manager
Approved to Form:	Approved to Form:
By: ____________________________ Steven C. DeBaun General Counsel	By: ____________________________ Jeffrey T. Melching, City Attorney
	Attest:
	By: ____________________________ Sarah Manwaring, City Clerk

EXHIBIT A

SCOPE OF WORK

1. **SCOPE OF WORK: The Scope of Work as contained in the Agreement and Amendment No. 1 shall remain intact and is amended to allow acquisition of needed right-of-way. In addition, the amounts included in table A-1 and A-2 are being increased as follows:**

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$ 150,000		$ 150,000
PS&E	$2,220,000	$ 240,000	$2,460,000
RIGHT OF WAY	$2,809,000	$ 291,000	$3,100,000
CONSTRUCTION			
TOTAL	$5,179,000	$ 531,000	$5,710,000

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	December 2021	$ 150,000	In Process
PS&E	November 2022	$2,460,000	In Process
RIGHT OF WAY	September 2022	$3,100,000	In Process
CONSTRUCTION	March 2023		
TOTAL		$5,710,000	

Item 6.A

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Cal Cities Activities Update**

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

Date: **October 4, 2021**

Requested Action(s):

1. Receive and file.

Purpose:
The purpose of this item is to provide an update of activities undertaken by Cal Cities.

Background:
The League of California Cities has been shaping the Golden State's political landscape since the association was founded in 1898. It defends and expands local control through advocacy efforts in the Legislature, at the ballot box, in the courts, and through strategic outreach that informs and educates the public, policymakers, and opinion leaders. Cal Cities also offers education and training programs designed to teach city officials about new developments in their field and exchange solutions to common challenges facing their cities.

This item is reserved for a presentation by Erin Sasse, Regional Public Affairs Manager for Cal Cities.

An update on legislation of interest is provided as Attachment 1.

Prior Action(s):
September 16, 2021: The Technical Advisory Committee received and filed.

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

Attachment(s):
CA Cities request for signatures and vetoes.docx

REQUEST FOR SIGNATURE

AB 14 (Aguiar-Curry) and SB 4 (Gonzalez) Communications: California Advanced Services Fund.
The two measures make important updates to the California Advanced Services Fund surcharge program.

AB 33 (Ting) Energy Conservation Assistance Act of 1979. Energy Storage Systems and Electric Vehicle Charging Infrastructure. Native American Tribes.
This measure would allow local governments and other public institutions access to the California Energy Commission’s Energy Conservation Assistance Account low-interest loans for energy storage systems and electric vehicle charging infrastructure.

AB 43 (Friedman) Traffic safety.
This measure would allow cities greater flexibility when calculating speed limits along the most dangerous sections of roadway.

AB 46 (Rivas, L) California Youth Empowerment Act.
This measure would establish the California Youth Empowerment Commission to formally advise and make recommendations to the Legislature on issues affecting California's disconnected and disadvantaged youth.

AB 61 (Gabriel) Business pandemic relief. / SB 314 (Wiener) Alcoholic Beverages. / SB 389 (Dodd) Alcoholic beverages: retails on-sale license: off-sale privileges.
These measures would make permanent some of the COVID-19 emergency provisions that allowed for outdoor dining and alcohol to-go beverages.

AB 89 (Jones-Sawyer) Peace Officers: minimum qualifications.
This measure takes a comprehensive approach to setting forth minimum qualifications for future peace officers.

AB 389 (Grayson) Ambulance Services.
This measure would clarify that a county may contract for emergency medical services with a fire agency that provides these services through a subcontract with a private company

AB 758 (Nazarian) Marks-Roos Local Bond Pooling Act of 1985. Electric Utilities. Rate Reduction Bonds.
This measure would expand the authority of joint powers authorities to issue rate reduction bonds for local publicly owned electric utilities.

AB 773 (Nazarian) Street closures and designations
This measure would authorize cities to adopt a rule or regulation by ordinance to designate a local street within its jurisdiction as a slow street.

AB 818 (Bloom) Solid Waste. Premoistened Nonwoven Disposable Wipes.
This measure would establish flushable labeling requirements for wet wipes packaging to give consumers more information on how to dispose of these popular consumer products properly.

AB 1311 (Wood) Recycling. Beverage Containers.

This measure would expand beverage container redemption opportunities under the California Beverage Container Recycling and Litter Reduction Act, including establishing new redemption payment guidelines and allowing for appointment-based recycling opportunities.

SB 1 (Atkins) Coastal Resources. Sea Level Rise.
This measure would establish new planning, assessment, funding, and mitigation tools for California to address and respond to sea level rise.

SB 50 (Limon) Early learning and care.
This measure would expand the range of types of childcare and early learning services that a state preschool contracting agency may provide.

SB 52 (Dodd) State of Emergency. Local Emergency. Planned Power Outage.
This measure would clarify planned power shutoff events qualify as a "deenergization event" for which a local emergency can be declared under the California Emergency Services Act.

SB 60 (Glazer) Residential short-term rental ordinances: health or safety infractions: maximum fines.
This measure would allow cities to impose a fine of up to $5,000 for public health and safety violations of a short-term rental ordinance.

SB 109 (Dodd) Department of Forestry and Fire Protection. Office of Wildfire Technology Research and Development.
This measure would establish the Office of Wildfires Technology Research and Development within the Department of Forestry and Fire Protection.

SB 323 (Caballero) Local Government. Water or Sewer Service. Legal Actions.
This measure would provide public agency water and sewer rates the same protections already afforded to fees and charges that fund other essential government services by establishing a 120-day litigation window.

SB 343 (Allen) Environmental advertising: recycling symbol: recyclability: products and packaging.
This measure would clarify which materials are suitable for recycling and require that the symbol designations would be reserved for materials that are truly recyclable and routinely sold to manufacturers to make new products.

SB 619 (Laird) Organic waste: reduction regulations: local jurisdiction compliance.
This measure would give local governments an optional pathway to compliance of SB 1383 without the fear of penalty for one year.

SB 780 (Cortese) Public Investment Authorities.
This measure would provide improved flexibility and capacity to Enhanced Infrastructure Financing Districts and Community Revitalization and Investment Authorities aimed at increasing investor confidence and ease of administration.

SB 792 (Glazer) Sales and use tax: returns: online transactions: local jurisdiction schedule.
This measure would, beginning on or after January 1, 2022, require retailers that have annual online sales that exceed $50 million in the previous calendar year to report gross receipts of online sales for each local jurisdiction where it shipped or delivered a product.

REQUEST FOR VETO

AB 48 (Gonzalez) Law Enforcement: use of force.
This measure would limit the tools that are at an officer's disposal to protect public safety.

AB 215 (Chiu) Planning and Zoning Law: housing element: violations.
This measure would add a new step in the housing element certification process that requires a minimum 40 additional days of time, create a new three-year statute of limitations for any action brought pursuant to the AB 72 enforcement process, and would allow HCD to appoint or contract with other legal counsel to represent HCD when the Attorney General declines to represent HCD in an AB 72 enforcement action

AB 237 (Gray) Public employment: unfair practices: health protection.
This measure would which will require public agencies to continue to provide medical insurance coverage for workers out on extended strikes.

AB 339 (Lee) Local government: open and public meetings.
This measure requires jurisdictions over 250,000 to provide in-person and teleconference options for the public to participate in meetings.

AB 602 (Grayson) Development fees: impact fee nexus study.
This measure would make significant changes to laws governing local development impact fee programs and create new state and local costs.

AB 603 (McCarty) Law Enforcement Settlements and Judgments. Reporting.
This measure would require municipalities to annually post details online regarding money spent on law enforcement-related settlements and judgments.

AB 970 (McCarty) Planning and Zoning. Permit Applications of Electric Vehicle Charging Stations.
This measure would require an application to install an electric vehicle charging station to be deemed complete within five business days and deemed approved 20 business days after the application was deemed complete.

SB 2 (Bradford) Peace Officers. Certification. Civil Rights.
This measure would establish new standards and processes for decertifying peace officers and would eliminate the application of certain governmental immunities and allow wrongful death actions under the Tom Bane Civil Rights Act.

SB 270 (Durazo) Public Employment. Labor Relations. Employee Information.
This measure would authorize a public employee bargaining representative to file an unfair labor practice claim with PERB if a public employer fails to provide certain employee information in a timely and accurate manner.

SB 278 (Leyva) Public Employees' Retirement System. Disallowed Compensation/ Benefits Adjustments.
This measure would require public agencies and schools to directly pay retirees and/or their beneficiaries disallowed retirement benefits using general fund and Proposition 98 dollars.

SB 556 (Dodd) Street Light Poles, Traffic Signal Poles, Utility Poles, and Support Structures Attachments.
This measure would implement Federal Communications Commission's adopted regulations on wireless services deployment into state law while they continue to be contested.

Item 6.B

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **TUMF Program Nexus Study Update**

Contact: **Chris Gray, Deputy Executive Director, cgray@wrcog.us, (951) 405-6710**

Date: **October 4, 2021**

Requested Action(s):

1. Direct staff to begin work on a TUMF Nexus Study update.
2. Direct staff to update the TUMF Administrative Plan to expand the TUMF-eligible project list to include Intelligent Transportation Systems (ITS) projects.
3. Direct staff to work with the Riverside County Transportation Commission and Riverside Transit Agency to evaluate options to mitigate VMT impacts from new development outside of the TUMF Nexus Study update.
4. Direct staff to begin work on an update of the Analysis of Development Impact Fees in Western Riverside County.

Purpose:

The purpose of this item is to request authorization from the Executive Committee to begin the Nexus Study update process.

Background:

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. TUMF Program participants, which includes all 19 jurisdictions in the subregion and March JPA, partakes 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 Western Riverside County Regional Conservation Authority (RCA), and the Riverside Transit Agency (RTA).

The TUMF Program relies on a Nexus Study to draw a connection between the needs of the Program and the TUMF Program Fee Schedule. The Nexus Study identifies projects requiring mitigation from new development, determines what the cost of those projects will be, and what fees need to be assessed to fund these projects. Throughout the life of the TUMF Program, there has been a need to update this Nexus Study on a regular basis. WRCOG conducted a Nexus Study in 2002 and subsequent updates in 2005, 2009, 2011, and 2017.

Reasons for a Nexus Study Update

1) Best Practice: It is considered a best practice to update the Nexus Study on a regular basis. Regular updates of Nexus studies ensure that the underlying data and assumptions that determine the fee are the most up to date. Nexus Studies which are regularly updated are also more legally defensible if challenged. Recognizing the benefits of regular updates to the Nexus Study, WRCOG's Executive Committee directed staff to prepare regular updates. This direction was memorialized in the TUMF Administrative Plan which states "WRCOG shall review the TUMF Program no less than every four (4) years after the effective date of the 2016 TUMF Program Ordinance."

2) Underlying Growth Forecasts Have Changed: Regular updates of the Nexus Study ensure that the TUMF Program reflects the best available information in terms of socioeconomic forecasts (population, households, and employees). The currently adopted Nexus Study uses forecasts which date back to 2016. In the fall of 2020, the Southern California Association of Governments (SCAG) released updated forecasts. The socioeconomic growth forecasts for the WRCOG subregion are a key input into the Nexus Study because the level of anticipated development has a direct impact on the fee calculation process.

Attached to this Staff Report (Attachment 1) is a table that displays the latest growth forecasts in terms of population for the WRCOG subreqion. The latest projections estimate that the WRCOG subreqion will continue to add population, similar to previous projections (37% for the adopted Nexus Study vs. 33% for the most recent growth forecasts). One significant difference is that SCAG is now projecting less employment growth (87% for the adopted Nexus Study vs. 46% for the most recent growth forecasts). Therefore, staff can conclude that there is a significant difference in the underlying growth forecasts which supports the idea of updating the Nexus Study.

3) Travel Behavior has Changed: When the previous Nexus Study was adopted in 2017, no one could have foreseen the changes a global pandemic would have on our daily lives. One significant area of change has been transportation. COVID-19 has impacted how people travel, when they travel, and where they travel to on a regular basis.

In some instances, COVID-19 accelerated trends which were already occurring. Many traditional retail centers were struggling as internet shopping and deliveries became increasingly routine. Prior to COVID-19's emergence, home deliveries per person doubled between 2009 and 2017. These deliveries are anticipated to double again within the next several years. The pandemic changed travel behavior even further because some residents of Western Riverside County were provided the opportunity to telecommute. For other commuters, COVID-19 caused a diversion from transit to personal vehicles. Given all of the above, staff can conclude that the assumptions regarding travel behavior which were incorporated into the 2017 Nexus Study have changed significantly.

4) Updates to the Project List: Since the adoption of the 2017 Nexus Study, WRCOG member agencies have completed a number of significant projects including but not limited to the I-15 / Cajalco Road Interchange, the I-215 / Scott Road Interchange, the extension of Clinton Keith Road, and the Foothill Parkway extension. Approximately 25 TUMF projects were completed since the completion of the previous Nexus Study. Updating the TUMF Nexus Study will allow for the removal of these completed projects from the Nexus Study and also provide an opportunity for a comprehensive update of the Roadway Network, which is a key element of the Nexus Study.

5) Opportunity to add new Projects Types: In the past several months, WRCOG has been discussing the possibility of adding new project types to the TUMF Program. This idea has been brought to the

Public Works Committee for discussion and staff have received some positive feedback. Currently, the only allowable TUMF project types are roadway widening, new roadways, interchanges, and grade separations / bridges.

It is important to note that WRCOG does not identify which facilities are included in the TUMF Nexus Study, but instead relies on Program participants to recommend projects for inclusion in the TUMF Network. The TUMF Administrative Plan defines what is considered an eligible improvement, so any expansion or revision to eligible project types requires an update to the TUMF Administrative Plan. Additionally, any revision to the eligible project types would only take effect within an updated Nexus Study.

One reason for adding to the list of projects is that each WRCOG member agency has different transportation needs, particularly as we look to the next 20 years. For some member agencies, there is a significant need for new infrastructure as these agencies face large increases in population and employment. For these jurisdictions, there is a need for new roadways and for existing roadways to be widened to accommodate this growth. Other jurisdictions are likely to experience more gradual increases in population and employment with much of this growth occurring in in-fill locations. These more mature agencies may not require the same level of new roadway infrastructure. WRCOG has also received several requests from member agencies to consider additional categories of TUMF projects.

WRCOG is therefore proposing to add one type of project to the current list of eligible projects. This project type is the Smart Corridor, which reflects the implementation of Intelligent Transportation Systems (ITS) technology within an existing corridor.

1. ITS projects make use of improvements of electronics and communication to improve efficiency or safety of a roadway. Some common examples of ITS projects include signal synchronization, ramp metering, and changeable message signs. If approved, ITS projects would be identified in the Nexus Study at the request of a Program participant with funding allocated on a corridor of the TUMF Network. To maintain the focus of the TUMF Program on new infrastructure, WRCOG would require any participating member to identify a future improvement as a "swap" to limit impacts on the overall Network cost.

6) <u>Vehicle Miles Traveled (VMT) Mitigation</u>: With the implementation of SB 743, as of July 1, 2020, development projects are now required to mitigate impacts to VMT in-lieu of providing additional roadway capacity to mitigate impacts under the California Environmental Quality Act (CEQA). This change means that payment of TUMF could no longer be used to mitigate project-related traffic impacts under CEQA. WRCOG conducted initial research on a possible VMT Mitigation Program or Bank strategies for development projects in order for its VMT impacts to be mitigated. WRCOG assisted its member agencies in preparation of the implementation of SB 743 with guidance on meeting the requirements of the Bill. During this work, the issue of VMT mitigation was noted to be problematic. The main reason is that most land-use projects cannot implement transportation system improvements or directly influence the travel of their occupants. VMT is a function of the intensity of use, type of use, and location, so the main challenge is that VMT is ultimately a regional, not local, concern. WRCOG evaluated potential mitigation approaches and presented the research to the Public Works Committee (PWC) at its May 2021 meeting. Members of the PWC expressed interest for WRCOG to further pursue potential mitigation approaches that each member agency may opt-in to when available.

At this time, staff are not requesting to establish a program but looking for direction to work with partners at RCTC and RTA to evaluate potential opportunities of developing a regional or County-wide VMT mitigation program.

Coordination with Partner Agencies

Prior to bringing a proposed Nexus Study update to WRCOG's committees, staff engaged partner agencies, primarily RCTC and RTA, regarding this update. Neither of these agencies expressed significant reservations regarding a Nexus Study update, though they would defer to WRCOG's committees. RCTC staff did express that it is considered a best practice to update Nexus studies for any fee program on a regular basis. RTA staff expressed comfort in continuing the existing process of identifying transit improvements and coordinating with WRCOG.

If WRCOG's Executive Committee authorizes staff to update the TUMF Nexus Study, staff will work closely with each of the participating agencies during the preparation of a Nexus Study. It should be noted that WRCOG maintains Memorandums of Understanding (MOU) with RCTC, RTA, and RCA regarding the administration of the TUMF Program, and no changes are anticipated to those MOUs with a Nexus Study update.

Update the Analysis of Development Impact Fees in Western Riverside County

WRCOG has conducted an analyses of development impact fees in Western Riverside County in the past to increase a regional understanding of development impact fees on new development in Western Riverside County. The first analysis was conducted in 2017, in conjunction with the last TUMF Nexus Study Update, and a subsequent analysis was conducted in 2019. WRCOG is proposing to conduct an analysis in conjunction with this proposed TUMF Nexus Study update. The purpose of the analyses is to: 1) indicate the types and relative scale of the development impact fees placed on different land uses and 2) indicate the scale of fees relative to overall development costs. The analyses will also provide helpful background information on the impact of the TUMF by placing TUMF in the context of the broader development impact fee structure, overall development costs, and other regional dynamics.

Prior Action(s):

September 16, 2021: The Technical Advisory Committee recommended that the Executive Committee direct staff to begin work on an updated Nexus Study and other related actions.

September 9, 2021: The Planning Directors Committee recommended that the Executive Committee direct staff to begin work on an updated Nexus Study and other related actions.

September 9, 2021: The Public Works Committee recommended that the Executive Committee direct staff to begin work on an updated Nexus Study and other related actions.

September 1, 2021: The Administration & Finance Committee recommended that the Executive Committee direct staff to begin work on an updated Nexus Study and other related actions.

Fiscal Impact:

Transportation Department activities are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the Transportation Department.

<u>Attachment(s)</u>:

Attachment 1 - Population Percent Growth by Jurisdiction.pdf

Attachment 2 - VMT Mitigation White Paper

Attachment 1

Population Percent Growth by Jurisdiction

Population Percent Growth by Jurisdiction[1]

Jurisdiction	Population		
	2020	2045	Percent Growth
Banning	30,380	41,500	36.60%
Beaumont	51,449	80,200	55.88%
Calimesa	9,913	20,600	107.81%
Canyon Lake	11,310	11,400	0.80%
Corona	170,996	185,100	8.25%
Eastvale	67,230	72,700	8.14%
Hemet	85,161	124,000	45.61%
Jurupa Valley	109,745	117,800	7.34%
Lake Elsinore	65,867	111,600	69.43%
Menifee	97,675	129,800	32.89%
Moreno Valley	212,349	266,800	25.64%
Murrieta	116,522	127,700	9.59%
Norco	27,156	27,300	0.53%
Perris	79,011	121,000	53.14%
Riverside	330,786	395,800	19.65%
San Jacinto	51,122	69,900	36.73%
Temecula	113,878	138,400	21.53%
Wildomar	36,574	55,200	50.93%
Unincorporated County (Western Riverside County)[2]	306,496	394,200	28.62%

[1] Data is from the SCAG Connect SoCal Plan (2045 Regional Transportation Plan/Sustainable Communities Strategy).
[2] Western Riverside County is 75% of total Unincorporated County projections.

Attachment 2

VMT Mitigation White Paper

APRIL 2020 | FINAL

VMT Mitigation Through Fees, Banks, & Exchanges

UNDERSTANDING NEW MITIGATION APPROACHES

A WHITE PAPER PREPARED BY

FEHR PEERS

WRCOG
Western Riverside Council of Governments

VMT MITIGATION THROUGH FEES, BANKS, AND EXCHANGES

Understanding New Mitigation Approaches

BACKGROUND

On September 27, 2013, Governor Jerry Brown signed SB 743 into law and started a process intended to fundamentally change transportation impact analysis as part of CEQA compliance. These changes include elimination of *auto delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion* as a basis for determining significant impacts. Instead, transportation impacts will be determined based on changes to vehicle miles of travel (VMT). ***This change essentially shifts the focus of analysis from impacts to drivers through higher delays to the impact of driving itself***.

Lead agencies making the transition to VMT are realizing the challenges of using the new metric especially when it comes to mitigating significant VMT impacts. Reducing VMT from land use projects and land use plans has traditionally been accomplished through transportation demand management (TDM) strategies. These strategies include modifying a project's land use characteristics (i.e., density) and incorporating vehicle trip reduction programs at the site to change travel behavior of tenants and visitors. TDM is most effective in urban areas where the site is accessible by multiple travel modes (i.e., walking, bicycling, transit, and vehicle) offering similar travel times and convenience. Conversely, TDM strategies are less effective in lower density suburban and rural areas where modes are limited to personal vehicles. In both areas though, a program-based approach to mitigation can be more effective than project-site strategies. Programs can pool development mitigation contributions to pay for larger and more effective VMT reduction strategies that are not be feasible for individual projects. This paper outlines and compares multiple program types and then explains the implementation steps and key governance issues.

PROGRAM CONCEPTS

The concept of a 'program' approach to impact mitigation is not new and has been used for a variety of technical subjects including transportation, air quality, greenhouse gases, and habitat. Transportation impact fee programs have been used to help mitigate cumulative level of service (LOS) impacts. What is new are how to use impact fee programs for VMT impacts and alternative programs called mitigation exchanges and banks. Absent new program-level mitigation options, suburban and rural lead agencies will have limited feasible mitigation options for project sites.

> **For CEQA purposes, feasible means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors."**
>
> ***- CEQA Guidelines Section 15364***

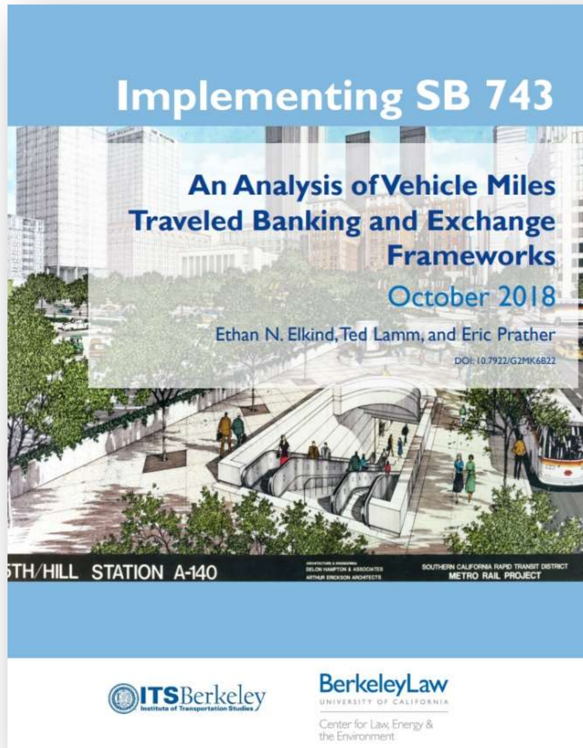
Without feasible mitigation, significant VMT impacts would be significant and unavoidable (SAU). Under these circumstances a project must prepare an environmental impact report (EIR) adding extra time and cost to environmental review compared to a negative declaration (ND). Program-based approaches may be able to overcome the limitation of project-site only mitigation. Three specific concepts as described below have been identified for the purposes of this white paper.

- **VMT-based Transportation Impact Fee program (VMT-TIF)** – The first program concept is a traditional impact fee program in compliance with the mitigation fee act. The nexus for the fee program would be a VMT reduction goal consistent with the CEQA threshold established by a lead agency for SB 743 purposes. The City of LA is the first in California to complete a nexus study for this type of program. The main difference from a fee program based on a metric such as vehicle level of service (LOS) is that the VMT reduction nexus results in a capital improvement program (CIP) consisting largely of transit, bicycle, and pedestrian projects. These types of fee programs are time consuming to develop, monitor, and maintain but are recognized as an acceptable form of CEQA mitigation if they can demonstrate that the CIP projects will be fully funded and implemented.

- **VMT Mitigation Exchange** – In simple terms, the exchange concept relies on a developer agreeing to implement a predetermined VMT reducing project or proposing a new one. The project may be located in the vicinity of the project or elsewhere in the community, and possibly outside the community. The exchange needs to have a facilitating entity that can match the VMT generator (the development project) with a VMT reducing project or action. The facilitating entity could be the lead agency or another entity that has the ability to provide the match and to ensure through substantial evidence that the VMT reduction is valid. A key unknown with this approach is the time period for VMT reduction. For example, how many years of VMT reduction are required to declare a VMT impact less than significant?

- **VMT Mitigation Bank** – A mitigation bank attempts to create a monetary value for VMT reduction such that a developer could purchase VMT reduction credits. The money exchanged for credits could be applied to local, regional, or state level VMT reduction projects or actions. Like all VMT mitigation, substantial evidence would be necessary that the projects covered by the bank would achieve expected VMT reductions and some form of monitoring may be required. This is more complicated than a simple exchange and would require more time and effort to set up and implement. The verification of how much VMT reduction is associated with each dollar or credit would be one of the more difficult parts of the program.

With both exchanges and banks, another important test is that the VMT reduction would not have occurred otherwise such that mitigation program creates 'additionality'. This means that additional VMT reduction will occur above and beyond what would have occurred without the program. A commonly accepted definition of 'additionality' has not yet been developed. One possible test of additionality is that the mitigation project is not included in the regional transportation plan (RTP). The RTP is a financially constrained plan so projects not included in the plan would not likely have been implemented within the typical cumulative timeframe.



https://www.law.berkeley.edu/research/clee/research/climate/transportation/vehicle-miles-traveled/

For any program to qualify as a CEQA mitigation program, the discretionary action to adopt the program may require CEQA review. This conclusion is based on the *California Native Plant Society v. County of El Dorado* where the court found that payment of fee does not presumptively establish full mitigation of a discretionary project. A separate CEQA review of the program is necessary to satisfy the 'duty to mitigate' imposed by CEQA. Decision makers should also realize that absent a VMT reduction program, developers would likely be limited to only project site mitigation. While this may be less effective, it also lowers their mitigation costs because the available and feasible mitigation would be more limited.

More details about exchanges and banks are explained in the framework document shown above and available at the cited web link. This white paper expands on the framework to accomplish two objectives. The first objective is to compare the pros and cons of exchanges and banks to a traditional impact fee program. Since impact fee programs have already been established as feasible CEQA mitigation, they serve as a benchmark against which to compare other program concepts. The second objective is to outline the implementation steps associated with creating an exchange or bank to help identify key implementation questions or issues that could affect their feasibility.

PROGRAM ASSESSMENT (Pros/Cons)

Table 1 below outlines the pros and cons of approach VMT mitigation through an impact fee program, exchange, or bank. This assessment is intended to highlight some of the key differences between each program concept.

Table 1 – VMT Mitigation Program Type Comparison

Program Type	Pros	Cons
Impact Fee Program	• Common and accepted practice • Accepted for CEQA mitigation • Adds certainty to development costs • Allows for regional scale mitigation projects • Increases potential VMT reduction compared to project site mitigation only	• Time consuming and expensive to develop and maintain • Requires strong nexus • Increases mitigation costs for developers because it increases feasible mitigation options • Limited to jurisdictional boundary unless a regional authority is created • Uncertainty about feasibility and strength of nexus relationship between VMT and pedestrian, bicycle, and transit projects (especially in suburban/rural jurisdictions)
Mitigation Exchange	• Limited complexity • Reduced nexus obligation • Expands mitigation to include costs for programs, operations, and maintenance • Allows for regional scale mitigation projects • Allows for mitigation projects to be in other jurisdictions • Increases potential VMT reduction compared to project site mitigation only	• Requires 'additionality' • Potential for mismatch between mitigation need and mitigation projects • Increases mitigation costs for developers because it increases feasible mitigation options • Unknown timeframe for mitigation life • Effectiveness depends on scale of the program
Mitigation Bank	• Adds certainty to development costs • Allows for regional scale projects • Allows for mitigation projects to be in other jurisdictions • Allows regional or state transfers	• Requires 'additionality' • Time consuming and expensive to develop and maintain • Requires strong nexus • Political difficulty distributing mitigation dollars/projects

Table 1 – VMT Mitigation Program Type Comparison		
Program Type	**Pros**	**Cons**
	• Expands mitigation options to include costs for programs, operations, and maintenance • Increases potential VMT reduction compared to project site mitigation only	• Increases mitigation costs for developers because it increases feasible mitigation options • Unknown timeframe for mitigation life • Effectiveness depends on scale of the program

To better understand potential program differences, Table 2 contains a comparison of the VMT mitigation projects or actions that each program type could fund or implement. The information for an impact fee program is more certain than for exchanges or banks. Fee programs have been used in practice for decades and have been vetted through court decisions. While banks and exchanges do exist for other environmental mitigation purposes such as wetlands preservation and habitat conservation, these applications have largely focused on protecting fixed land amounts versus reducing a metric that fluctuates over time and may vary in value depending on economic conditions.

Table 2 –VMT Mitigation Projects and Actions Comparison	
Program Structure	**Project Types that Reduce VMT**
Impact Fee Program	• Pedestrian network expansion • Bicycle/Scooter network expansion (includes bike/scooter share stations) • Transit vehicles or facilities associated with service expansion • Roadway gap closures that reduce trip lengths (bridges)
Mitigation Exchange	• All impact fee program project types • Private or institutional projects that reduce VMT • Transit service improvements and transit pass subsidies
Mitigation Bank	• All impact fee program project types • All mitigation exchange project types • VMT reduction strategies associated with travel behavior changes

IMPLEMENTATION STEPS

This section addresses the second objective noted above to outline the implementation steps associated with creating an exchange or bank to help identify key implementation questions or issues that could affect their feasibility. The starting point for these steps begins with identifying the potential statutory or legal requirements that could govern or influence program creation. These are highlighted in Table 3 and build on the research previously done by U.C. Berkeley in the document referenced above. Since specific statutes do not exist specific to VMT exchanges and banks, U.C. Berkeley used a proxy based on conservation programs established under the California Fish & Game code. This is a reasonable proxy given that the intent behind VMT exchanges and banks is a form of conservation. Instead of habitat, VMT exchanges and banks are trying to conserve vehicle trip making and the VMT generated through this activity. VMT mitigation banks or exchanges do not appear to require new legislative authority but as noted in the U.C. Berkeley document, having state-wide templates for their development could help establish clear standards and expectations for program designs.

Table 3 – Potential VMT Mitigation Exchange/Bank Legal Requirements

Program Type/Legal Requirements	Statutory Reference
Transportation Impact Fee Program	
1. Mitigation Fee Act – Intended to create a program that allows individual development projects to pay for all or portion of the cost to implement public facilities necessary to support the project. Public facilities are generally limited to capital projects. The nexus study for the program must demonstrate how there is a reasonable relationship between the following. • How there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. • How there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed. • How there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed. The fees may not be applied to existing deficiencies or the maintenance and operation of an improvement. As such, clear standards should exist about the physical and operational performance expectations for each model of travel included in the program.	• California Government Code §66000-66001

Table 3 – Potential VMT Mitigation Exchange/Bank Legal Requirements	
Program Type/Legal Requirements	**Statutory Reference**
2. Constitutional – Court decisions have placed limits on what level of mitigation can be expected of land use development projects. The limits largely require a nexus between the mitigation and a legitimate government interest plus a rough proportionality between the mitigation and the adverse impact caused by the project.	• Nollan v. California Coastal Commission, 483 U.S. 825 (1987) • Dolan v. City of Tigard, 512 U.S. 374 (1994)
3. CEQA – For mitigation to be imposed, a significant impact must occur. Impacts stem from changes to the baseline environment caused by the project. The significance of those impacts is determined by the lead agencies choice of thresholds. This limits mitigation to increment of VMT change that occurs above the threshold.	• CEQA Statute (CA Public Resources Code 21000-21189) • CEQA Guidelines (CA Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000-15387)
VMT Mitigation Exchange or Bank	
1. An explanation of the VMT mitigation purpose of and need for the bank or exchange.	• Fish & Game Code §1852(c)(1)
2. The geographic area covered by the bank or exchange and rationale for the selection of the area, together with a description of the existing transportation and development dynamics that provide relevant context for the development of the bank or exchange.	• §1852(c)(2)
3. The public transit and VMT reduction opportunities currently located within the bank or exchange area.	• §1852(c)(3)
4. Important residential and commercial communities and transportation resources within the bank or exchange area, and an explanation of the criteria, data, and methods used to identify those important communities and resources.	• §1852(c)(4)
5. A summary of historic, current, and projected future transportation stressors and pressures in the bank or exchange area, including economic, population growth and development trends.	• §1852(c)(5-6)
6. Provisions ensuring that the bank or exchange will comply with all applicable state and local legal and other requirements and does not preempt the authority of local agencies to implement infrastructure and urban development in local general plans.	• §1852(c)(7)
7. VMT mitigation goals and measurable objectives for regional transportation resources and important mitigation elements identified in the plan that address or respond to the identified stressors and pressures on transportation within the bank or exchange area.	• §1852(c)(8)

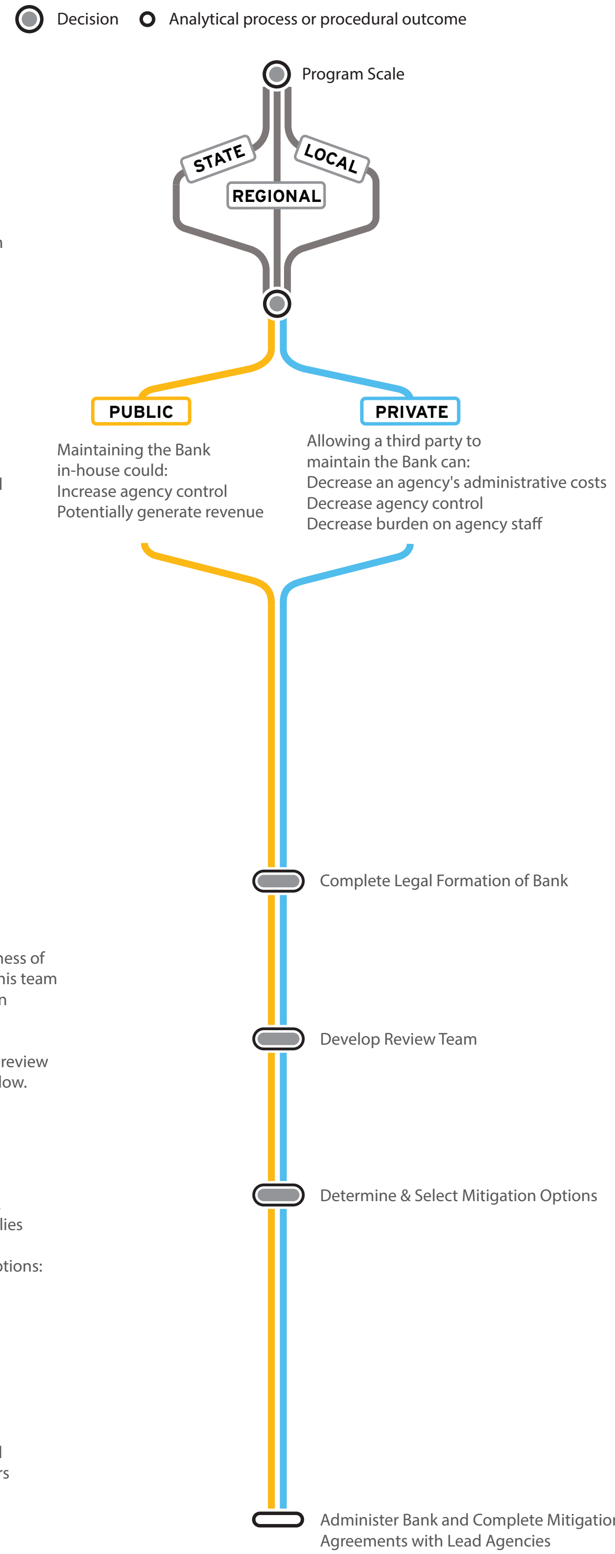
Table 3 – Potential VMT Mitigation Exchange/Bank Legal Requirements	
Program Type/Legal Requirements	**Statutory Reference**
8. VMT mitigation projects, including a description of specific projects that, if implemented, could achieve the mitigation goals and objectives, and a description of how the mitigation projects were prioritized and selected in relation to the mitigation goals and objectives.	• §1852(c)(9)
9. Provisions ensuring that the bank or exchange plan is consistent with and complements any local, regional or federal transportation or congestion management plan that overlaps with the bank or exchange area, a summary of any such plans, and an explanation of such consistency.	• §1852(c)(10-11)
Sources: Implementing SB 743 An Analysis of Vehicles Miles Traveled Banking and Exchange Frameworks, October 2018, Institute of Transportation Studies, U.C. Berkeley. 2019 California Environmental Quality Act (CEQA) Statute & Guidelines, Association of Environmental Professionals, 2019. http://leginfo.ca.gov/ http://ccr.oal.ca.gov/	

A review of these potential legal requirements suggests that the creation of an exchange or a bank may not be less rigorous than that of a conventional transportation impact fee program. These legal requirements combined with the need to demonstrate additionality and provide verification could create implementation costs beyond those of a conventional transportation impact fee program. To explore this issue further, annotated flow charts were developed for each program concept. These flow charts are presented on the following pages and allow a reviewer to quickly surmise the differences and similarities associated with creating, operating, and maintaining these programs.

FEHR & PEERS

VMT Bank

Implementation | Considerations | Procedural Flowchart



Step 1
Determine Scale/Scope

There are advantages and disadvantages to creating a Bank with a larger scale/scope. However, multiple agencies must be willing to accept the Bank's mitigation options for a state or regional Bank to be feasible. Larger regions can:

*Decrease costs associated with running the Bank
*Decrease local authority over mitigation options
*Increase efficiency and effectiveness of the program

Step 2
Determine Sponsor

There are a few organizational components to consider when creating a mitigation Bank. These elements include:

*Administrative - The Bank must perform several administrative functions such as collecting fees, managing information, answering questions, and other business operations.

*Technical - There is a significant amount of technical work needed to initially and continually prove the mitigation options reduce VMT and that the reductions would not have occurred without the programs. The Bank also needs to show the fees it receives are related and proportional to new development.

*Accounting - The Bank requires a thorough accounting system to track collected fees and to ensure fees are being handled according to CEQA and other legal guidelines. This includes payments for implementing VMT reduction projects.

Agencies should consider their ability to perform these roles when deciding whether the Bank should be run internally or by a third party.

Step 3
Formally Establish Bank & Review Team

The entity creating the Bank must legally formalize its creation. If the intent is for the Bank to be used by multiple agencies, this may require a joint powers authority or equivalent.

A review team should be used to verify the effectiveness of mitigation options based on substantial evidence. This team could be internal to the entity creating the bank or an independent third party.

Potential third party entities that could function as a review team include public agencies such as those listed below.

*Caltrans - local office
*ARB
*CalEPA

Step 4
Determine & Prioritize Mitigation Options

The Bank Sponsor creates a list of mitigation options. The Review Team evaluates the list to ensure it complies with relevant requirements. The Sponsor should consider the following elements when prioritizing options:
*Equity
*Timeliness of Implementation
*Cost

Mitigation options can include:
*Infrastructure projects
*Programs/incentives (Unlike infrastructure projects, programs/incentives are ongoing activities. Because programs/incentives must be continually maintained to be effective, agencies should consider if developers must pay for them indefinitely.

Step 5
Administer Bank

The public agency or entity sponsoring a Bank may not always be the lead agency on a project. In this situation the Sponsor should develop an agreement with the lead agency that allows the Bank's mitigation options to be considered an acceptable mitigation measure for the EIR.

Banks must continue to prove that their mitigation options reduce VMT and that the reduction would not have occurred without the projects/programs.

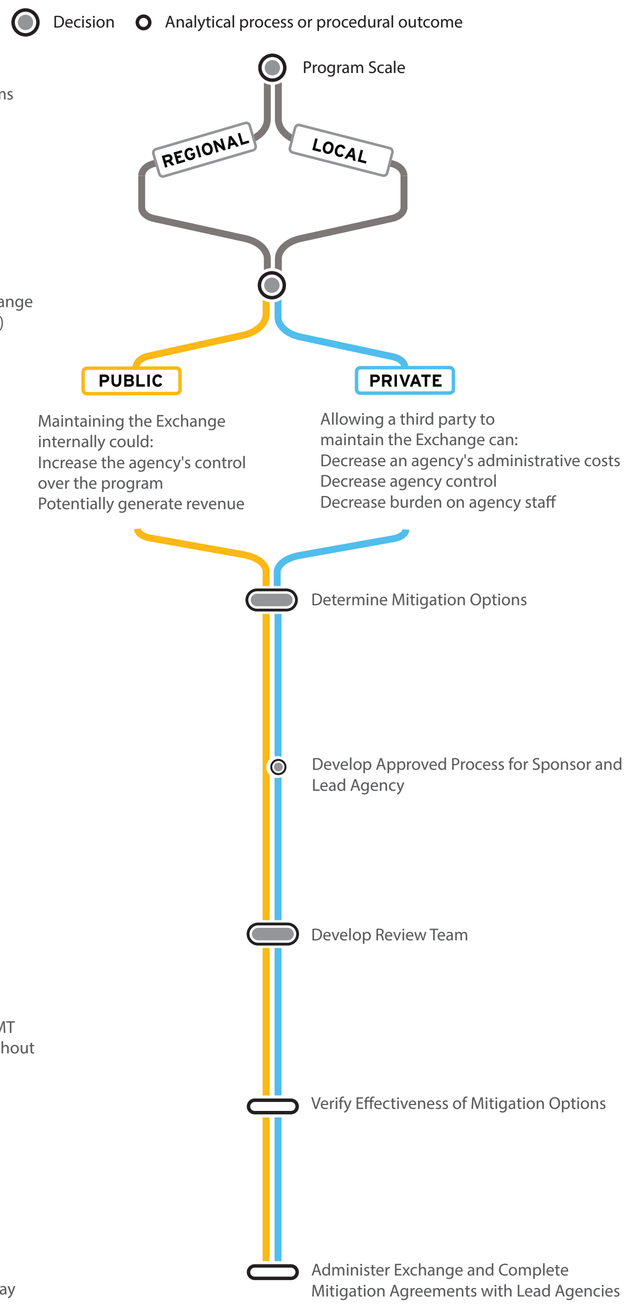
CEQA review of the Exchange creation may be required to be considered as a formal mitigation program.

FEHR PEERS

VMT Exchange

Implementation	Considerations
Step 1 Determine Scale/Scope	To create a regional program requires all participating agencies to adopt the program. Programs with larger scopes can: *Decrease administrative costs *Decrease local authority *Increase efficiency and effectiveness of the program
Step 2 Determine Sponsor	The organizational components of a mitigation Exchange will depend on the type of sponsor (public or private) mitigation options, and matching process between mitigation options and projects.
Step 3 Determine & Propose Mitigation Options	If the sponsor is a public agency, they will develop a list of options developers can choose from to mitigate the VMT generated by their development. If the developer wants to propose their own mitigation Exchange, they must get it approved by the sponsor and lead agency.
Step 4 Develop Review Team	The Exchange should have a Review Team to verify mitigation effectiveness and additionality based on substantial evidence. The team could consist of third-party representatives. The team reviews the mitigation list and verifies that the options reduce VMT and that the reductions would not have occurred without the project, program, or incentive. Because Exchanges can include programs/incentives as mitigation options, the Review Team must continually evaluate them to ensure the options are still effective and determine to what degree they reduce VMT.
Step 5 Administer Exchange	The public agency/entity sponsoring an Exchange may not always be the lead agency on a project. In this situation the Sponsor should develop an agreement with the lead agency that allows the Exchange's mitigation options to be considered an acceptable mitigation measure for the EIR. Exchanges must continue to prove that their mitigation options reduce VMT and that the reduction would not have occurred without the projects/programs. CEQA review of the Exchange creation may be required to be considered as a formal mitigation program.

Procedural Flowchart



VMT Impact Fee

Decision | Analytical process or procedural outcome

Implementation	Considerations	Procedural Flowchart
Step 1 Determine Scale/Scope	To create a regional program requires all participating agencies to adopt the program. Programs with larger scopes: *Decrease administrative costs *Decrease local authority *Increase efficiency and effectiveness of the program	Program Scale REGIONAL LOCAL
Step 2 Determine Nexus (VMT)	An agency must determine its VMT reduction goal before it can show the relationship between new development and that goal.	Determine Nexus (VMT) Approaches
Step 3 Determine & Propose Mitigation Options	The CIP develops a list of capital improvement projects necessary to reduce VMT consistent with its desired goal. The agency should prioritize the projects so they are constructed in a logical order. The prioritization process should consider: *Equity *Timeliness *Cost *Modal Preference (Walking/Biking/Transit) *Stakeholder/Community Input	Determine Mitigation Options for CIP Identify CIP Priorities
Step 4 Prepare & Approve Nexus Study	Agencies must demonstrate that the projects in the fee program contribute to VMT reduction. The agency must also show that the fees are related and proportional to new development. Fees should take into account the delay in the time when fees are collected and when they are used.	Prepare Nexus Study Determine Infill & TPA Incentives California Code 66005 allows for lower automobile trip generation rates for housing developments that meet certain characteristics. The agency should determine how to modify the fee for these developments.
Step 5 Prepare & Adopt Fee Ordinance	For a fee to be regularly imposed, it must be adopted as an ordinance. The ordinance must include: *Reason for the fee *The relationship between the fee and new development *Methodology used in developing the fee *Projects to be included in the CIP	Prepare & Adopt Fee Ordinance
Step 6 Complete CEQA Review for the Program	California courts have ruled that in order for a fee program to serve as acceptable CEQA mitigation, the program itself must first be reviewed in an EIR.	Complete CEQA Review
Step 7 Administer the Program	For Regional Impact Fee Programs ensure that participating agencies have adopted the program such that payment of fees is considered a feasible mitigation measure.	Administer the Fee Program Perform Cost Updates Agencies should perform minor cost updates annually. Adjustments should take into consideration inflation as well as other information such as the Engineering News-Record Construction Cost Index. The agency should also publish annual reports that include the balance of the fund and how it has been used. Monitor Fee Use (5-Year Check) Fees collected by the fee program can only be used for projects included in the CIP. Additionally, fees that are not spent or committed five years after being received must be refunded. Agencies must monitor collected fees to ensure they are being spent appropriately and in a timely manner. Update Modeling & Analysis as Needed An agency administering a fee program must update both the program's land use assumptions and CIP at least every five years.

PROGRAM EXAMPLES

To help explain the different program types, it may be useful to consider some examples. The existing programs below range from an existing VMT-based impact fee program to programs that could be evolved into VMT mitigation banks or exchanges.

City of Los Angeles Westside Mobility Plan Transportation Impact Fee Program

(https://planning.lacity.org/eir/CoastalTrans/deir/pdfs/tiafeestudy.pdf)

The City of Los Angeles developed the first impact fee program that relies on a VMT reduction nexus. The westside previously relied on LOS-based impact fee programs but as the area matured and new laws like SB 743 emerged, the City chose to shift their nexus. This shift changed the nature of the CIP from largely roadway capacity expansion projects to more transit, bicycle, and pedestrian infrastructure projects. A key benefit of this approach as noted above is that once the fee program is in place, administration of the program is limited to construction cost updates and complying with state reviews to ensure that funding is being appropriately used to construct and implement the CIP projects. No further verification of CIP effectiveness is required.

WRCOG Transportation Uniform Mitigation Fee (TUMF) Program

(http://www.wrcog.cog.ca.us/174/TUMF)

Western Riverside County has the Transportation Uniform Mitigation Fee (TUMF) Program, implemented in 2003. While this program is tied to a vehicle LOS nexus, the foundation and structure of the program could be used to create a new VMT impact fee program similar to the Los Angeles example. The following summary describes the foundational elements of the TUMF and provides information about how to evolve the program for VMT impact mitigation purposes.

The TUMF funds critical county-wide transportation infrastructure to accommodate the traffic created by new population growth and commercial development throughout western Riverside County. It is a vital funding source that complements Federal, State, and local funding funds for improvements to roadways, interchanges, and transit facilities. The fee is uniformly assessed on new residential and non-residential development throughout the WRCOG region. Each of WRCOG's member jurisdictions and the March Joint Powers Authority (JPA) participate in the program.

WRCOG serves as the Program Administrator and has three main responsibilities. First, WRCOG leads the development of regular AB 1600 compliant Nexus Studies. These Studies identify needed the transportation facilities to be funded by the fee, identify future growth projections, and set the resulting fee, which is then adopted by WRCOG's Executive Committee. The transportation projects included in the Nexus Study are identified through a collaborative process in which jurisdictions submit projects for consideration, which are then subject to an analysis process to verify that they meet applicable criteria. These two-step process ensures that the projects included in the Nexus Study reflect both local input and regional need. A similar process could be used to create a VMT reduction nexus and to select VMT reducing projects for either a separate VMT impact fee program or a modified TUMF that includes projects to achieve LOS and VMT reduction goals.

WRCOG's second responsibility is the collection and calculation of fees. WRCOG has developed a set of consistent fee calculation tools, which ensure that TUMF is calculated on a consistent basis for all projects, regardless of their location. Because there is a regional Nexus Study and a consistent fee calculation approach, WRCOG ensures that all projects of the same type pay the same fee, regardless of their location. In 2019, WRCOG completed work on an online fee payment system which expedites fee payments from project applicants.

The final responsibility of WRCOG is distributing funds collected from each agency and using those monies to fund transportation projects. Project identification and prioritization is led by the local agencies who meet to decide how much funding to provide to each project. Local agencies are grouped into geographic sub areas known as TUMF Zones. Each TUMF Zone is allocated a budget of anticipated revenues, which are then distributed through a consensus-based approach. WRCOG then provides reimbursements to each agency as work occurs. WRCOG's facilitates this process and also reviews invoices to ensure that funds in a manner which is consistent with program requirements.

Miles
(https://www.sacrt.com/apps/miles-get-rewarded-for-your-commute-travel/)

The City of Sacramento, Sacramento Regional Transit, and Sacramento State partnered with Miles, a new app that will rewards users with redeemable miles for their commute and travel. The redeemable miles can be exchanged for exclusive experiences, products and services with vendors including Ray-Ban, Illy, Audible, and Rockport. Miles app users automatically earn miles for daily travel and receive bonus miles for green trips (walk, bike, carpool or transit). Sacramento residents are also eligible to complete special challenges to earn additional rewards. While this program was not set up as an VMT mitigation exchange or bank, it could evolve into one.

The purpose of rewarding green trips and the special challenges is to influence user behavior to reduce vehicle trips and VMT. With some additional accounting of user travel behavior before and after using the app, enough substantial evidence could be created to provide the VMT reduction verification described above and noted in the flow charts. The program already has administrative functions developed and established relationships between the partner agencies. Some of the unknowns at this time are listed below.

- cost of the program on a per user basis
- amount of VMT reduction that is achieved for a typical user
- how a developer could contribute to the program to sponsor additional users
- stability or permanency of VMT reductions dependent on 'challenges'

In addition to the Miles program, other similar vendors exist such as Luum (https://luumbenefits.com/) and Metropia (https://www.metropia.com/). These types of app-based vendors could evolve to offer exchange or bank type mitigation options if they can comply with the various requirements outlined in the implementation steps and identified in the U.C. Berkeley white paper cited above.

Metro Transit Pass Subsidy

Metro is the Los Angeles County mobility provider. One of the programs they currently offer is a transit pass subsidy with a couple of unique elements that may qualify it as a VMT mitigation exchange. Metro offers student and employee transit passes under their U-pass and E-pass programs. These are transit passes for students and employees in LA County that are unique because instead of a physical transit pass card, the pass comes in the form of an RFID chip with an antenna that sticks to an existing student or employee identification badge. This type of chip allows the transit agency to charge for trips when they are made, which is more cost-effective for schools and employers. The registration form for obtaining the pass includes a survey about current travel behavior and data such as the distance between home and school or work for the applicant. By tracking how individual travel behavior changes from this baseline condition over time, LA Metro can produce aggregate statistics about the effect on transit ridership and VMT.

The second unique component of the program is that Metro allows anyone to 'sponsor' these passes for a particular school or employer. As such, they are entertaining the concept of using the program as an SB 743 VMT mitigation exchange. Developers could purchase U- or E-passes and could use the Metro performance data to estimate the VMT reduction per pass. LA Metro is working with LA DOT and SCAG on a pilot concept this year to formalize the program. As part of this white paper development, we asked Metro if developers/agencies outside Los Angeles County could participate. The reason for this request is that VMT mitigation dollars spent on Metro transit passes may be more effective than the same dollars spent in other communities. Whether local communities would be willing to allow mitigation dollars across borders will likely depend on a variety of factors but knowing that it is feasible on the Metro end is an important first feasibility question. Metro replied that their work has not progressed sufficiently to answer this question yet.

Expanded Public Agency Telecommute Bank

With increased telecommuting during the COVID-19 shelter-in-place order, public agencies may decide to permanently expand their telecommuting offerings to employees. When making that decision, these agencies could 'bank' the commute VMT savings from each employee into a mitigation program. The agency would then have the option to allocate the VMT savings to individual development or transportation projects. The allocation process could be gifted, auctioned, or offered at a fixed price. WRCOG could function as an umbrella facilitator for this type of program with responsibility for collecting and organizing the VMT savings into a single 'bank' and then disposing of the savings to individual projects as mitigation subject to all the program expectations outlined above.

IMPLEMENTATION RISKS

As explained above, VMT exchanges or banks come with unique requirements such as the 'additionality' test and ongoing verification that make them more challenging to implement than a conventional transportation impact fee program. However, exchanges and banks offer the ability to include program-type strategies directed at changing travel behavior that are not available in a conventional impact fee program. Given these tradeoffs, we assessed whether other risks could influence the choice of program.

One risk that stood out was related to current legal challenges to the use of carbon offsets that are based on similar concepts. In a recent legal case, the Sierra Club, Center for Biological Diversity, and Cleveland National Forest Foundation, Climate Action Campaign, Endangered Habitats League, Environmental Center of San Diego, and Preserve Wild Santee challenged the County of San Diego over the use of carbon offsets to achieve GHG reduction goals in the County's climate action plan. The court petition is available at the link below.

- https://www.biologicaldiversity.org/programs/urban/pdfs/San-Diego-CAP-Petition-for-Writ-of-Mandate.pdf

The California Attorney General's (AG's) office has also weighed in on this court case. According to a November 11, 2019 Los Angeles Times article, "California says San Diego County could undermine state's greenhouse gas plan", the AG's office filed an amicus brief. The article reported the following about the AG's brief.

> *In a strongly worded amicus brief recently submitted to the 4th District Court of Appeal in San Diego, Becerra argued that the county's offset strategy would "perpetuate current sprawling development patterns, which will impede the ability of the region and state to reach their long-term climate objectives."*
>
> *"Without significant [vehicle miles traveled] reductions across the state, California simply will not be able to achieve its [greenhouse gas] reduction targets," the 33-page document said.*

The state does not appear to support reducing GHG emissions from land use development without those reductions coming from fundamental local land use and transportation network changes. The risk is that lower density suburban and rural parts of the state would continue their sprawling patterns leading to more VMT and emissions. If the state maintains this position, it could also be used to argue against the creation of VMT mitigation exchanges and banks that attempt to offset VMT increases. To minimize this risk, the mitigation options offered by exchanges and banks could be applied only after project site mitigation has been exhausted and should attempt to offer additional mitigation within the same area or community.

GOVERNANCE

Governance for a VMT mitigation program is another important part of assessing program feasibility for a particular agency. The definition of governance for the purposes of this assessment includes the following three components.

1. Who makes program decisions?
2. How are decisions made?
3. Who is accountable for decisions?

These questions are answered below based on WRCOG serving as the specific agency that would implement and operate the VMT mitigation program. Since the answers will vary depending on the exact type of mitigation program, WRCOG was asked about specific program types of most interest. In response, three program options were identified.

- Modified TUMF – This option involves a modification to the existing TUMF where a new VMT reduction nexus is added. This change would allow the creation of two separate capital improvement programs (CIP) with their own separate fee schedules. A roadway capacity CIP would be retained for the LOS nexus component of the program and a new VMT mitigation CIP would be created. Some of the existing projects in the TUMF CIP are VMT reducing such as transit, bicycle, and pedestrian projects. These would be moved to the new VMT mitigation CIP presuming they are consistent with the new VMT reduction nexus requirement. If changes are limited to this new accounting and nexus approach, impact fees would remain relatively stable.

  This option also allows for new VMT reducing projects to be added to the VMT mitigation CIP. The more projects that are added, the greater the potential VMT reduction, but also the greater the impact fees. Under this option, the TUMF would continue to serve a mitigation program for land use development projects. No mitigation would be available through the program for transportation infrastructure projects that generate new VMT.

- New VMT Impact Fee Program – This option involves creating a new VMT impact fee program focused solely on achieving VMT reduction through the CIP projects. The CIP would largely consist of active transportation and transit projects where sufficient evidence exists to demonstrate a VMT reduction nexus. The program would also be targeted exclusively for land use development project mitigation.

- New VMT Mitigation Exchange – This option is the most flexible in terms of offering VMT mitigation for both land use and transportation infrastructure projects. The program would identify VMT reduction projects that could be either fully funded or directly implemented by land use project applicants or transportation project sponsors. The type of project could include capital projects similar to those mentioned above for the impact fee programs plus TDM strategies or activities that reduce VMT. TDM often involves information development and dissemination and actions that change travel behavior. Since these do not qualify as capital projects, they are typically excluded from impact fee programs. As long as these strategies or activities have a clear nexus to VMT reduction, they would qualify for the VMT mitigation exchange project list. By covering VMT mitigation for transportation projects (i.e. roadway capacity projects causing induced vehicle travel impacts), more agencies could participate in the program and more VMT reduction could be delivered.

These options do not include a mitigation bank. As explained above, banks are more complex and require more effort to create, operate, and maintain without current evidence showing that the higher investment would necessarily produce greater VMT reduction than an impact fee program or exchange.

Who makes program decisions?

The simple answer to this question is that WRCOG makes the decisions, but that is not precise enough to fully understand what individuals or groups of individuals are authorized to make different types of decisions. WRCOG was formed through a joint powers agreement (JPA) is composed of all 18 incorporated Cities, Riverside County, Eastern and Western Municipal Water Districts, the Morongo Band of Mission Indians, and the Riverside County Superintendent of Education. The main decision-making body of WRCOG is the Executive Committee which is comprised of elected officials from each of WRCOG's member agencies and meets monthly to discuss policy issues and consider recommendations from WRCOG's Technical Advisory Committee (TAC), primarily comprised of the region's City Managers.

How are decisions made?

Any decision related to the implementation of any option identified above would ultimately be made by the Executive Committee after discussions, input, and voting has occurred at the various policy committees. On-going operation of the program would occur at the Executive Director, Transportation & Planning Director, and Public Works Committee (PWC) levels. Decisions and informational items are first brought to the Public Works and or Planning Directors Committee (PDC). Recommendations are then brought forth to the TAC. Following this would be the Administration & Finance Committee (AFC) who provide budget and finance overview, which is comprised of a smaller group of elected officials who are also members of the Executive Committee. The final decision recommendations are lastly brought to the Executive Committee who make the final determination.

Once a program is established, WRCOG staff would oversee the program with input from WRCOG's member agencies, primarily through WRCOG's existing committee structure.

Who is accountable for decisions?
The WRCOG organization described above is transparent with an emphasis on a streamlined approach to decision-making. For day-to-day decision making, responsibility and accountability lies with the Executive Director and the Transportation & Planning Director. Major decisions are reserved for the Executive Committee since it has sole authority to adopt and amend by-laws for the administration and management of the JPA.

The table below summarizes the governance expectations above.

Type of Program	Who Makes Program Decisions?	How Are Decisions Made?	Who is Accountable?
Modified TUMF Program New VMT Impact Fee Program New VMT Mitigation Exchange	<u>Creation of the program</u> - WRCOG Executive Committee <u>Operation of the program</u> - WRCOG Executive Committee, Executive Director, Transportation & Planning Director, AFC, TAC, and PWC	Decisions can originate from questions at any level of the agency, member agency, or the public. These are then resolved at the PWC, PDC, TAC, AFC or Transportation & Planning Director level for day-to-day operations and the Executive Committee for more significant decisions.	Executive Director and Transportation & Planning Director for day-to-day operations and the Executive Committee for more significant decisions.

Advancing Implementation

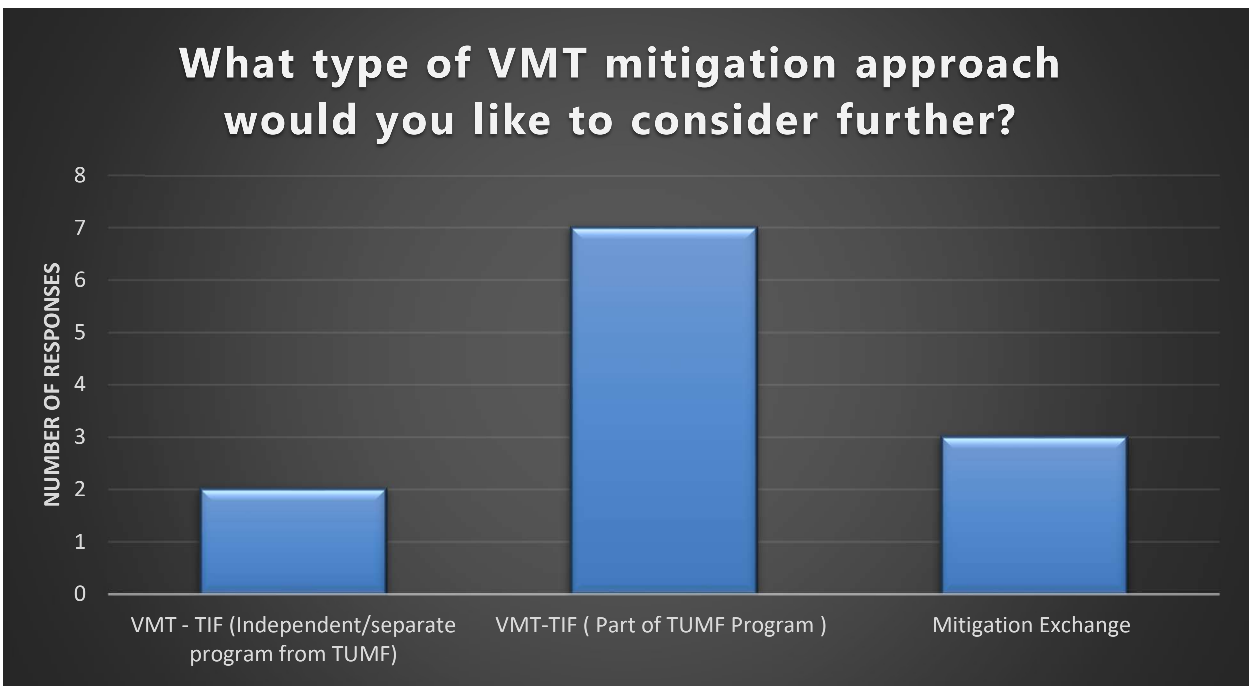
Advancing one of the three options above would begin with a formal proposal by WRCOG staff at the PWC where informative discussions, presentations, and options would be explored. With the recommendation of the PWC it would then advance to the other policy committees in the following order.

- TAC
- AFC
- Executive Committee

Prior to implementing any new Program, WRCOG would need to develop a concrete proposal for recommendation. Given WRCOG's experience, this proposal should address each item below.

- The exact structure to be implemented (bank, exchange, or fee).
- The relationship between this program and other WRCOG programs.
- Program governance, which would likely be modeled after existing WRCOG programs like TUMF.
- Supporting documentation related to this proposal such as any quantification methods related to VMT reductions and other applicable items.

WRCOG Staff conducted a survey of its member agencies late in 2019 and early in 2020 to gauge their interest in either a VMT mitigation fee or exchange.   The survey results are provided below. Based on the survey responses, it appears that a majority of our local agencies prefer a fee-based approach, though there is support for an exchange as well.



Based on that positive feedback, there appears to be merit in advancing a mitigation program. The next steps would generally focus on increased socialization of this concept and conceptual program development. Specific tasks WRCOG should undertake would include but not be limited to the following items.

- Convening a meeting with the Riverside County Transportation Commission (RCTC) and Riverside Transit Agency (RTA) to discuss this concept in greater detail.
- Identify at least two options for either a fee-based approach and an exchange, which would include an evaluation of their use for mitigating development and infrastructure projects.
- A review of the latest guidance from OPR and Caltrans regarding VMT impacts and the applicability of this type of program or programs to address any issues they have raised as SB 743 is implemented.
- Coordination with the upcoming TUMF Nexus Study update to ensure that the Nexus Study scope of work provides the necessary information for this type of program.

A WHITE PAPER PREPARED BY

FEHR PEERS

WRCOG
Western Riverside Council of Governments

APRIL 2020 | FINAL

Item 6.C

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Activities Update from the Eastern Municipal Water District / Western Municipal Water District**

Contact: **Joe Mouawad, General Manager, Eastern Municipal Water District, Mouawadj@emwd.org, (951) 928-6130**

Craig Miller, General Manager, Western Municipal Water District, cmiller@wmwd.com, (951) 571-7282

Date: **October 4, 2021**

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to provide an update of activities undertaken by WRCOG's water districts member agencies.

Background:

General Managers Joe Mouawad of Eastern Municipal Water District and Craig Miller of Western Municipal Water District will provide an update on what the current state of the drought is and where our water storage levels are across the state. Additionally, they will share what efforts are being made to meet the Governor's call for a voluntary 15% water cutback as well as the regional messaging campaign Western Riverside County and San Bernardino County water agencies are taking to promote water efficiency and preserve our precious resource.

Prior Action(s):

September 16, 2021: The Technical Advisory Committee received and filed.

Fiscal Impact:

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

Attachment(s):

WRCOG Joint Water Update Slides.pdf

REGIONAL DROUGHT UPDATE

Monday, October 4, 2021

emwd

WESTERN MUNICIPAL WATER DISTRICT

California Drought Update

Joe Mouawad, P.E.

General Manager

Eastern Municipal Water District

Craig Miller, P.E.

General Manager

Western Municipal Water District

1

Briefing Topics

- Water Agencies Overview
- California Drought Emergency
- Regional Drought Messaging and Outreach
- EMWD and Western's Drought Response
- Opportunities for Continued Collaboration

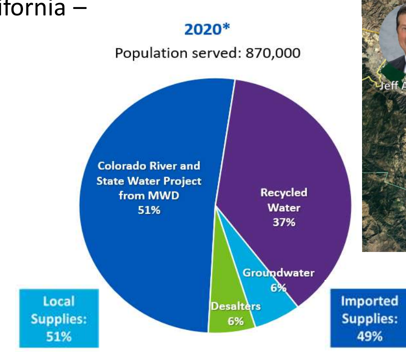
2

Water Agencies Overview

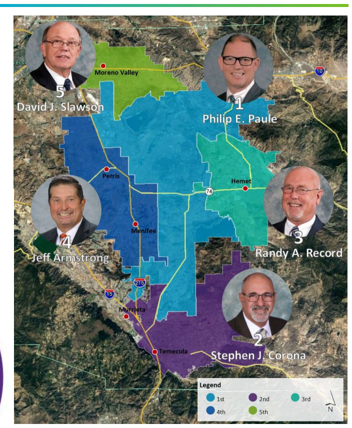
3

Eastern Municipal Water District Background

- Established in 1950 serving:
  - Water/wastewater/recycled
  - Wholesale and retail
  - MWD member agency
- Sixth largest public water utility in California – 555 square miles, seven cities, and unincorporated County
- More than 600 employees
- Annual operating budget of $386 M for FY 2021-22
- Five-year capital program of $534.5 M for FY 2022 to FY 2026
- Approx. 135,000 acre-feet of water served annually
- WRCOG Representative Phil Paule

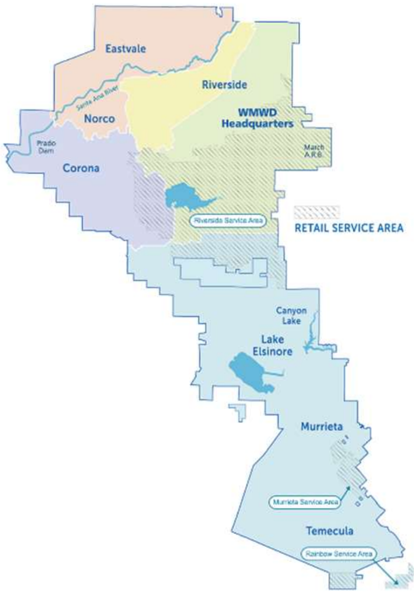


*Total Water Supply: 135,008 AF per *EMWD Comprehensive Annual Financial Report, FYE 2020*



4

Western Municipal Water District Background



- **Established in 1954 to deliver imported water**
  - Water/wastewater/recycled water services
- **Located in western Riverside County**
  - 527 square miles; total population of nearly 1 million
  - Serving nearly 25,000 direct connections (100,000+ people)
  - Partnerships with 14 agencies
  - 60,000 to 85,000 acre-feet of water annually
- **Member agency of the Metropolitan Water District of Southern California**

5

Western's Board of Directors

- Five Board members, publicly elected
- Public Board meetings first and third Wednesdays of every month

Mike Gardner
Division 1

Gracie Torres
Division 2

Brenda Dennstedt
Division 3

Laura Roughton
Division 4

Fauzia Rizvi
Division 5

6

Western's Water Supply Portfolio

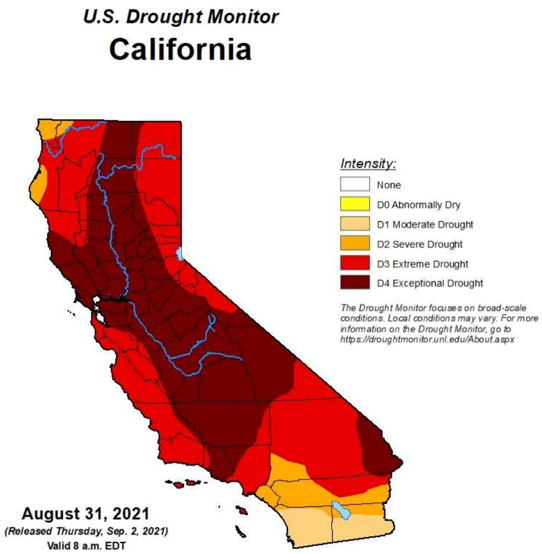
38% local supply + 62% imported water = Annual Water Demand

7

California Drought Emergency

8

California's Drought Status



- 100-percent of California is in "moderate" drought or worse conditions
  - Nearly 50-percent of the state experiencing "exceptional" drought
- High temperatures and below-normal runoff flows attributing to low reservoir levels
- MWD member agencies are prepared for this year's drought conditions
  - Over 3 million-acre feet of dry-year and emergency storage

Regional Drought Declaration

- As of July 8, 2021:
  - 50 total counties out of 58 in declared drought emergency
  - All located north of the Tehachapi Mountains
- Executive Order declaring targeted drought emergency contains request for 15-percent voluntary reduction below 2020 figures across the state
- Drought orders provide administration with flexibility to respond to rapidly changing hydrological conditions
- Governor Newsom set to revisit drought declaration in early October 2021

Amid deepening drought and record-breaking temperatures across the West, Governor Newsom highlighted preparations for a potential third dry year during a press conference on July 8, 2021

Impacts to Imported Water

- State Water Project (SWP) 2021 allocation at 5%
- Low initial SWP allocation anticipated for 2022
- State Water Resources Control Board issues curtailment order for Delta water-right holders
  - Approximately 4,500 curtailment notices issued to protect drinking water supplies, prevent salinity intrusion, and minimize environmental impact
- First water shortage declared on the Colorado River
  - Bureau of Reclamation reported on August 17, 2021 that Lake Mead is at 35-percent capacity
  - Lake Powell sits at 31-percent capacity
  - Impacts to agriculture and hydroelectric energy production

11

Metropolitan Water District – Water Supply Outlook

Current Reservoir Storage (8/29/2021)		
1. Lake Shasta	27%	1.2 MAF
2. Lake Oroville	23%	802 TAF
3. San Luis Reservoir	14%	255 TAF
4. Castaic Lake	28%	91 TAF
5. Lake Mathews	76%	137 TAF
6. Diamond Valley	78%	632 TAF

MAF = Million Acre-Feet
TAF = Thousand Acre-Feet

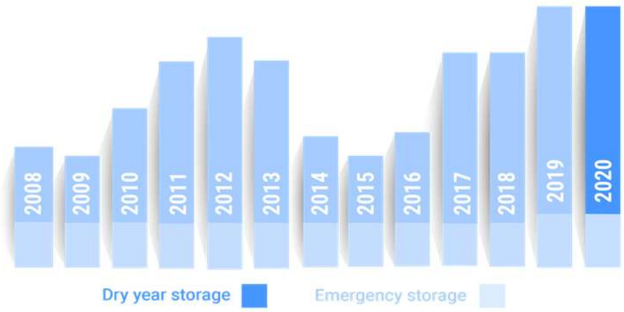
Current Conditions: % of capacity
Capacity

12

12

Metropolitan Water District – Drought Response

- August 17, 2021, The Metropolitan Water District of Southern California (MWD) declared a Water Supply Alert
- A Water Supply Alert is the third of four conditions in MWD's drought response framework
  - Water agencies are called to reduce their water demand through public awareness campaigns and adopting measures
  - Approximately 50-percent of EMWD's and WMWD's water supply comes from imported water supplies delivered by MWD



"Southern Californians have done an extraordinary job reducing their water use, which has helped us build up our stored reserves for times like these. But now we're relying on our storage to get us through this exceptionally dry year. And we don't know what next year will bring."

- Metropolitan Chairwoman Gloria D. Gray

13

Regional Drought Messaging and Outreach

14

Regional Messaging Outreach

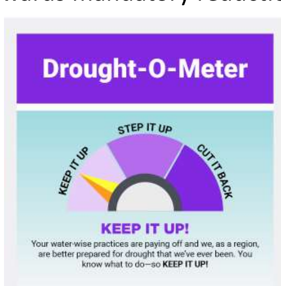
- New partnership comprised of EMWD, Western, Inland Empire Utilities Agency, and San Bernardino Valley Municipal Water District
- Regional campaign launched in August 2021
- Aligns with the Metropolitan Water District of Southern California and complements existing local water agency programs
- Phased to Reflect Local Conditions

15

Escalating Messages Based on Drought Severity

Depicted by a Drought-O-Meter image to signal when residents should:

- **KEEP IT UP!** Acknowledges that water-wise practices are paying-off and residents should continue the good work
- **STEP IT UP!** The drought is here, and we need residents to be more vigilant in their water saving practices
- **CUT IT BACK!** Water supply outlook requires more conservation or else we could be moving towards mandatory reductions



16

emwd

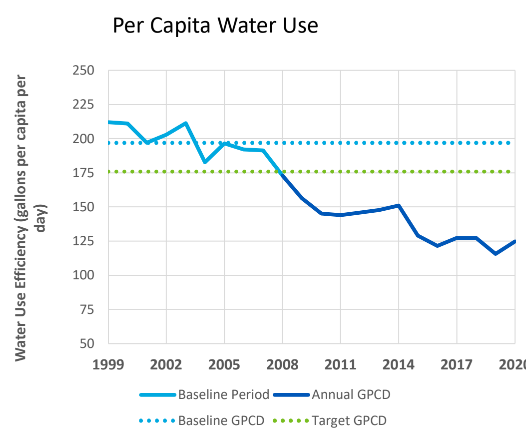
WESTERN MUNICIPAL WATER DISTRICT

EMWD and Western's Drought Response

17

EMWD Drought Response

- **EMWD has remained in Stage 2 of its Water Shortage Contingency Plan**
- Voluntary reduction of up to 25 percent encouraged through on-going enforcement of water use efficiency requirements, including:
  - Reduce watering or irrigation of lawn, landscape or other vegetated areas with sprinklers by one day a week
  - All leaks, breaks, or other malfunctions are to be repaired within 72-hours
  - Refrain from filling or re-filling of ornamental lakes or ponds
  - Refrain from using potable water to wash a vehicle, boat, or trailer
- EMWD requires a separate water meter for any commercial landscape in excess of 3,000 square feet

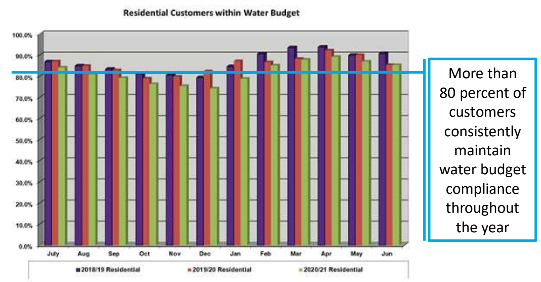


emwd.org | wmwd.org | 18

18

EMWD Drought Response – continued

- EMWD's water budget based tiered rates for residential customers and most commercial, industrial, and institutional customers encourage water use efficiency
- Upgraded water usage/billing system includes water use tracking capabilities to assist customers in understanding their water use and staying within their water budget
- Added an additional $1 per square foot to the regional turf replacement rebate to further incentivize the replacement of turf with a more water efficient landscape
- Launched new Landscapes for Living program
  - Offers diverse resources for customers to identify rebates, access tutorials, and apply for free services to help make landscapes more efficient



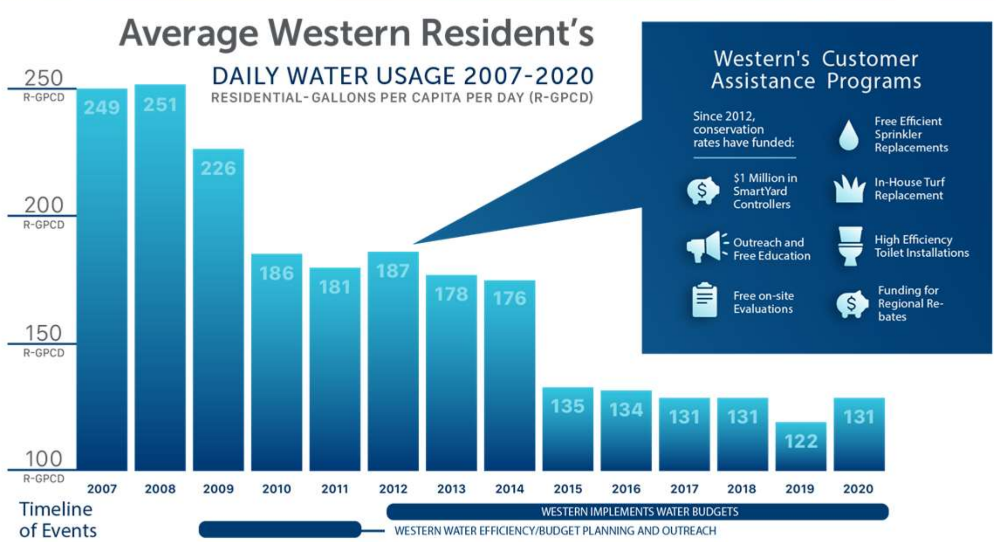
EMWD's customers have removed millions of square feet of non-functional turf over the past decade!

Landscapes for LIVING DESIGN YOUR OUTDOORS

emwd.org | wmwd.org | 19

19

Western remains in Stage 2 and customer continue to be water-wise



emwd.org | wmwd.org | 20

20

Supporting Customer Water Use Efficiency

- Master Gardener Workshops
- New/move-in Customer Welcome Packet
  – Contains everything new customers need to know to manage water use
- Landscape "Style Guide"
  – Sister piece to Welcome Packet to support customer implementation of water efficient landscapes
- Enhanced indoor/outdoor device rebates
  – Western Board approved program funding increase
  – Eligible customers can receive:
    - $350 for high-efficiency clothes washer
    - $300 for weather-based irrigation Controller
    - $250 for premium high-efficiency toilets
    - $5 per rotating sprinkler nozzle
- Turf replacement program
  – Western is adding $1 per square foot, for a total $3 rebate for square foot

21

emwd

WESTERN MUNICIPAL WATER DISTRICT

Opportunities for Continued Collaboration

22

Collaboration with Water District Partners

Despite continued vigilance and active messaging, many water providers throughout Southern California are not seeing the voluntary 15 percent reductions included in the voluntary request.

Support conservation messaging:

- Cross-promote regional and local messaging and rebate information with residents
- Support drought messaging at community and public events
- Invite your local provider to speak at council meetings and other forums

Ensure water efficient development:

- Enforce water efficient landscaping in new development
- Report resident leaks and fix leaks on city/county properties
- Work with your water provider to identify nonfunctional turf and suggest water rebates for turf removal or recycled water conversion

EMWD and WMWD are fully committed to ensuring long term water supply reliability, and we appreciate the support of our local government partners!

emwd EASTERN MUNICIPAL WATER DISTRICT

WESTERN MUNICIPAL WATER DISTRICT

emwd.org | wmwd.org | 23

23

REGIONAL DROUGHT UPDATE

Monday, October 4, 2021

emwd

WESTERN MUNICIPAL WATER DISTRICT

QUESTIONS?

emwd.org | wmwd.org | 24

24

Item 6.D

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **PACE Programs Activities Update: Deferral of Judicial Foreclosures on Delinquent PACE Properties**

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

Date: **October 4, 2021**

Requested Action(s):

1. Adopt Resolution Number 23-21; A Resolution of the Executive Committee of the Western Riverside Council of Governments waiving judicial foreclosure proceeding requirements for delinquent payments of assessments of the Energy Efficiency and Water Conservation Program for Western Riverside County and the California HERO Program.

Purpose:

The purpose of this item is to provide an update on delinquent parcels and to request deferral of judicial foreclosure proceedings.

Background:

On September 14, 2015, the Executive Committee adopted a policy to review, on an annual basis, the number and amount of delinquencies and determine the assignment of collection rights, or to begin the judicial foreclosure process. A delinquency means that the property owner(s) did not make timely payment of his and/or her property taxes (including the HERO Assessment installment(s)) for the past tax year and did not pay the delinquent HERO Assessment installments and any accrued penalties and interest prior to the date of the November Executive Committee meeting.

PACE Delinquencies

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

2014/2015 Tax Year – deferred 44 of 9,125 parcels totaling $97,687.67
2015/2016 Tax Year – deferred 155 of 21,811 parcels totaling $401,909.87
2016/2017 Tax Year – deferred 237 of 38,367 parcels totaling $697,431.96
2017/2018 Tax Year – deferred 386 of 51,395 parcels totaling $1,126,270.20
2018/2019 Tax Year – deferred 630 of 52,844 parcels totaling $1,790,780.64
2019/2020 Tax Year – deferred 822 of 43,120 parcels totaling $2,095,416.37

2020/2021 Tax Year Delinquencies: David Taussig & Associates (dta), the PACE Program Assessment Administrator, issues a preliminary report that details the delinquencies for the tax year (Attachment 1). For the 2020/2021 Tax Year, WRCOG enrolled 39,327 assessments on parcels totaling $116,458,176.62. As of August 10, 2021, the preliminary total delinquency rate is 1.32%, or $1,542,190.69. For context, at the same time last year, the delinquency rate for all WRCOG PACE assessments was 1.43%.

Deferral of judicial foreclosure for Tax Year 2020/2021 will assign WRCOG's collection rights to a third party for 550 delinquent parcels totaling $1,460,205.69.

Deferral of Judicial Foreclosures

WRCOG has covenanted in certain provisions of its Master Indentures executed in connection with its PACE Programs that WRCOG will order, commence, and diligently prosecute an action in the Superior Court no later than December 1 to foreclose the lien of any assessment which has been billed but has not been paid as of October 1 of such year unless funds are advanced either by WRCOG or a third party to make payments to bondholders.

For the past four years, First National Assets California, LLC, (FNA) has purchased such delinquencies from WRCOG, thereby allowing WRCOG to make payments in a timely manner to bond owners during each fiscal year. Each year, staff requests the Executive Committee to defer foreclosure since funds have been advanced to pay such delinquencies.

On August 2, 2021, the Executive Committee approved a Purchase and Sale Agreement for the Sale of Assessment Installment Receivables with FNA. Staff is seeking adoption of Resolution Number 23-21, the deferral of judicial foreclosures on residential delinquencies (Attachment 1).

Prior Action(s):
September 1, 2021: The Administration & Finance Committee recommended that the Executive Committee Adopt Resolution Number 23-21; A Resolution of the Executive Committee of the Western Riverside Council of Governments waiving judicial foreclosure proceeding requirements for delinquent payments of assessments of the Energy Efficiency and Water Conservation Program for Western Riverside County and the California HERO Program.

August 2, 2021: The Executive Committee authorized the sale of the delinquent assessments to First National Assets.

October 5, 2020: The Executive Committee 1) deferred the judicial foreclosure proceedings on delinquent residential parcels for the 2019/2020 Tax Year and assigned WRCOG's collection rights to a third party for 822 delinquent parcels totaling $2,095,416.37; and 2) authorized the Executive Director to enter in a Purchase and Sale Agreement with the third party, First National Assets, for the purchase of the delinquent assessment receivables.

Fiscal Impact:
At its August 2021 meeting, the Executive Committee authorized the sale of the delinquent assessments to First National Assets, which will add approximately $36,505 in PACE revenues in Fiscal Year 2021/2022.

Attachment(s):
Resolution Number 23-21 Deferring Judicial Foreclosure.pdf

RESOLUTION NUMBER 23-21

A RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS DEFERRING FORECLOSURE PROCEEDINGS

WHEREAS, the Western Riverside Council of Governments ("WRCOG") has levied assessments under Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.12 et seq.) ("Chapter 29"). Such assessments are payable in installments under the Improvement Bond Act of 1915, Division 10 of Part I (commencing with Section 8500) of the California Streets and Highways Code ("1915 Act") on residential and commercial properties participating in the Energy Efficiency and Water Conservation Program for Western Riverside County and the California HERO Program established by WRCOG pursuant to Chapter 29 and the 1915 Act (collectively, the "WRCOG Program"), which are collected on the secured property tax roll of the County of Riverside; and

WHEREAS, certain installments of such assessments are delinquent (the "Delinquent Assessments") and are attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, WRCOG and FNA California, LLC, entered into that certain Purchase and Sale Agreement (the "Agreement") pursuant to which WRCOG sold to FNA California, LLC certain rights WRCOG is entitled to receive arising from the collection of certain delinquent assessments for the tax years specified in Agreement; and

WHEREAS, WRCOG has determined that it is in the best interests of WRCOG at this time to defer the judicial foreclosures of the Delinquent Assessments.

NOW, THEREFORE, BE IT RESOLVED by the Executive Committee of the Western Riverside Council of Governments as follows:

Section 1. The above recitals are true and correct.

Section 2. The Executive Committee of the Western Riverside Council of Governments hereby approves deferring the judicial foreclosure of the Delinquent Assessments attached hereto as Exhibit "A" and incorporated herein by reference.

PASSED AND ADOPTED by the Executive Committee of the Western Riverside Council of Governments on October 4, 2021.

____________________________	____________________________
Karen Spiegel, Chair	Kurt Wilson, Secretary
WRCOG Executive Committee	WRCOG Executive Committee

Approved as to form:

____
Mrunal Mehta Shah
WRCOG Legal Counsel

AYES: _______ NAYS: _______ ABSENT: _______ ABSTAIN: _______

EXHIBIT "A"

DELINQUENT ASSESSMENTS

Program	Fiscal Year	County	Total Levy	Delinquent Amount	Parcels Levied	Parcels Delinquent	DQ Rate on $s	DQ Rate on #s
WRCOG Residential	2020-2021	Alameda	1,613,076.84	27,938.40	462	7	1.73%	1.52%
WRCOG Residential	2020-2021	Amador	77,348.64	1,961.38	29	2	2.54%	6.90%
WRCOG Residential	2020-2021	Butte	199,440.80	5,201.50	71	2	2.61%	2.82%
WRCOG Residential	2020-2021	Colusa	11,699.82	-	5	-	0.00%	0.00%
WRCOG Residential	2020-2021	Contra Costa	4,600,515.22	63,026.77	1,388	28	1.37%	2.02%
WRCOG Residential	2020-2021	Del Norte	2,732.12	-	2	-	0.00%	0.00%
WRCOG Residential	2020-2021	El Dorado	737,276.58	16,457.19	216	3	2.23%	1.39%
WRCOG Residential	2020-2021	Fresno	7,277,468.92	103,320.08	2,864	45	1.42%	1.57%
WRCOG Residential	2020-2021	Glenn	13,443.10	-	6	-	0.00%	0.00%
WRCOG Residential	2020-2021	Humboldt	19,105.72	-	6	-	0.00%	0.00%
WRCOG Residential	2020-2021	Imperial	1,112,237.82	25,013.46	565	15	2.25%	2.65%
WRCOG Residential	2020-2021	Kern	5,730,815.22	51,668.81	2,172	27	0.90%	1.24%
WRCOG Residential	2020-2021	Kings	842,057.60	24,786.57	366	16	2.94%	4.37%
WRCOG Residential	2020-2021	Los Angeles	2,441,725.95	38,749.99	797	16	1.59%	2.01%
WRCOG Residential	2020-2021	Madera	969,494.70	3,915.28	386	3	0.40%	0.78%
WRCOG Residential	2020-2021	Marin	400,089.44	-	89	-	0.00%	0.00%
WRCOG Residential	2020-2021	Mariposa	48,398.84	-	20	-	0.00%	0.00%
WRCOG Residential	2020-2021	Mendocino	11,578.48	-	5	-	0.00%	0.00%
WRCOG Residential	2020-2021	Merced	1,560,545.88	32,993.53	618	11	2.11%	1.78%
WRCOG Residential	2020-2021	Mono	8,814.66	-	4	-	0.00%	0.00%
WRCOG Residential	2020-2021	Monterey	389,541.60	-	120	-	0.00%	0.00%
WRCOG Residential	2020-2021	Napa	422,163.58	-	120	-	0.00%	0.00%
WRCOG Residential	2020-2021	Nevada	18,758.52	-	5	-	0.00%	0.00%
WRCOG Residential	2020-2021	Orange	9,838,736.65	133,689.49	2,727	34	1.36%	1.25%
WRCOG Residential	2020-2021	Riverside	31,435,628.22	441,564.14	11,362	164	1.40%	1.44%
WRCOG Residential	2020-2021	Sacramento	4,583,141.24	7,364.32	1,794	6	0.16%	0.33%
WRCOG Residential	2020-2021	San Diego	21,242,071.38	282,685.06	5,907	77	1.33%	1.30%
WRCOG Residential	2020-2021	San Francisco	302,912.02	18,316.50	63	4	6.05%	6.35%
WRCOG Residential	2020-2021	San Joaquin	5,530,839.76	86,247.35	2,040	32	1.56%	1.57%
WRCOG Residential	2020-2021	San Luis Obispo	120,986.22	-	33	-	0.00%	0.00%
WRCOG Residential	2020-2021	San Mateo	668,035.79	9,099.96	133	2	1.36%	1.50%
WRCOG Residential	2020-2021	Santa Barbara	6,381.18	-	2	-	0.00%	0.00%
WRCOG Residential	2020-2021	Santa Clara	1,721,582.46	10,479.61	487	6	0.61%	1.23%
WRCOG Residential	2020-2021	Santa Cruz	278,637.40	6,137.88	65	1	2.20%	1.54%
WRCOG Residential	2020-2021	Shasta	43,389.60	4,426.96	17	1	10.20%	5.88%
WRCOG Residential	2020-2021	Siskiyou	2,950.74	-	1	-	0.00%	0.00%
WRCOG Residential	2020-2021	Solano	2,622,305.90	23,052.18	841	7	0.88%	0.83%
WRCOG Residential	2020-2021	Sonoma	1,005,414.44	11,850.79	281	2	1.18%	0.71%
WRCOG Residential	2020-2021	Stanislaus	3,416,005.72	35,879.72	1,427	16	1.05%	1.12%
WRCOG Residential	2020-2021	Sutter	139,201.28	785.82	59	1	0.56%	1.69%
WRCOG Residential	2020-2021	Tehama	73,581.48	14,483.66	25	4	19.68%	16.00%
WRCOG Residential	2020-2021	Tulare	1,602,536.10	12,442.26	723	7	0.78%	0.97%
WRCOG Residential	2020-2021	Ventura	2,712,345.97	47,046.09	808	10	1.73%	1.24%
WRCOG Residential	2020-2021	Yolo	427,605.42	-	146	-	0.00%	0.00%
WRCOG Residential	2020-2021	Yuba	175,557.60	1,605.94	70	1	0.91%	1.43%
		Total	**$116,458,176.62**	**$1,542,190.69**	**39,327**	**550**	**1.32%**	**1.40%**