Western Riverside Council of Governments
Executive Committee

AGENDA

Monday, April 4, 2022
2:00 PM

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

Join Zoom Meeting
Meeting ID: 820 7195 5817
Password: 040422
Dial in: (669) 900 9128 U.S.

SPECIAL NOTICE – COVID-19 RELATED PROCEDURES IN EFFECT

Due to the State or 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 snelson@wrcog.us.

Any member of the public requiring a reasonable accommodation to participate in this meeting in light of this announcement shall contact Suzy Nelson 72 hours prior to the meeting at (951) 405-6703 or snelson@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 (Karen Spiegel, Chair)

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. AB 361 FINDINGS

A. Assembly Bill 361 Findings

Requested Action(s):

1. Adopt Resolution Number 01-22; A Resolution of the Executive Committee of the Western Riverside Council of Governments Authorizing Virtual Committee Meetings Pursuant to AB 361.

5. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO SECTION 54956.9(d)(1)

- Western Community Energy, Debtor, United States Bankruptcy Court, Central District -- Riverside Division, Case No. 6:21-bk-12821-SY

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO SECTION 54956.9(d)(1)

- Sanjuana Andrade v. Elias Aripez, et al., Case No. 37-2019-00052111-CU-BT-NC (San Diego County Superior Court)
- Irma Lopez Aguirre v. Western Riverside Council of Governments, et al., Case No. 30-2020-01153725-CU-BT-CJC (Orange County Superior Court)
- Robert Cannon, et al., v. R.E. Pierro Construction, et al., Case No. RIC2000281 (Riverside County Superior Court)
- Aimme Hazel Patron Cardoso v. County of Imperial, et al., Case No. ECU001264 (Imperial County Superior Court)
- Sean Carey, et al., v. Western Riverside Council of Governments, et al., Case No. 37-2021-00008300-CU-MC-CTL (San Diego County Superior Court)
- Maria Castillo v. Western Riverside Council of Governments, et al., Case No. 30-2020-01142779-CU-BT-CJC (Orange County Superior Court)
- Jose A. Ceja, et al., v. G & A Construction, Inc., Case No. 330-2021-01217813-CU-OR-NJC (Orange County Superior Court)
- Martha Cordova, et al., v. Elite Solar Group, LLC, et al., Case No. 37-2021-00000765-CU-BT-CTL (San Diego County Superior Court)
- Humberto Garcia v. Western Riverside Council of Governments, et al., Case No. 30-2019-01104024-CU-BT-CJC (Orange County Superior Court)
- Roberta James, et al., v. Western Riverside Council of Governments, et al., Case No. RG19029659 (Alameda County Superior Court)
- Loreto Molina-Duarte, et al., v. Western Riverside Council of Governments, et al., Case No. 37-2021-00014856-CU-MC-NC (San Diego County Superior Court)
- Antonio Zuniga, et al., v. Western Riverside Council of Governments, et al., Case No. 37-2021-00007702-CU-MC-NC (San Diego County Superior Court)

6. 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.

7. 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 March 7, 2022, Executive Committee Meeting

<u>**Requested Action(s)**</u>**:** 1. Approve the Summary Minutes from the March 7, 2022, Executive Committee meeting.

B. WRCOG Committees and Agency Activities Update

<u>**Requested Action(s)**</u>**:** 1. Receive and file.

C. Report out of WRCOG Representatives on Various Committees

<u>**Requested Action(s)**</u>**:** 1. Receive and file.

D. Finance Department Activities Update

<u>**Requested Action(s)**</u>**:** 1. Receive and file.

E. Approval of Two Reimbursement TUMF Agreements, One TUMF Reimbursement Agreement Amendment, and One Credit Agreement

<u>**Requested Action(s)**</u>**:**

1. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the County of Riverside for the Planning Phase of the Wood Rd (Krameria Avenue to Cajalco Road) Project in an amount not to exceed $400,000.
2. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the County of Riverside for the Planning Phase of the Grand Avenue (Ortega Highway to Central Street) Project in an amount not to exceed $774,000.
3. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Riverside for the Construction Phase of the Iowa Avenue (University Avenue to Martin Luther King Boulevard) Project in an amount not to exceed $3,185,000.
4. Authorize the Executive Director to execute a TUMF Credit Agreement with the County of Riverside and Ranch RV & Self Storage - Temescal Valley, LLC for the Planning and Engineering of the Temescal Canyon Rd (I-15 to Lake Street) Project in an amount not to exceed $118,868.

F. Single Signature Authority Report

<u>**Requested Action(s)**</u>**:** 1. Receive and file.

G. Proposed Revisions to the Grant Writing Assistance Program Guidelines

<u>**Requested Action(s)**</u>**:** 1. Approve the revisions to the Grant Writing Assistance Program Guidelines.

H. Update on Professional Services Agreements for On-Call Planning Services

Requested Action(s): 1. Receive and file.

I. I-REN Status and Activities Updates

Requested Action(s): 1. Approve the Governance & Operations Charter for the I-REN Program for incorporation into the Memorandum of Agreement upon completion.

J. Cal Cities Activities Update

Requested Action(s): 1. Receive and file.

K. Legislative Activities Update

Requested Action(s): 1. Receive and file.

L. SCAG Activities Update

Requested Action(s): 1. Receive and file.

8. REPORTS / DISCUSSION

Members of the public will have an opportunity to speak on agendized items at the time the item is called for discussion.

A. Update from the California State Association of Counties

Requested Action(s): 1. Receive and file.

B. 2nd Quarter Draft Budget Amendment for Fiscal Year 2021/2022

Requested Action(s): 1. Approve the 2nd Quarter draft Budget Amendment for Fiscal Year 2021/2022.

C. PACE Administrative and Legal Services

Requested Action(s): 1. Authorize the Executive Director to enter into a Professional Services Agreement with Best Best & Krieger for Administrative and Legal services for the WRCOG PACE Programs through June 30, 2024, with no more than two options to renew or amend.

9. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

Jeff Van Wagenen, County of Riverside

10. 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

11. REPORT FROM THE COMMITTEE CHAIR

Karen Spiegel, County of Riverside - District 2

12. REPORT FROM THE EXECUTIVE DIRECTOR

Dr. Kurt Wilson

Executive Director Update

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

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

15. **NEXT MEETING**
The next Executive Committee meeting is scheduled for Monday, May 2, 2022, at 2:00 p.m., on the Zoom platform with the option to attend in-person at the WRCOG offices.

16. **ADJOURNMENT**

Item 4.A

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Assembly Bill 361 Findings**

Contact: **Dr. Kurt Wilson, Executive Director, kwilson@wrcog.us, (951) 405-6701**

Date: **April 4, 2022**

Requested Action(s):

1. Adopt Resolution Number 01-22; A Resolution of the Executive Committee of the Western Riverside Council of Governments Authorizing Virtual Committee Meetings Pursuant to AB 361.

Purpose:

The purpose of this item is to authorize virtual Committee meetings pursuant to Assembly Bill 361.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #4 - Communicate proactively about the role and activities of the Council of Governments and its members.

Background:

Since the onset of the COVID-19 in early 2020, California government agencies have been able to continue to discharge their legal responsibilities through the use of virtual teleconferencing platforms such as Zoom to hold public meetings that enabled agencies to meet and conduct business, comply with social distancing orders, and most importantly, provide access to the public. WRCOG has been meeting on Zoom since March of 2020, when many Executive Orders were issued by Governor Newsom in response to the pandemic. One such order altered Brown Act requirements to allow for virtual meetings.

Although transmission, hospitalization, and death rates from COVID-19 have sharply declined since the original onset of the pandemic and subsequent Delta and Omicron Variant surges, an air of uncertainty remains regarding the pandemic and many counties continue to recommend masking inside and social distancing. Given that environment and a desire to continue allowing for the flexibility of holding virtual meetings, the Legislature recently approved, and Governor Newsom signed, Assembly Bill 361 (AB 361) to temporarily allow for virtual meetings under proscribed circumstances.

AB 361 amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology in certain circumstances. Under the Bill, legislative bodies can continue to meet remotely as long as there is a "proclaimed state of emergency" and the Executive Committee can make either of the following findings: (a) state or local officials have imposed or recommended measures to promote social distancing, or (b) whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. Even though cases have dropped, AB 361 is expressly intended "to protect the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location" because of physical status.

The Governor proclaimed a State of Emergency on March 4, 2020, related to the COVID-19 pandemic, which continues to exist to this day.

AB 361 requires specific procedural safeguards for the public. To accommodate individuals during these teleconferences and virtual meetings, a public comment period will be offered where the public can address the legislative body directly in real time. Additionally, public comments will be allowed up until the public comment period is closed at the meetings. The agenda will include information on the manner in which the public may access the meeting and provide comments remotely. If technical problems arise that result in the public's access being disrupted, the legislative body will not take any vote or other official action until the technical disruption is corrected and public access is restored.

The attached Resolution allows the Executive Committee to implement AB 361 by making the findings discussed above. These findings will be in effect for 30 days or until the Executive Committee makes findings that the conditions listed therein no longer exist, whichever is shorter. The findings can be extended by the Executive Committee upon a finding that conditions supporting the findings included in the Resolution still exist. The authorization to meet remotely will also apply to any Committees that meet during the 30-day effective period.

AB 361 will allow for virtual meetings during other state-proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk. AB 361 is scheduled to sunset January 1, 2024.

Prior Action(s):
November 1, 2021: The Executive Committee adopted Resolution Number 26-21; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing virtual Committee meetings pursuant to Assembly Bill 361. The resolution includes the following findings: a) The Governor proclaimed a State of Emergency on March 4, 2020, related to the COVID-19 pandemic, which state of emergency continues to exist today; and b) State or local officials have recommended measures to promote social distancing.

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

Attachment(s):
Attachment 1 - Resolution Number 01-22: AB 361 findings

RESOLUTION NUMBER 01-22

A RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AUTHORIZING VIRTUAL COMMITTEE MEETINGS PURSUANT TO AB 361

WHEREAS, the Western Riverside Council of Governments ("WRCOG") is committed to preserving and nurturing public access and participation in meetings of the Executive Committee, Administration & Finance Committee, Technical Advisory Committee, Planning Directors Committee, Public Works Committee, Finance Directors Committee, and the Solid Waste Committee; and

WHEREAS, all meetings of WRCOG's legislative bodies, including its Executive Committee, Administration & Finance Committee, Technical Advisory Committee, Planning Directors Committee, Public Works Committee, Finance Directors Committee, and the Solid Waste Committee, are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend and participate in WRCOG's meetings; and

WHEREAS, starting in March 2020, in response to the spread of COVID-19 in the State of California, the Governor issued a number of executive orders aimed at containing the COVID-19 virus; and

WHEREAS, among other things, these orders waived certain requirements of the Brown Act to allow legislative bodies to meet virtually; and

WHEREAS, pursuant to the Governor's executive orders, WRCOG has been holding virtual meetings during the pandemic in the interest of protecting the health and safety of the public, WRCOG staff, and WRCOG's Committee members; and

WHEREAS, the Governor's executive order related to the suspension of certain provisions of the Brown Act expired on September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor signed AB 361 (in effect as of October 1, 2021 – Government Code Section 54953(e)), which allows legislative bodies to meet virtually provided there is a state of emergency, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in WRCOG, specifically, a state of emergency has been proclaimed related to COVID-19 and state or local officials are recommending measures to promote social distancing.

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

Section 1. <u>Recitals</u>. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Findings. Consistent with the provisions of Government Code Section 54953(e), the Executive Committee finds and determines that (1) a state of emergency related to COVID-19 is currently in effect and (2) state or local officials have recommended measures to promote social distancing in connection with COVID-19.

Section 3. Remote Teleconference Meetings. Based on the findings and determinations included herein, the Executive Committee authorizes and directs any of its legislative bodies, including, without limitation, its Executive Committee, Administration & Finance Committee, Technical Advisory Committee, Planning Directors Committee, Public Works Committee, Finance Directors Committee, and Solid Waste Committee, to conduct remote teleconference meetings under the provisions of Government Code Section 54953(e) and that such bodies shall provide public access to their meetings as provided in Section 54953(e).

Section 4. Effective Date of Resolution. This Resolution shall take effect upon adoption and shall be effective for 30 days unless extended by a majority vote of the Executive Committee in accordance with Section 5 of this Resolution.

Section 5. Extension by Motion; Supersede. The Executive Committee may extend the application of this Resolution by motion and majority vote by up to 30 days at a time, provided that it makes all necessary findings consistent with and pursuant to the requirements of Section 54953(e)(3). Any such extension may be made before or after the expiration of the preceding 30-day period. This Resolution supersedes Resolution Number 26-21.

Section 6. Full and Fair Access. In making the findings included herein, the Executive Committee specifically relies on Section 8(b) of Statutes 2021, c.165 (AB 361, § 3, effective September 16, 2021) which provides as follows:

> (b) The Legislature finds and declares that [the changes made by AB 361 to] Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:
>
> (1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

PASSED AND ADOPTED by the Executive Committee of the Western Riverside Council of Governments on April 4, 2022.

Karen Spiegel, Chair WRCOG Executive Committee	Dr. Kurt Wilson, Secretary WRCOG Executive Committee

Approved as to form:

Steven DeBaun
WRCOG Legal Counsel

AYES: ________ NAYS: ________ ABSENT: ________ ABSTAIN: ________

Executive Committee

Minutes

1. CALL TO ORDER

The meeting of the WRCOG Executive Committee was called to order by Chair Karen Spiegel at 2:00 p.m. on March 7, 2022, on the Zoom platform.

2. PLEDGE OF ALLEGIANCE

Committee member Chuck Washington 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 - Dale Welty
- City of Corona - Jacque Casillas
- City of Eastvale - Christian Dinco
- City of Hemet - Russ Brown
- City of Jurupa Valley - Chris Barajas
- City of Lake Elsinore - Brian Tisdale
- City of Menifee - Matt Liesemeyer
- City of Moreno Valley - Yxstian Gutierrez
- 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 - James Stewart
- 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

4. PUBLIC COMMENTS

Arnold San Miguel, SCAG, announced that registration is open for SCAG's 57th Regional Conference General Assembly, scheduled for May 5 - 6, 2022. Applications are available for SCAG's Scholarship Program.

Dr. Chandra Richards, Agricultural Land Acquisition Academic Coordinator at the University of California, Riverside (UCR), spoke on UCR's Sustainable Agricultural Land Conservation Grants Program.

5. CONSENT CALENDAR

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

A. Assembly Bill 361 Findings

Action:

1. Affirmed the findings of the Executive Committee in Resolution Number 26-21, adopted on November 1, 2021, which are:

a. The Governor proclaimed a State of Emergency on March 4, 2020, related to the COVID-19 pandemic, which State of Emergency continues to exist today; and
b. State or local officials have recommended measures to promote social distancing.

B. Summary Minutes from the February 7, 2022, Executive Committee Meeting

Action:

1. Approved the Summary Minutes from the February 7, 2022, Executive Committee meeting.

C. WRCOG Committees and Agency Activities Update

Action:

1. Received and filed.

D. Report out of WRCOG Representatives on Various Committees

Action:

1. Received and filed.

E. Finance Department Activities Update

Action:

1. Received and filed.

F. Fiscal Year 2020/2021 Agency Audit

Action:

1. Received and filed.

G. TUMF Program Activities Update - Results of On-Call Engineering Services under RFP No. 22-01

This item was pulled for discussion by Committee member Wendy Hewitt, who asked if there were any other bids and how the RFP was announced.

Chris Gray, WRCOG Deputy Executive Director, responded that the RFP was distributed through PlanetBids. Seven firms responded to the RFP and downloaded the RFP; however, only two firms provided a bid. These two firms are currently working for WRCOG and have substantial amounts of experience working with the TUMF Program.

Actions:
1. Authorized the Executive Director to enter into an On-Call Engineering Services Professional Services Agreement between WRCOG and Transportation Engineering & Planning, Inc., for an amount not to exceed $100,000.
2. Authorized the Executive Director to enter into an On-Call Engineering Services Professional Services Agreement between WRCOG and W.G. Zimmerman Engineering, Inc., for an amount not to exceed $100,000.

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

H. TUMF Nexus Study Activities Update

Action:
1. Received and filed.

I. Update from the California State Association of Counties

Action:
1. Received and filed.

6. REPORTS / DISCUSSION

A. Cal Cities Activities Update

Erin Sasse, Cal Cities, reported that the Cal Cities Board recently took action to support AB 1599 (Kylie). This Bill would repeal Proposition 47 with the exception of those crimes for possession of concentrated cannabis. A sample support letter has been distributed.

Cal Cities is supporting AB 1985 (Robert Rivas), which would create a statewide database, to be maintained by CalRecycle, to connect jurisdictions with companies that may need organic waste.

Cal Cities is seeking feedback regarding AB 2179 (Grayson), which requires non-compliant agencies from imposing fees or charges in terms of impact fee collections until 20 years from the date of the final inspection, or a certificate of occupancy is issued, which ever occurs first.

Cal Cities is monitoring is SB 897 (Wieckowski), which would increase the maximum height for Accessory Dwelling Units to 25 feet (originally 16 feet). Cal Cities will likely oppose this Bill.

Cal Cities is supporting SB 1466 (Stern) would bring back a community development investment program that would help jurisdictions with their affordable housing needs.

Cal Cities will likely sponsor AB 662 (Rodriguez), which would create suicide prevention resources for fire fighters and Emergency Medical Technicians.

A Division meeting is scheduled for Monday, March 14, 2022, and will likely be the last virtual meeting.

Action:

1. Received and filed.

B. I-REN Status and Activities Update

Casey Dailey, WRCOG Director of Energy & Environmental Programs, reported that in November 2021, I-REN's Business Plan and budget was approved by the CPUC for $65 million for years 2022 – 2027 for three sectors – Public, Codes and Standards, and Workforce Education and Training.

Direct benefits to each participating member agency includes up to $25,000 each year for technical services, access to Building Upgrade Concierge, and access to energy modeling services, bench-marking, and quarterly Title 24 training. It is also anticipated that an Intern Program will be created.

Staff is working on a Memorandum of Agreement (MOA) with the Coachella Valley Association of Governments (CVAG) and the San Bernardino Council of Governments (also known as SANBAG), a Governance & Operations Charter, and a Program Agreement (PA) with SoCal Gas. The MOA, Governance Charter, and PA will be presented to committees in the future once completed.

A Professional Services Agreement between WRCOG and Frontier Energy for I-REN implementation is being presented for approval.

Action:

1. Authorized the Executive Director to execute a Professional Services Agreement between WRCOG and Frontier Energy, Inc., for Inland Regional Energy Network Implementation Plan Development and Programs Launch for a not to exceed amount of $793,701.

RESULT: APPROVED AS RECOMMENDED
MOVER: Jurupa Valley
SECONDER: San Jacinto
AYES: Banning, Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula,

Wildomar, District 1, District 2, District 3, District 5, EMWD, WMWD

C. 2nd Quarter Draft Budget Amendment for Fiscal Year 2021/2022

Andrew Ruiz, WRCOG Chief Financial Officer, reported that in December 2021, Renovate America, WRCOG's partner in the HERO Program, filed bankruptcy, effectively ending the Program. This Committee then took action to terminate the two remaining residential PACE Administration Agreements.

Under the terms of the contract with Renovate America, WRCOG was indemnified from a number of legal issues; however, when Renovate America filed bankruptcy, it stopped honoring that indemnification, which caused WRCOG to take on previous and new litigation responsibilities and expenses. Due to this, WRCOG has incurred significantly more legal costs.

The original PACE Program budget for Fiscal Year 2021/2022 was $750k, but due to actual expenses through December 2021, the expenses are at nearly $930k, and anticipated legal expenses for the remainder of the fiscal year is anticipated to average approximately $100k per month. With an increase in revenues from early payoffs of assessments, there will be a total net increase in revenues of $30k for the Program.

Committee member Christian Dinco indicated that the requested increase in expenditures seems high and asked why staff anticipates the need for that amount.

Mr. Ruiz responded that claims discussions occur during Closed Session.

Chair Spiegel asked what the projected increase to the budget is, where is it coming from, and does staff have any idea on how much more will be necessary.

Steve DeBaun, WRCOG legal counsel, indicated that this conversation would be more productive in Closed Session.

WRCOG's I-REN has received budget approval by the California Public Utilities Commission (CPUC) for a six-year, $65 million budget. The budget amendment for the remainder of FY 2021/2022 is approximately $5 million, but the full annual budget for the I-REN is over $10 million. Funding from the CPUC comes from rate payers, in which a portion of their utility bill is set aside for these types of programs, known as the Public Goods Charge.

While WRCOG has partnered with the Coachella Valley Association of Governments (CVAG) and the San Bernardino Council of Governments (also known as SANBAG) for this Program, WRCOG will act as the administrative lead. There will be pass-through expenses incurred by the partners that will flow through WRCOG.

Each partner has an approved budget for one Program Manager, two Staff Analysis, one Regulatory / Legislative Program Manager, executive support, and administrative support.

Actions:

1. Approved the 2nd Quarter Draft Budget Amendment in the amount of $5,051,019 in revenues and expenditures for Fiscal Year 2021/2022 for the I-REN.
2. Moved the HERO budget amendment item to the next Executive Committee meeting of April 4,

2022, for further discussion under Closed Session, prior to Open Session, and place this item on the Open Session portion of the Agenda.

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

D. WRCOG In-Person Committee Meetings

Dr. Kurt Wilson, WRCOG Executive Director, reported that some Committee members have expressed an interest in returning to in-person meetings. AB 361 requirements surround public health concerns rather than convenience.

Committee members expressed interest in continuing to have the option for hybrid meetings.

Action:
1. Received and filed.

7. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

Technical Advisory Committee (TAC) Chair Jeff Van Wagenen reported that the TAC received presentations on trip origin destination assessment and broadband.

8. REPORT FROM COMMITTEE REPRESENTATIVES

Committee member Crystal Ruiz, SANDAG Borders Committee representative, reported that this year the SANDAG Borders Committee is celebrating 20 years of existence. Meeting discussions included the southern border, as well as the border between Riverside and San Diego Counties and the tribal nations.

Committee member Ted Hoffman, SAWPA OWOW Steering Committee representative, reported that applications for Proposition 1 funds are due March 25, 2022.

9. REPORT FROM THE EXECUTIVE COMMITTEE CHAIR

Chair Spiegel had no report.

10. REPORT FROM THE EXECUTIVE DIRECTOR

Dr. Kurt Wilson had no report.

11. ITEMS FOR FUTURE AGENDAS

There were no requests for items for future agendas.

12. GENERAL ANNOUNCEMENTS

There were no general announcements.

13. CLOSED SESSION

- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PUSUANT TO SECTION 54956.9(d)(1):
  - Joseph Baxter, et al., v. Max Energy Solar, Inc., et al., Case No. RIV2004271 (Riverside County Superior Court)
  - Martha Cordova, et al., v. Elite Solar Group, LLC, et al., Case No. 37-2021-00000765-CU-BT-CTL (San Diego County Superior Court)
  - Loreto Molina-Duarte, et al., v. Western Riverside Council of Governments, et al., Case No. 27-2021-00014856-CU-MC-NC (San Diego Superior Court)
- CONFERENCE WITH REAL PROPERTY NEGOTIATOR
  - Property: 3390 University Avenue, Suite 200, Riverside, CA
  - Agency negotiator: Executive Director
  - Negotiating parties: Citrus Tower, Inc.
- PUBLIC EMPLOYEE PERFORMANCE EVALUATION
  - Title: Executive Director
- CONFERENCE WITH LABOR NEGOTIATORS pursuant to Section 54957.6
  - Agency designated representatives: Chair and General Counsel
  - Unrepresented employee: Executive Director

There were no reportable actions.

14. NEXT MEETING

The next Executive Committee meeting is scheduled for Monday, April 4, 2022, at 2:00 p.m., on the Zoom platform with an option to attend in person at the WRCOG office.

15. ADJOURNMENT

The meeting was adjourned from Closed Session at 4:00 p.m.

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: **April 4, 2022**

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 WRCOG standing Committee meetings, and to provide general project updates.

WRCOG 2022-2027 Strategic Plan Goal:
Goal #4 - Communicate proactively about the role and activities of the Council of Governments and its members.

Background:
Attached are summary recaps of actions and activities from recent WRCOG standing Committee meetings that occurred during the month of March 2022.

Prior Action(s):
March 7, 2022: The Executive Committee received and filed.

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

Attachment(s):
Attachment 1 - March 2022 Recaps

Western Riverside Council of Governments
Executive Committee
Meeting Recap
March 7, 2022

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

Agenda Packet: https://wrcog.us/DocumentCenter/View/9329/ec0322

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9341/ec0322pp

Cal Cities Activities Update

- Cal Cities is monitoring is SB 897 which increases the maximum height for ADUs.
- Also being monitored is AB 2179, which requires agencies which are non-compliant with respect to State housing requirements to be penalized in terms of impact fee collections.

I-REN Status and Activities Updates

- I-REN's Business Plan and budget was approved by the CPUC for $65 million for years 2022 – 2027 for three sectors – Public, Codes and Standards, and Workforce Education and Training.
- Staff is working on a MOA with CVAG and SBCOG (also known as SANBAG), a Governance & Operations Charter, and a Program Agreement (PA) with SoCal Gas. The MOA, Governance Charter, and PA will be presented to committees in the future once completed.
- A PSA between WRCOG and Frontier Energy for the I-REN implementation was approved.

2nd Quarter Draft Budget Amendment for Fiscal Year 2021/2022

- WRCOG had two major amendments during the 2nd quarter – HERO Legal Expenses and the I-REN budget.
- Legal expenses for the HERO Program were higher than originally anticipated. WRCOG's partner in the Program declared bankruptcy in December 2020, causing a drastic increase in legal expenses for the Program. With the increase in revenues from early payoffs of assessments, there will be a total net increase in revenues of $30k for the program.
- WRCOG's I-REN has received budget approval by the CPUC for a six-year, $65 million budget. The budget amendment for the remainder of FY 2021/2022 is approximately $5 million, but the full annual budget for the I-REN is over $10 million.
- The I-REN portion of the budget amendment was approved by the Executive Committee, but the HERO portion of the budget amendment was referred back to the Admin & Finance Committee for additional discussion and review.

WRCOG In-Person Committee Meetings

- The Executive Committee provided direction that they would like WRCOG to offer a hybrid option, where a member could participate remotely or in-person.

SCAG Update

REGISTRATION IS NOW OPEN! 2022 REGIONAL CONFERENCE AND GENERAL ASSEMBLY

Join Southern California's most influential elected officials and policymakers on May 5–6 at the JW Marriott Desert Springs Resort & Spa for the 57th annual Regional Conference & General Assembly. This two-day event will focus on solution-oriented discussions to address the most pressing problems facing communities, businesses and families throughout the SCAG region.

Don't wait to make your plans – register by Thursday, March 31 using the code **EARLYBIRD** get $100 off the general admission price. The event is free for elected officials and city managers in the region. If you are interested in sponsorship opportunities, please contact Houston Laney at laney@scag.ca.gov. For more information about the event, including COVID-19 protocols, visit scag.ca.gov/ga2022.

2022 SCAG SCHOLARSHIP PROGRAM

Applications are now available for the 2022 SCAG Scholarship Program! The SCAG Scholarship Program offers a **$4,000 scholarship award** for seven high school seniors or community college students from the SCAG region (and potentially two additional scholarship awards that are not tied to a specific county but may be awarded at the Regional Council's discretion) and the opportunity to meet with elected officials and practicing planners to learn more about careers in public service.

To be eligible for the scholarship, students must be a resident within the SCAG region, enrolled as a high school senior or community college student, have at least a 3.0 GPA and be eligible to work in the United States. Applicants must complete an application form and submit an essay, two letters of recommendation, and a current transcript. All materials must be submitted by **Friday, April 1**.

For more information, visit scag.ca.gov/students.

UCANR Public Comment

- Dr. Richards from UCANR discussed the California Sustainable Agricultural Lands Conservation Program which aims to conserve farmlands
- Chandra Richards, crichards@ucanr.edu
- For more information on Sustainable Agricultural Lands Conservation Program https://www.conservation.ca.gov/dlrp/grant-programs/SALCP

Next Meeting

The next Executive Committee meeting is scheduled for Monday, April 4, 2022, at 2:00 p.m., on the Zoom platform, with an option to attend in-person.

Western Riverside Council of Governments
Administration & Finance Committee
Meeting Recap
March 9, 2022

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

Agenda Packet: https://wrcog.us/DocumentCenter/View/9332/af0322

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9342/af0322pp

I-REN Status and Activities Updates

- The I-REN Team has been working on a MOA, a Program Agreement (PA), and a Governance & Operations Charter. The MOA and PA will be brought back to the committees once finalized.
- The I-REN Governance & Operations Charter consists of four main roles: I-REN Executive Committee, Administrative Lead COG, Program Managers, and the Program Teams.
- The I-REN Executive Committee will consist of up to three elected officials from each member COG and could be formed using one of these options: A nomination process, by appointment, or by volunteer and selection process.
- The Committee approved a recommendation to have the Executive Committee approve the Governance & Operations Charter as presented.

PACE Legal Services

- After the evaluation of two proposals, members of the evaluation committee (Jurupa Valley, Menifee and San Jacinto) explained their recommendation of BB&K for PACE Administrative and Legal Services. This recommendation came as BB&K is knowledgeable in WRCOG's PACE Programs and their price is reasonable compared to other providers.
- The Administration & Finance Committee recommended the Executive Committee to select Best Best & Krieger to provide Administrative and Legal Services for PACE Programs.

Commercial PACE Activities Update

- During FY 2020/2021 the WRCOG C-PACE Programs financed 11 projects for $79 million covering various energy efficiency, renewable systems and refinance projects. $8 million of this was used locally in:
  - Corona: new construction apartment project for energy efficiency improvements
  - Murrieta: West Coast Cars dealership for energy efficiency improvements
- In FY 2021/2022, through February, 10 projects have been financed with an additional 7 projects scheduled to close by end of FY totaling over $143 million. One of the seven closed projects is local:
  - Temecula: brewery that used the financing for energy efficiency improvements

2022 General Assembly Activities Update

- Steve Wozniak, Co-Founder, Apple Computer Inc. was officially announced as this year's 31st Annual General Assembly guest speaker.
- The Community Service Awards nomination period is now open and member agencies' elected officials and City Managers will be notified by WRCOG staff regarding submissions.
- The deadline for nominations is Friday, April 8, 2022 (end of business day).

Next Meeting

The next Administration & Finance Committee meeting is scheduled for Wednesday April 13, 2022, at 12:00 p.m., on the Zoom platform with an option to attend in-person.

Western Riverside Council of Governments
Planning Directors Committee
Meeting Recap
March 10, 2022

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

Agenda Packet: https://wrcog.us/DocumentCenter/View/9334/pdc0322

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9343/pdc0322pp

Objective Design Standards Toolkit Update

- Alan Loomis from PlaceWorks provided a summary of the preparation of an Objective Design Standards Toolkit for use by WRCOG member agencies.
- The presentation focused on three main areas of the toolkit: 1) Site Planning Standards, which include building orientation and parking requirements, landscape standards; 2) Building design standards which includes items such as windows, doors and garages; 3) Architectural style standards which provide elements of several different architectural styles commonly found in the WRCOG subregion.
- The goal of producing this toolkit is to enable jurisdictions the ability to pick-and-choose from a variety of standards. The outline for the Objective Design Standards toolkit may be found as an attachment to the staff report of the meeting agenda.
- If a jurisdiction has limited time or staff, there is also the option for PlaceWorks to customize the standards specifically for the city and incorporate it into the city's municipal code at no cost to the city through the REAP Program.

REAP Housing Activities Assistant Update

- Suzanne Peterson provided a summary of the Housing Activities Assistance Program that WRCOG is offering through REAP grant funding received by SCAG.
- A summary of the types of eligible activities was provided. These include municipal code updates, user guides, mapping assistance, and more that would be directly related to housing activities and facilitate housing production.
- A review of the project timeline was provided, and jurisdictions were asked to submit requests for assistance as soon as possible. All REAP funding for these activities must be used by June 2023.

Legislative Activities Update

- Bill Blankenship provided a legislative update noting deadlines for the 2022 legislative session and reviewed several proposed bills. Of those, the following were highlighted:
  - AB 682 (Bloom) this proposed bill would allow additional density bonuses for cohousing buildings that contain at least 10% of the total square footage for lower-income households, or 5% of total square footage for very low-income households.
  - AB 617 (Davies) this proposed bill would allow cities or counties to enter into an agreement to transfer all or a portion of its regional housing need allocation to another city or county.
  - AB 1445 (Levine) this proposed bill would require general plans to include emergency evacuation routes for areas wildfire risks and consider other climate related impacts.
- Additionally, information was provided on the Communities for Choice Campaign, which is a proposed November 2022 Ballot Measure for local control of housing and growth.

SCAG Update on the 2024 Connect SoCal Growth Forecasts, Regional Data Platform and Local Data Exchange

- SCAG staff presented on the process for the upcoming RTP/SCS growth forecast process and how it will involve the local jurisdictions.
- The presentation also included an overview of several new technology elements that SCAG intends to utilize in the growth forecast process including the Regional Data Platform (RDP), Local Data Exchange (LDX) database, Jurisdictional Map books, and one-on-one meeting process.
- SCAG is planning to release city control total numbers for household and employment for each jurisdiction in the SCAG region by May 2022.
- It is the intention of WRCOG to be as involved with the growth forecast process as the jurisdictions are interested.
- Please reach out to Arnold San Miguel (sanmigue@scag.ca.gov) with any questions.

Next Meeting

The next Planning Directors Committee meeting is scheduled for Thursday, April 14, 2022, at 9:30 a.m., on the Zoom platform with an option to attend in-person.

Western Riverside Council of Governments
Public Works Committee
Meeting Recap
March 10, 2022

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

Agenda Packet: https://wrcog.us/DocumentCenter/View/9333/pwc0322

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9345/pwc0322pp

TUMF Program Activities Update

- Staff presented on recent activities in the TUMF Program including the CCI Adjustment and the new credit agreement template.
- TUMF revenue continues to be significant and exceed budget expectations. $41M collected thus far this fiscal year with majority of development generated from Single Family residential land use. Development continues to be focused in the Central Zone in the Cities of Moreno Valley, Perris, and Menifee.
- TUMF Zone meetings will be occurring in April to update the 5-year TIP for each zone. Unspent allocations will not be automatically rolled over. Unspent allocations will need to be specifically requested by each agency with new plans to spend the allocated funding.

TUMF Nexus Study Activities Update

- WRCOG is currently working on the Nexus Study Update. WRCOG staff have met with each local agency to determine the status of the existing TUMF network and collect requests for new projects to be added to the network.
- As part of the TUMF Nexus Study, WRCOG staff is working on a potential VMT Mitigation Program. WRCOG staff will present this study at a future PWC committee meeting. A concurrent effort is also being done for a Fee Comparison Study to show the type and scale of DIFs on land use and overall development costs.
- An analysis on the relationship between travel behavior and residential unit size will also be conducted. This study is required by AB-602 which requires agencies to have a valid method to establish reasonable relationships between fee and the burden of new developments. This will help determine if WRCOG should continue to base TUMF fees per unit to a cost based on size of unit.
- The question was asked regarding how the Nexus Study will address funded projects. The Nexus Study will remove spent TUMF reimbursements, and committed funding from external sources from the program's project costs. This will ensure that there is no overlap in the Nexus Study between fee calculations and funding allocations.

Next Meeting

The next Public Works Committee meeting is scheduled for Thursday, April 14, 2022, at 2:00 p.m., on the Zoom platform with an option to attend in-person.

Western Riverside Council of Governments
Technical Advisory Committee
Meeting Recap
March 17, 2022

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

Agenda Packet: https://wrcog.us/DocumentCenter/View/9344/tac0322

PowerPoint Presentation: https://wrcog.us/DocumentCenter/View/9347/tac0322pp

SB 1383 Activities Update

- SB 619 Notification on compliance with SB 1383 Regulations was due on March 1, 2022. CalRecycle will waive non-compliance administrative civil penalties for the 2022 calendar year. WRCOG staff provided member jurisdictions with a sample resolution and application.
- Staff provided a summary of the SB 1383 Local Assistance Grant Program and the coordinated discussions with member agencies regarding potential WRCOG support with SB 1383 activities using grant funds. The top considerations include capacity planning and a software application that establishes connections between Tier 1 and Tier 2 food generators and food recovery services.
- By April 1, 2022, member jurisdictions will have to report to CalRecycle on its SB 1383 implementation and compliance. CalRecycle released the Initial Jurisdiction Compliance Reporting Tool and webinar to assist jurisdictions with this report. The tool and webinar can be accessed via the following link under the CalRecycle Reporting Resources section: https://www.calrecycle.ca.gov/organics/slcp/reporting.

TUMF Nexus Study Activities Update

- WRCOG is currently working on the TUMF Nexus Study update. Staff have met with each member jurisdiction to determine the status of the existing TUMF Network and collect requests for new projects to be added to the Network.
- As part of the TUMF Nexus Study, staff is working on a potential VMT Mitigation Program. Staff will present this study at a future PWC committee meeting. A concurrent effort is also being done for a Fee Comparison Study to show the type and scale of DIFs on land use and overall development costs.
- An analysis on the relationship between travel behavior and residential unit size will also be conducted. This study is required by AB 602, which requires agencies to have a valid method to establish reasonable relationships between fee and the burden of new developments. This will help determine if WRCOG should continue to base TUMF fees per unit to a cost based on size of unit.

Commercial PACE Activities Update

- WRCOG partners with three authorized C-PACE Program Administrators: Nuveen Green Capital; CleanFund; and Twain Financial Partners.
- In FY 2020/2021, 11 commercial projects were financed, totaling $79 million. Of that, over $8 million was used in two WRCOG subregional projects.
- In FY 2021/2022, 13 commercial projects will be financed up through March 2022, for a total amount of $144 million. Of that, over $7.8 million was used in two WRCOG subregional projects.

Next Meeting

The next TAC meeting is scheduled for Thursday, April 21, 2022, at 9:30 a.m., on the Zoom platform, with an option to attend in-person at the WRCOG office.

Item 7.C

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: **April 4, 2022**

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.

WRCOG 2022-2027 Strategic Plan Goal:
Goal #1- Serve as an advocate at the regional, state, and federal level for the Western Riverside region.

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 next CALCOG Board of Directors meeting is scheduled for April 29, 2022.

SANDAG Borders Committee (Crystal Ruiz)

The SANDAG Borders Committee met on March 25, 2022. Agenda highlights include:

1. Mesa de Otay II Port of Entry Project Update.
2. State Route 11/Otay Mesa East Port of Entry Project Update and Next Steps.
3. The CaliBaja Regional Economy.

SAWPA OWOW Steering Committee (Ted Hoffman)

The next SAWPA OWOW Steering Committee meeting is scheduled for May 26, 2022.

Prior Action(s):
March 7, 2022: 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 - SANDAG agenda 032522

Borders Committee Agenda

Friday, March 25, 2022
12:30 p.m.

Welcome to SANDAG. The Borders Committee meeting scheduled for Friday March 25, 2022, will be conducted both in person and virtually, in accordance with Assembly Bill 361 (Rivas, 2021) and Resolution RTC-2022-06. Committee members will have the option of participating either in person or virtually from individual remote locations.

To participate via Zoom webinar, click the link to join the meeting: https://zoom.us/j/95993429141

Webinar ID: 959 9342 9141

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

+1 (669) 900-6833	+1 (929) 205-6099
+1 (253) 215-8782	+1 (301) 715-8592
+1 (346) 248-7799	+1 (312) 626-6799

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

SANDAG relies on commercial technology to broadcast the meeting via Zoom. 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: Members of the public may speak to the Borders Committee on any item at the time the Committee is considering the item. Public speakers are generally limited to three minutes or less per person.

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.o rg (please reference the "Friday, March 25, 2022, Borders Committee meeting," in your subject line and identify the item number(s) to which your comments pertain). Comments received by 4 p.m. the business day before the meeting will be provided to members prior to the meeting. All comments received prior to the close of the meeting will be made part of the meeting record.

If you desire to provide in-person verbal comment during the meeting, please fill out a speaker slip, which can be found in the lobby. If you have joined the Zoom meeting by computer or phone, please 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 in person and joining via a computer, and by the last three digits of the phone number of those joining via telephone. 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 in writing via email or speaker slip, or verbally per the instructions above.

In order to keep the public informed in an efficient manner and facilitate public participation, SANDAG 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.

To hear the verbatim discussion on any agenda item following the meeting, the audio/visual recording of the meeting is accessible on the SANDAG website.

SANDAG offices are accessible by public transit. Phone 511 or visit 511sd.com for route information. Bike parking is available in the parking garage of the SANDAG offices.

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 they 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.

SANDAG

Borders Committee

Friday, March 25, 2022

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 Borders Committee on any issue within the jurisdiction of the Borders Committee that is not on this agenda. Public speakers are limited to three minutes or less per person. Borders Committee members also may provide information and announcements under this agenda item. 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.	Agency Report *Victoria Stackwick, Chief of Staff, SANDAG* Victoria Stackwick will present an update on key programs, projects, and agency initiatives.	Discussion
	Consent	
+3.	Approval of Meeting Minutes The Borders Committee is asked to review and approve the minutes from its February 25, 2022, meeting.	Approve
	Chair's Report	
4.	Borders Committee Look Ahead Chair Dedina will invite former Borders Committee members to share their experiences and offer perspectives for the future.	Information
	Reports	
5.	Mesa de Otay II Port of Entry Project Update *Erika García, Secretaría de Infraestructura, Comunicaciones y Transportes (Mexico's Ministry of Infrastructure, Communications and Transportation)* Erika García will provide an update on Mexico's Mesa de Otay II Port of Entry project, including financial and construction strategy.	Information
6.	State Route 11/Otay Mesa East Port of Entry Project Update and Next Steps *Mario Orso, Caltrans and María Rodríguez-Molina, SANDAG* Mario Orso and Maria Rodriguez-Molina will provide an update and next steps on the State Route 11 / Otay Mesa East Port of Entry project, including project delivery method.	Discussion

+7.	The CaliBaja Regional Economy *Melissa Floca, University of San Diego Kroc Institute for Peace and Justice* Melissa Floca will provide highlights of a recently published analysis focused on the unique characteristics, dynamics, and sectors of the CaliBaja binational economy that enable its global competitive edge.	Information
8.	Upcoming Meetings The next Borders Committee meeting is scheduled for Friday, April 22, 2022, at 12:30 p.m.	
9.	Adjournment	

+ next to an item indicates an attachment

Item 7.D

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: **April 4, 2022**

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to provide an update on the FY 2022/2023 Agency budget; Strategic Plan, and financials through January 2022.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #3 - Ensure fiscal solvency and stability of the Western Riverside Council of Governments.

Background:

On January 12, 2022, the Executive Committee adopted a new Strategic Plan with specific fiscal-related goals:

1. Maintain sound, responsible fiscal policies.
2. Develop a process to vet fiscal impact(s) and potential risk(s) for all new programs and projects.
3. Provide detailed financial statements for public review online.

As staff begin to work on meeting these goals, they will seek input through WRCOG's Committee structure regarding updates and to ensure these goals are being met.

Fiscal Year 2022/2023 Agency Budget Development Process

Staff has begun the process of developing the FY 2022/2023 Agency Budget and will begin presentations to the various WRCOG committees beginning in April 2022.

Financial Report Summary Through January 2022

The Agency's Financial Report summary through January 2022, a monthly overview of WRCOG's financial statements in the form of combined Agency revenues and costs, is provided as Attachment 1.

Prior Action(s):

March 17, 2022: The Technical Advisory Committee received and filed.

March 9, 2022: The Administration & Finance Committee received and filed.

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

Attachment(s):
Attachment 1 - January financials

Western Riverside Council of Governments
Budget to Actuals
For Month Ending January 31, 2022

Total Agency

	Approved Budget 6/30/2022	Actual Thru 1/31/2022	Remaining Budget 6/30/2022
Revenues			
Member Dues	286,640	294,410	(7,770)
Interest Revenue - Other	17,500	1,424	16,076
Overhead Transfer In	2,000,000	1,166,667	833,333
TUMF Commercial	4,800,000	744,948	4,055,052
TUMF Retail	4,800,000	3,357,709	1,442,291
TUMF Industrial	7,680,000	5,037,096	2,642,904
TUMF Single Family	19,200,000	20,440,003	(1,240,003)
TUMF Multi Family	9,600,000	1,176,583	8,423,417
TUMF Commerical - Admin Fee	200,000	31,040	168,960
TUMF Retail - Admin Fee	200,000	139,905	60,095
TUMF Industrial - Admin Fee	320,000	209,879	110,121
TUMF Single Family - Admin Fee	800,000	851,667	(51,667)
TUMF Multi-Family - Admin	400,000	49,024	350,976
Grant Revenue	1,663,000	418,295	1,244,705
LTF Revenue	750,000	866,250	(116,250)
RIVTAM	50,000	30,000	20,000
General Assembly Revenue	300,000	12,500	287,500
Fellowship Revenue	100,000	200,000	(100,000)
HERO Admin Revenue	2,250,000	1,466,191	783,809
Clean Cities Revenue	240,000	151,000	89,000
Solid Waste Revenue	112,970	125,202	(12,232)
Used Oil Grants	168,023	168,023	-
Regional Streetlights Revenue	211,725	133,498	78,227
PACE Commercial Sponsor Revenue	400,000	45,369	354,631
Total Revenues	**$ 57,669,021**	**$ 37,116,683**	**$ 20,552,338**
Expenses			
Salaries & Wages - Fulltime	2,745,899	1,381,794	1,364,105
Fringe Benefits	1,319,884	621,807	698,077
Overhead Allocation	1,682,458	981,434	701,024
General Legal Services	968,100	1,153,939	(185,839)
Audit Svcs - Professional Fees	35,000	5,120	29,880
Bank Fees	33,885	11,947	21,938
Commissioners Per Diem	57,500	28,800	28,700
Parking Cost	20,000	14,059	5,941
Office Lease	350,000	202,309	147,691
Fuel Expense	1,500	123	1,377
General Assembly Expense	300,000	24,010	275,990
Parking Validations	15,450	3,146	12,304
Staff Recognition	1,000	1,614	(614)
Coffee and Supplies	3,000	2,244	756
Event Support	95,737	26,861	68,876
Meeting Support Services	5,250	319	4,931
Program/Office Supplies	13,700	13,102	599
Misc. Office Equipment	1,000	6,988	(5,988)
Supplies/Materials	33,540	8,943	24,597
Computer Equipment/Supplies	2,000	3,265	(1,265)
Computer Software	102,000	8,350	93,650
Rent/Lease Equipment	15,000	4,410	10,590
Membership Dues	31,750	9,743	22,007
Subscriptions/Publications	4,250	2,790	1,460

Western Riverside Council of Governments

Budget to Actuals

For Month Ending January 31, 2022

	Approved Budget 6/30/2022	Actual Thru 1/31/2022	Remaining Budget 6/30/2022
Total Agency			
Postage	5,350	3,230	2,120
Other Household Expenses	3,250	1,254	1,996
Storage	5,000	3,154	1,846
Recording Fee	10,000	12,749	(2,749)
Computer Hardware	16,500	551	15,949
Communications - Regular Phone	16,000	11,128	4,872
Communications - Cellular Phones	13,500	9,433	4,067
Communications - Computer Services	53,000	15,298	37,702
Communications - Web Site	8,000	2,052	5,948
Insurance - Errors & Omissions	15,000	9,335	5,665
Insurance - Gen/Busi Liab/Auto	99,500	64,454	35,046
TUMF Project Reimbursement	46,080,000	5,560,143	40,519,857
Seminars/Conferences	9,650	4,779	4,871
Travel - Mileage Reimbursement	9,500	1,691	7,809
Travel - Ground Transportation	2,300	1,330	970
Travel - Airfare	4,250	1,842	2,408
Lodging	3,800	1,962	1,838
Meals	7,400	2,209	5,191
Other Incidentals	5,000	55	4,945
Training	7,500	3,985	3,515
Consulting Labor	2,924,616	1,134,027	1,790,589
Total Expenses	**$ 57,513,228**	**$ 11,503,533**	**$ 46,151,450**

Item 7.E

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Approval of Two Reimbursement TUMF Agreements, One TUMF Reimbursement Agreement Amendment, and One Credit Agreement**

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

Date: **April 4, 2022**

Requested Action(s):

1. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the County of Riverside for the Planning Phase of the Wood Rd (Krameria Avenue to Cajalco Road) Project in an amount not to exceed $400,000.
2. Authorize the Executive Director to execute a TUMF Reimbursement Agreement with the County of Riverside for the Planning Phase of the Grand Avenue (Ortega Highway to Central Street) Project in an amount not to exceed $774,000.
3. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment with the City of Riverside for the Construction Phase of the Iowa Avenue (University Avenue to Martin Luther King Boulevard) Project in an amount not to exceed $3,185,000.
4. Authorize the Executive Director to execute a TUMF Credit Agreement with the County of Riverside and Ranch RV & Self Storage - Temescal Valley, LLC for the Planning and Engineering of the Temescal Canyon Rd (I-15 to Lake Street) Project in an amount not to exceed $118,868.

Purpose:

The purpose of this item is to request approval of two Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreements, one Reimbursement Agreement Amendment, and one Credit Agreement.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #5 - Develop projects and programs that improve infrastructure and sustainable development in our subregion.

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 Reimbursement Agreement Amendment

Two Reimbursement Agreements and one Reimbursement Agreement Amendment 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, Engineering, and/or Construction of a TUMF project. To enter a reimbursement agreement, the funding for the project must first be allocated in the appropriate TUMF Zone Transportation Improvement Program (TIP). TUMF Agreements and Amendments are initiated by their respective agencies when that agency is ready for the infrastructure development. The requested Reimbursement Agreements and Reimbursement Agreement Amendment are listed below by member agency and project.

County of Riverside:

1. The Wood Rd (Krameria Avenue to Cajalco Road) Project Reimbursement Agreement sets the amount of funding in the Planning Phase to an amount not to exceed $400,000. This project funding has been requested by the agency and is programmed in the adopted FY 21/22 Northwest Zone 5-Year Transportation Improvement Program.
2. The Grand Avenue (Ortega Highway to Central Street) Project Reimbursement Agreement sets the amount of funding in the Planning Phase to an amount not to exceed $774,000. This project funding has been requested by the agency and is programmed in the in the adopted FY 21/22 Southwest Zone Transportation Improvement Program.

City of Riverside:

1. The Iowa Avenue (University Avenue to Martin Luther King Boulevard) Project Reimbursement Agreement Amendment increases the amount of funding in the Construction Phase by $265,000 to an amount not to exceed $3,185,000. The amended project funding has been requested by the agency and programmed in the adopted FY 21/22 Northwest Zone Transportation Improvement Program.

TUMF Credit Agreement

One credit agreement is being presented for approval. A Credit Agreement is a document between a developer, the local agency, and WRCOG specifying the amount of TUMF fee credits given to a developer for TUMF-eligible infrastructure projects. When a development is required to build infrastructure that is also part of the TUMF Program, the developer can receive credits on their TUMF obligation. In the past, these agreements have been between the developer and the local agency. As of last year, all new credit agreements will add WRCOG as a third-party to credit agreements to better manage the agreements, ensure accuracy, and finalize reimbursements, if necessary.

County of Riverside

1. The Temescal Canyon Rd (I-15 to Lake Street) Project Credit Agreement sets the maximum TUMF credit for the Planning and Engineering Phases at an amount not to exceed $118,868. The developer and agency have agreed to the stipulations of the credit agreement. This project is included on the TUMF regional network and the specified improvement is eligible for TUMF credits.

Prior Action(s):
March 2, 2020: The Executive Committee authorized the Executive Director to execute a TUMF Reimbursement Agreement with the City of Riverside for the Construction Phase of the Iowa Ave (University Ave to Martin Luther King Boulevard) Project in an amount not to exceed $2,920,000.

Fiscal Impact:

Transportation Department activities are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the Transportation Department and each Reimbursement Agreement is consistent with the Northwest and Southwest Zone TIPs.

Attachment(s):
Attachment 1 - TUMF Agreement - County of Riverside - Wood Rd
Attachment 2 - TUMF Agreement - County of Riverside - Grand Ave
Attachment 3 - TUMF Agreement Amendment - City of Riverside - Iowa Ave
Attachment 4 - TUMF Credit Agreement - County of Riverside/Ranch RV - Temescal Canyon Rd

Attachment

TUMF Agreement – County of Riverside – Wood Rd (Krameria Avenue to Cajalco Road) Project

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
WOOD ROAD WIDENING
PLANNING (PA&ED) PHASE

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day ____of______, 20__, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and the County of Riverside, a political subdivision of the State of California ("AGENCY"). WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

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

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

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

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

AGREEMENT

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

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the AGENCY for **WOOD ROAD WIDENING** (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. WRCOG Funding Amount. WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **FOUR HUNDRED THOUSAND DOLLARS ($400,000),** 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 **MARK LANCASTER, DIRECTOR OF TRANSPORTATION**, 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 $2,000,000.00 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:
County of Riverside
Transportation Department
4080 Lemon Street, 8th Floor
Riverside, CA 92501
Attention: Mark Lancaster, Director of Transportation
Telephone: (951) 955-6740
Facsimile: (951) 955-3198

If to WRCOG:
Western Riverside Council of Governments
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Christopher Gray, Deputy Executive Director
Telephone: (951) 405-6710
Facsimile: (951) 223-9720

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

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

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

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

36. Independent Contractors. Any person or entities retained by the 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:______________________________
Kurt Wilson
Executive Director

Approved to Form:

By:______________________________
Steven C. DeBaun
General Counsel

COUNTY OF RIVERSIDE

Recommended for Approval

By: ______________________________
Mark Lancaster
Director of Transportation

Approved as to Form:

By:______________________________

County Counsel

Approved By:

By:______________________________

Chair, Riverside County Board of Supervisors

Attest:
Kecia Harper
Clerk of the Board

By:______________________________

Deputy

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

The proposed project will complete the Project Approvals & Environmental Document Phase (PA/ED) to widen Wood Road from a two lane facility to a four lane facility between Cajalco Road to Krameria Avenue. Wood Road connects two key east-west corridors; Van Buren Boulevard and Cajalco Road which both provide connectivity between I-15 and I-215. The communities of Mead Valley and Woodcrest have experienced significant growth as well as nearby communities and cities which have generated additional commuter traffic that require additional capacity on Wood Road.

The PA/ED Phase will include concept/alternative development needed to establish a design footprint. Once the footprint is established, environmental studies and preliminary engineering can be performed to support the environmental document. The preliminary engineering will also include determination of utility conflicts, establishing a Right of Way Requirements Map, and aerial and field surveys, among other things to support the future Plans, Specifications, and Estimate (PS&E) Phase.

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$400,000	$0	$400,000
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL	$400,000	$0	$400,000

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	FY 23/24	$400,000	
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL		$400,000	

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
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice #__

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

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

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

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

By: ______________________________
Name
Title

cc:

EXHIBIT B-3
Sample Letter from Contractor to AGENCY

Month/Date/Year

Western Riverside Council of Governments
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Deputy Executive Director
Attn: Accounts Payable   Invoice #____________

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

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

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

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

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

By: ____________________
Name
Title

EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)

EXHIBIT B-5
Sample Progress Report

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

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

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

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

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

Attachment

TUMF Agreement – County of Riverside – Grand Ave (Ortega Highway to Central Street) Project

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
GRAND AVENUE WIDENING
PLANNING (PA&ED) PHASE

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day ____of______, 20__, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and the County of Riverside, a political subdivision of the State of California ("AGENCY"). WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

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

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

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

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

AGREEMENT

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

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the AGENCY for **GRAND AVENUE WIDENING** (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. WRCOG Funding Amount. WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **SEVEN HUNDRED SEVENTY FOUR THOUSAND DOLLARS ($774,000),** 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 **MARK LANCASTER, DIRECTOR OF TRANSPORTATION**, 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:
County of Riverside
Transportation Department
4080 Lemon Street, 8th Floor
Riverside, CA 92501
Attention: Mark Lancaster, Director of Transportation
Telephone: (951) 955-6740
Facsimile: (951) 955-3198

If to WRCOG:
Western Riverside Council of Governments
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Christopher Gray, Deputy Executive Director
Telephone: (951) 405-6710
Facsimile: (951) 223-9720

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

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

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

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

36. Independent Contractors. Any person or entities retained by the 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:___________________________________
Kurt Wilson
Executive Director

Approved to Form:

By:___________________________________
Steven C. DeBaun
General Counsel

COUNTY OF RIVERSIDE

Recommended for Approval

By: ___________________________________
Mark Lancaster
Director of Transportation

Approved as to Form:

By:___________________________________

County Counsel

Approved By:

By:___________________________________

Chair, Riverside County Board of Supervisors

Attest:
Kecia Harper
Clerk of the Board

By:___________________________________

Deputy

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

The proposed project will complete the Project Approvals & Environmental Document (PA/ED) Phase to widen Grand Avenue from a two lane facility with a continuous two-way left turn pocket to a four lane facility between Corydon Road to Ortega Highway. Grand Avenue offers an alternative north-south route between various offramps on the I-15 and State Route 74 which provide connectivity to Orange County. The community of Lakeland Village and Cities of Lake Elsinore and Wildomar have experienced significant growth which have generated additional commuter traffic that require additional capacity on Grand Avenue.

The PA/ED Phase will include concept/alternative development needed to establish a design footprint. Once the footprint is established, environmental studies and preliminary engineering can be performed to support the environmental document. The preliminary engineering will also include determination of utility conflicts, establishing a Right of Way Requirements Map, and aerial and field surveys, among other things to support the future Plans, Specifications, and Estimate (PS&E) Phase.

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$774,000	$0	$774,000
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL	$774,000	$0	$774,000

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	FY 23/24	$774,000	
PS&E			
RIGHT OF WAY			
CONSTRUCTION			
TOTAL		$774,000	

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
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice #__

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

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

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

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

By: ______________________________
Name
Title

cc:

EXHIBIT B-3
Sample Letter from Contractor to AGENCY

Month/Date/Year

Western Riverside Council of Governments
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Deputy Executive Director
Attn: Accounts Payable Invoice #____________

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

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

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

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

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

By: ____________________
Name
Title

EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)

EXHIBIT B-5
Sample Progress Report

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

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

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

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

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

Attachment

TUMF Agreement Amendment – City of Riverside – Iowa Ave (University Avenue to Martin Luther King Boulevard) Project

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

FIRST AMENDMENT TO AGREEMENT TO REIMBURSE TUMF FUNDS

IOWA AVE WIDENING PROJECT

(UNIVERSITY AVENUE TO MARTIN LUTHER KING BOULEVARD)

THIS FIRST AMENDMENT TO THE AGREEMENT TO REIMBURSE TUMF FUNDS, is made and entered into this __________ day of ______________, 2022, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and the CITY OF RIVERSIDE ("City"). WRCOG and the City are sometimes collectively referred to herein as the "Parties".

RECITALS

A. WRCOG, as the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program"), and the City entered into an Agreement to Reimburse TUMF Funds ("Agreement"), effective May 7, 2020, whereby it was agreed that WRCOG would distribute TUMF Program Funds to the City for reimbursement of eligible project expenses incurred by the City for the Iowa Ave Widening between University Avenue to Martin Luther King Boulevard ("Project"), in an amount not to exceed Two Million, Nine Hundred Twenty Thousand Dollars ($2,920,000.00).

B. During construction of the Project, it was discovered that University of California's ("UCR") existing irrigation line was located beneath Iowa Avenue and as a result of the Project, various conflicts with this existing facility were encountered. The City attempted to modify the existing facility at various locations, but due to the short length of pipe and grouting methods, maintaining a water sealed line was unsuccessful. As such, it has been determined that UCR's irrigation line needs to be relocated.

C. The City and WRCOG agree that the relocation of UCR's irrigation line is an eligible expense under TUMF guidelines and agree to increase the funding amount which may be reimbursed to the City for the Project by an additional Two Hundred Sixty-Five Thousand Dollars ($265,000.00), to an amount not to exceed Three Million One Hundred Eighty-Five Thousand Dollars ($3,185,000.00).

D. WRCOG and City desire to amend the Agreement in order to provide for the increase in funding amount.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and incorporating the recitals set out above, the PARTIES mutually agree as follows:

1. Paragraph 2, entitled <u>WRCOG Funding Amount</u>, of the Agreement is hereby amended and restated as follows:

"WRCOG Funding Amount. WRCOG hereby agrees to distribute to the City, on the terms and conditions set forth herein, a sum not to exceed **Three Million One Hundred Eighty-Five Thousand Dollars ($3,185,000.00),** to be used for reimbursing the City for eligible project expenses as described in Section 3 herein ("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time."

2. Exhibits "A-1" and "A-2" of the Agreement are hereby replaced in their entity by Exhibits "A-1" and "A-2" of this First Amendment, which are attached hereto and incorporated by reference.

3. The above-stated Recitals are hereby fully incorporated into this First Amendment.

4. All other terms and conditions of the Agreement between the parties which are not inconsistent with the terms of this First Amendment to Agreement to Reimburse TUMF Funds, shall remain in full force and effect as if fully set forth herein.

IN WITNESS WHEREOF, the Parties have caused this Amendment to the 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

CITY OF RIVERSIDE, a municipal corporation

By:________________________________
City Manager

Attest: ____________________________
City Clerk

APPROVED AS TO FORM:

By:_____________________________
Steven C. DeBaun,
General Counsel

APPROVED AS TO FORM:

By:________________________________
Brandon M. Mercer
Senior Deputy City Attorney

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$0	$100,000	$100,000
PS&E	$80,000	$100,000	$180,000
RIGHT OF WAY	$0	$0	$0
CONSTRUCTION	$3,185,000	$3,180,000	$6,365,000
TOTAL	$3,265,000	$3,380,000	$6,645,000

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	12/2018	$100,000	
PS&E	12/2019	$180,000	
RIGHT OF WAY	12/2019	$0	
CONSTRUCTION	9/2020	$6,365,000	
TOTAL		$6,645,000	

<u>Attachment</u>

TUMF Credit Agreement – County of Riverside, Ranch RV & Self Storage, Temescal Valley, LLC

IMPROVEMENT AND CREDIT / REIMBURSEMENT AGREEMENT TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

This **IMPROVEMENT AND CREDIT AGREEMENT** ("Agreement") is entered into this ___ day of ___________________, 20___, (the "Effective Date") by and between the County of Riverside, a political subdivision of the State of California ("AGENCY"), the Western Riverside Council of Governments, a joint powers Agency, ("WRCOG") and Ranch RV & Self Storage – Temescal Valley, LLC, a California limited liability company, with its principal place of business at 41391 Kalmia Street, Suite 200, Murrieta, California 92562 ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, Developer owns 6.92 acres of real property located within the AGENCY of Lake Elsinore, California, which is more specifically described in the legal description set forth in Exhibit "A", attached hereto and incorporated herein by this reference ("Property");

WHEREAS, Developer has requested from AGENCY-certain entitlements and/or permits for the construction of improvements on the Property, which are more particularly described as Plot Plan No. 26403 and the Tentative Parcel Map No. 37599, which includes Temescal Canyon Road transmission pole relocation by Southern California Edison (SCE) ("Project");

WHEREAS, the AGENCY is a member agency of WRCOG, a joint powers agency comprised of the County of Riverside and 18 cities located in Western Riverside County. WRCOG is the administrator for the Transportation Uniform Mitigation Fee ("TUMF") Program;

WHEREAS, as part of the TUMF Program, the AGENCY has adopted "Transportation Uniform Mitigation Fee Nexus Study: 2016 Update" ("2016 Nexus Study")

WHEREAS, as a condition to AGENCY's approval of the Project, AGENCY has required Developer to construct certain street and transportation system improvement(s) of regional importance ("TUMF Improvements");

WHEREAS, pursuant to the TUMF Program, the AGENCY requires Developer to pay the TUMF which covers the Developer's fair share of the costs to deliver those TUMF Improvements that help mitigate the Project's traffic impacts and burdens on the Regional System of Highways and Arterials (also known as the "TUMF Network"), generated by the Project and that are necessary to protect the safety, health and welfare of persons that travel to and from the Project using the TUMF Network;

WHEREAS, the TUMF Improvements have been designated as having Regional or Zonal Significance as further described in the 2016 Nexus Study and the 5 year Transportation Improvement Program as may be amended;

WHEREAS, AGENCY. WRCOG and Developer now desire to enter into this Agreement for the following purposes: (1) to provide for the timely delivery of the TUMF Improvements, (2) to ensure that delivery of the TUMF Improvements is undertaken as if the TUMF Improvements

EXHIBIT "G"

Estimated TUMF Credit / Reimbursement Summary

Ranch RV & Self-Storage - Temescal Valley, LLC
Plot Plan No. 26403-Tentative Parcel Map No. 37599
IP190053

List of Eligible Streets/Facilities under the TUMF Network:

Southwest TUMF Zone -Temescal Canyon (Jurisdiction - Lake Elsinore)

TUMF Credit Cost Factors:

Paid TUMF (see next page for details)	**$**	**84,582**
Estimated TUMF Obligation (see next page for details)	**$**	**84,582**
TUMF Unit Cost Assumptions (see next page for details)	**$**	**118,868**
Improvement Costs (Estimated Amount) (see below for details)	**$**	**175,000**

Improvement Costs Breakdown		
Street Improvement Construction Costs (Estimated)	$	-
Utility Relocation Costs (Estimated)	$	-
Planning, Engineering, (Estimated Utility Relocation)	$	175,000
Improvement Costs Total	$	175,000

Estimated TUMF Credit:

Estimated Credit (Lesser of Obligation, Bid Amount, or Unit Cost Assumptions)	$	84,582
Estimated Unpaid Industrial Building in square feet		0
Prorated Credit per each unpaid commercial building per sq ft	$	-
Estimated Credit to be applied to unpaid commercial building		**$0**

TUMF Overpayment / Refund:

Estimated TUMF Obligation	$	84,582
Estimated Credit amount + Paid TUMF amount	$	169,164
Estimated Refund (Credit + Paid TUMF amount that exceeds Obligation amount)		**($84,582)**

TUMF Reimbursement:

Estimated TUMF Obligation	$	84,582
Estimated Cost (Lesser of Bid Amount or Unit Cost Assumptions)	$	118,868
Estimated TUMF Reimbursement (Cost exceeding Obligation amount)		**($34,286)**

Note: **The amounts shown in this Exhibit are subject to cost validation and reconciliation**

Ranch RV & Self-Storage - Temescal Valley, LLC
Plot Plan No. 26403-Tentative Parcel Map No. 37599
IP190053

ESTIMATED TUMF OBLIGATION CALCULATION

Paid TUMF	Fee per sq ft	Total Sqft	Amount
PP26403-PM37599	$ 1.81	46,730.52	$ 84,582
			$ -
	Paid Subtotal		$ 84,582

Unpaid TUMF - Estimated	Fee per sq ft	Total Sqft	Amount
	Estimated Subtotal	-	$ -
	Est Obligation Total	**-**	**$ 84,582**

TUMF UNIT COST ASSUMPTION CALCULATION (Network Costs January 1, 2022)

TUMF Network Road Segment applicable to Proposed Improvements			Cost Item	Amount
Temescal Canyon Road, I-15 to Lake Street				
Network Distance:	1.21 miles		Road Const	
Existing Lanes:	2		ROW/Utilities	$ -
Increase in Lanes:	2		Planning (10%)	$ 229,000
			Engring (25%)	$ 572,000
			Conting (10%)	$ 321,000
		Network Road Segment Cost Est		$ 1,122,000
		Network Unit Cost per Lane mile		$ 463,636
		Network Unit Cost per Lane foot		$ 88

Road Improvement Cost Estimate (based on Network Unit Cost per Lane foot)

Lane	Construction Limits (Sta. to Sta.)			Linear Feet	Amount
3	153+50.00	167+03.70		1,353.70	$ 118,868
			Road Subtotal	**1,353.70**	**$ 118,868**

TUMF TOTAL	**$ 118,868**
TOTAL TUMF UNIT COST ASSUMPTION FOR ELIGIBLE IMPROVEMENTS	**$ 118,868**

were constructed under the direction and authority of the AGENCY, (3) to provide a means by which the Developer's costs for project delivery of the TUMF Improvements and related right-of-way is offset against Developer's obligation to pay the applicable TUMF for the Project in accordance with the TUMF Administrative Plan adopted by WRCOG, and (4) to provide a means, subject to the separate approval of WRCOG, for Developer to be reimbursed to the extent the actual and authorized costs for the delivery of the TUMF Improvements exceeds Developer's TUMF obligation.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, Developer and AGENCY hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Construction of TUMF Improvements. Developer shall construct or have constructed at its own cost, expense, and liability certain street and transportation system improvements generally described as planning and engineering for the ultimate widening of Temescal Canyon Road of Plot Plan No. 26403 and Tentative Parcel Map No. 37599 , and as shown more specifically on the plans, profiles, and specifications which have been or will be prepared by or on behalf of Developer and approved by AGENCY, and which are incorporated herein by this reference ("TUMF Improvements"). Construction of the TUMF Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. Developer shall be responsible for the replacement, relocation, or removal of any component of any existing public or private improvement in conflict with the construction or installation of the TUMF Improvements. Such replacement, relocation, or removal shall be performed to the complete satisfaction of AGENCY and the owner of such improvement. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the TUMF Improvements.

2.1 Pre-approval of Plans and Specifications. Developer is prohibited from commencing work on any portion of the TUMF Improvements until all plans and specifications for the TUMF Improvements have been submitted to and approved by AGENCY. Approval by AGENCY shall not relieve Developer from ensuring that all TUMF Improvements conform with all other requirements and standards set forth in this Agreement.

2.2 Permits and Notices. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the TUMF Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer.

2.3 Public Works Requirements. In order to insure that the TUMF Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, AGENCY, Developer shall comply with all of the following requirements with respect to the construction of the TUMF Improvements:

(a) Developer shall obtain bids for the construction of the TUMF Improvements, in conformance with the standard procedures and requirements of AGENCY _ with respect to its public works projects, or in a manner which is approved by the Public Works Department.

(b) The contract or contracts for the construction of the TUMF Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of the TUMF Improvements.

(c) Developer shall require, and the specifications and bid and contract documents shall require, all such contractors to pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and to otherwise comply with applicable provisions of the Labor Code, the Government Code and the Public Contract Code relating to public works projects of cities/counties and as required by the procedures and standards of AGENCY with respect to the construction of its public works projects or as otherwise directed by the Public Works Department.

(d) All such contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the TUMF Improvements which they will construct in conformance with AGENCY's standard procedures and requirements.

(e) Developer and all such contractors shall comply with such other requirements relating to the construction of the TUMF Improvements which AGENCY may impose by written notification delivered to Developer and each such contractor at any time, either prior to the receipt of bids by Developer for the construction of the TUMF Improvements, or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof.

Developer shall provide proof to AGENCY, at such intervals and in such form as AGENCY may require that the foregoing requirements have been satisfied as to the TUMF Improvements.

2.4 Quality of Work; Compliance With Laws and Codes. The construction plans and specifications for the TUMF Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements. The TUMF Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and special amendments thereto on file with AGENCY, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required, constructing the TUMF Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to TUMF Improvements. All work shall be done and the TUMF Improvements completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation it is determined that the public interest requires alterations in the TUMF Improvements, Developer shall undertake such design and construction changes as may be reasonably required by AGENCY. Any and all alterations in the plans and specifications and the TUMF Improvements to be completed may be accomplished without first giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of TUMF Improvements. AGENCY shall not be responsible or liable for the maintenance or care of the TUMF Improvements until AGENCY approves and accepts them. AGENCY shall exercise no control over the TUMF Improvements until accepted. Any use by any person of the TUMF Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to AGENCY's acceptance of the TUMF Improvements. Developer shall maintain all of the TUMF Improvements in a state of good repair until they are completed by Developer and approved and accepted by AGENCY, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by AGENCY. If Developer fails to properly prosecute its maintenance obligation under this section, AGENCY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. AGENCY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the TUMF Improvements or their condition prior to acceptance. In no event shall WRCOG be responsible for the maintenance, operation or care of the TUMF Improvements

4.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay all fees, charges, and taxes arising out of the construction of the TUMF Improvements, including, but not limited to, all plan check, design review, engineering, inspection, sewer treatment connection fees, and other service or impact fees established by AGENCY.

5.0 AGENCY Inspection of TUMF Improvements. Developer shall, at its sole cost, expense, and liability, and at all times during construction of the TUMF Improvements, maintain reasonable and safe facilities and provide safe access for inspection by AGENCY of the TUMF Improvements and areas where construction of the TUMF Improvements is occurring or will occur.

6.0 Liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 8412 and 8414 of the Civil Code with respect to the TUMF Improvements, Developer shall provide to AGENCY such evidence or proof as AGENCY shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the TUMF Improvements, have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Rather than await the expiration of the said time for the recording of claims of liens, Developer may elect to provide to AGENCY a title insurance policy or other security acceptable to AGENCY guaranteeing that no such claims of liens will be recorded or become a lien upon any of the Property.

7.0 Acceptance of TUMF Improvements; As-Built or Record Drawings. If the TUMF Improvements are properly completed by Developer and approved by AGENCY, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, AGENCY shall be authorized to accept the TUMF Improvements. AGENCY may, in its sole and absolute discretion, accept fully completed portions of the TUMF Improvements prior to such time as all of the TUMF Improvements are complete, which shall not release or modify Developer's obligation to complete the remainder of the TUMF Improvements. Upon the total or partial acceptance of the TUMF Improvements by AGENCY, Developer shall file with the Recorder's Office of the County of Riverside a notice of completion for the accepted TUMF Improvements in accordance with California Civil Code sections 8182, 8184, 9204, and 9208 ("Notice of Completion"), at which time the accepted TUMF Improvements shall become the sole and exclusive property of AGENCY without any payment therefore. Notwithstanding the foregoing, AGENCY may not accept any TUMF Improvements unless and until Developer provides one (1) set of "as-built" or record drawings or plans to the AGENCY for all such TUMF Improvements. The drawings shall be certified and shall reflect the condition of the TUMF Improvements as constructed, with all changes incorporated therein.

8.0 Warranty and Guarantee. Developer hereby warrants and guarantees all the TUMF Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the TUMF Improvements, for a period of one (1) year following completion of the work and acceptance by AGENCY ("Warranty"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise unsatisfactory portion of the TUMF Improvements, in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of AGENCY, and to the approval of AGENCY. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any TUMF Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer and its surety hereby agree to extend the Warranty for an additional one (1) year period following AGENCY's acceptance of the repaired, replaced, or reconstructed TUMF Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any TUMF Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

9.0 Administrative Costs. If Developer fails to construct and install all or any part of the TUMF Improvements, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to AGENCY for all administrative expenses, fees, and costs, including reasonable attorney's fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

10.0 Default; Notice; Remedies.

10.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if AGENCY determines there is a violation of any federal, state, or local law, ordinance, regulation, code, standard, or other requirement, AGENCY may at any time thereafter declare Developer to be in default or violation of this

Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("Notice"). Developer shall substantially commence the work required to remedy the default or violation within five (5) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, AGENCY may provide the Notice verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon AGENCY's issuance of the Notice, Developer and its surety shall be liable to AGENCY for all costs of construction and installation of the TUMF Improvements and all other administrative costs or expenses as provided for in this Section 10.0 of this Agreement.

10.2 Failure to Remedy; AGENCY Action. If the work required to remedy the noticed default or violation is not diligently prosecuted to a completion acceptable to AGENCY within the time frame contained in the Notice, AGENCY may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. AGENCY's right to take such actions shall in no way be limited by the fact that Developer or its surety may have constructed any of the TUMF Improvements at the time of AGENCY's demand for performance. In the event AGENCY elects to complete or arrange for completion of the remaining work and the TUMF Improvements, AGENCY may require all work by Developer or its surety to cease in order to allow adequate coordination by AGENCY.

10.3 Other Remedies. No action by AGENCY pursuant to this Section 10.0 et seq. of this Agreement shall prohibit AGENCY from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. AGENCY may exercise its rights and remedies independently or cumulatively, and AGENCY may pursue inconsistent remedies. AGENCY may institute an action for damages, injunctive relief, or specific performance.

11.0 Security; Surety Bonds. Prior to the commencement of any work on the TUMF Improvements, Developer or its contractor shall provide AGENCY with surety bonds in the amounts and under the terms set forth below ("Security"). The amount of the Security shall be based on the estimated actual costs to construct the TUMF Improvements, as determined by AGENCY after Developer has awarded a contract for construction of the TUMF Improvements to the lowest responsive and responsible bidder in accordance with this Agreement ("Estimated Costs"). If AGENCY determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer or its contractor shall adjust the Security in the amount requested by AGENCY. Developer's compliance with this Section 11.0 et seq. of this Agreement shall in no way limit or modify Developer's indemnification obligation provided in Section 12.0 of this Agreement.

11.1 Performance Bond. To guarantee the faithful performance of the TUMF Improvements and all the provisions of this Agreement, to protect AGENCY if Developer is in default as set forth in Section 10.0 et seq. of this Agreement, and to secure the one-year guarantee and warranty of the TUMF Improvements, Developer or its contractor shall provide AGENCY a faithful performance bond in an amount which sum shall be not less than one hundred percent

(100%) of the Estimated Costs. The AGENCY may, in its sole and absolute discretion, partially release a portion or portions of the security provided under this section as the TUMF Improvements are accepted by AGENCY, provided that Developer is not in default on any provision of this Agreement and the total remaining security is not less than ten percent (10%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, or any extension thereof as provided in Section 11.0 of this Agreement, provided that Developer is not in default on any provision of this Agreement.

11.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, materialmen, and other persons furnishing labor, materials, or equipment for performance of the TUMF Improvements and this Agreement, Developer or its contractor shall provide AGENCY a labor and materials bond in an amount which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section may be released by written authorization of AGENCY after six (6) months from the date AGENCY accepts the TUMF Improvements. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which AGENCY is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of AGENCY's anticipated administrative and legal expenses arising out of such claims.

11.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best rating of at least "A" and FSC-VIII, shall be licensed to do business in California, and shall be satisfactory to AGENCY. As part of the obligation secured by the Security and in addition to the face amount of the Security, Developer, its contractor or the surety shall secure the costs and reasonable expenses and fees, including reasonable attorney's fees and costs, incurred by AGENCY in enforcing the obligations of this Agreement. Developer, its contractor and the surety shall stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the TUMF Improvements, or the plans and specifications for the TUMF Improvements shall in any way affect its obligation on the Security.

11.4 Evidence and Incorporation of Security. Evidence of the Security shall be provided on the forms set forth in Exhibit "B", unless other forms are deemed acceptable by the AGENCY, and when such forms are completed to the satisfaction of AGENCY, the forms and evidence of the Security shall be attached hereto as Exhibit "B" and incorporated herein by this reference.

12.0 Indemnification. Developer shall defend, indemnify, and hold harmless AGENCY, the Western Riverside Council of Governments (WRCOG), their elected officials, board members, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its employees, contractors, or agents in connection with the performance of this Agreement, or arising out of or in any way related to or caused by the TUMF Improvements or their condition prior to AGENCY's approval and acceptance of the TUMF Improvements ("Claims"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorney fees, and related costs or expenses, and the reimbursement of AGENCY, WRCOG, their elected officials, board members, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any Claim which is caused solely and exclusively by the negligence or willful misconduct of AGENCY as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by AGENCY, WRCOG, their elected officials, board members, employees, or agents.

13.0 Insurance.

13.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during performance of this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

13.1.1 General Liability. Occurrence form general liability insurance at least as broad as Insurance Services Office Form CG 00 01, or equivalent form, with an occurance limit of Two Million Dollars ($2,000,000) and aggregate limit of Four Million Dollars ($4,000,000) for bodily injury, personal injury, and property damage.

13.1.2 Business Automobile Liability. Business automobile liability insurance at least as broad as Insurance Services Office Form CA 00 01 (coverage symbol 1 – any auto), or equivalent form, with a combined single limit of not less than Two Million Dollars ($2,000,000) per occurrence and aggregate limit of Four Million Dollars ($4,000,000). Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

13.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than Two Million Dollars ($2,000,000) per occurrence and aggregate limit of Four Million Dollars ($4,000,000), at all times during which insured retains employees.

13.1.4 Professional Liability. For any consultant or other professional who will engineer or design the TUMF Improvements, liability insurance for errors and omissions with limits not less than Two Million Dollars ($2,000,000) per occurrence and aggregate limit of Four Million Dollars ($4,000,000), shall be procured and maintained for a period of five (5) years following completion of the TUMF Improvements. Such insurance shall be endorsed to include contractual liability.

13.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by AGENCY. At the option of AGENCY, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects AGENCY, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to AGENCY guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

13.3 Additional Insured; Separation of Insureds. The Required Insurance, except for the professional liability and workers' compensation insurance, shall name AGENCY, WRCOG, their elected officials, board members, officers, employees, and agents as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including any materials, parts, or equipment furnished in connection therewith. For Required Insurance provided by Developer's contractors, WRCOG shall be added as an additional insured using ISO CG 2038 or an exact equivalent. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to AGENCY, WRCOG, their elected officials, board members, officers, employees, or agents.

13.4 Primary Insurance; Waiver of Subrogation. The Required Insurance, except for the professional liability and workers' compensation insurance shall be primary with respect to any insurance or self-insurance programs covering AGENCY, WRCOG, their elected officials, board members, officers, employees, or agents. The Required Insurance, except for the professional liability insurance, shall provide that the insurance company waives all right of recovery by way of subrogation against AGENCY and WRCOG in connection with any damage or harm covered by such policy.

13.5 Certificates; Verification. Developer and its contractors shall furnish AGENCY with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by AGENCY before work pursuant to this Agreement can begin. AGENCY reserves the right to require complete, certified copies of all required insurance policies, at any time.

13.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days' prior written notice to AGENCY. If such notice of cancellation endorsements are unavailable, Developer shall provide such thirty (30) days' written notice of cancellation.

13.7 Insurer Rating. Unless approved in writing by AGENCY, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least "A" and FSC-VIII.

14.0 TUMF Credit.

14.1 Developer's TUMF Obligation. Developer hereby agrees and accepts that as of the date of this Agreement, the amount Developer is obligated to pay to AGENCY pursuant to Ordinance No. 824 as part of the TUMF Program is **EIGHTY FOUR THOUSAND FIVE HUNDRED EIGHTY TWO DOLLARS ($84,582)** ("TUMF Obligation"). This TUMF Obligation shall be initially determined under the TUMF fee schedule in effect for the AGENCY at the time the Developer submits a building permit application for the TUMF Improvement. Notwithstanding, this TUMF Obligation does not have to be paid until the Certificate of Occupancy is obtained.

14.2 Fee Adjustments. Notwithstanding the foregoing, Developer agrees that this Agreement shall not estop AGENCY from adjusting the TUMF in accordance with the provisions of County Ordinance No. 824.

14.3 Credit Offset Against TUMF Obligation. Pursuant to County Ordinance No. 824 and in consideration for Developer's obligation under this Agreement for the delivery of TUMF Improvements, credit shall be applied by AGENCY to offset the TUMF Obligation ("Credit") subject to adjustment and reconciliation under Section 14.5 of this agreement. Developer hereby agrees that the amount of the Credit shall be applied after Developer has initiated the process of project delivery of TUMF Improvements to the lowest responsible bidder in accordance with this Agreement. Developer further agrees that the dollar amount of the Credit shall be equal to the lesser of: (A) the bid amount set forth in the contract awarded to the lowest responsible bidder, or (B) the unit cost assumptions for the TUMF Improvement in effect at the time of the contract award, as such assumptions are identified and determined in the most recent TUMF Nexus Study and the TUMF Administrative Plan adopted by WRCOG ("Unit Cost Assumptions").

The bid amount and the Unit Cost Assumptions shall hereafter be collectively referred to as "Estimated Credit". At no time will the Credit exceed the Developer's TUMF Obligation. If the dollar amount of the Estimated Credit exceeds the dollar amount of the TUMF Obligation, Developer will be deemed to have completely satisfied its TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. If the dollar amount of the Estimated Credit is less than the dollar amount of the TUMF Obligation, the Developer agrees the Credit shall be applied to offset the TUMF Obligation as follows:

(i) For residential units in the Project, the Credit shall be applied to all residential units to offset and/or satisfy the TUMF Obligation. The residential units for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to each unit, shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

(ii) For commercial and industrial structures in the Project, the Credit shall be applied to all commercial and industrial development to offset and/or satisfy the TUMF Obligation. The commercial or industrial structure(s) for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to such structure(s), shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section, including how the Credit is applied to offset the TUMF Obligation as described above.

14.4 Verified Cost of the TUMF Improvements. Upon recordation of the Notice of Completion for the TUMF Improvements and acceptance of the TUMF Improvements by AGENCY, Developer shall submit to the AGENCY Public Works Director the information set forth in the attached Exhibit "C". The AGENCY Public Works Director, or his or her designee, shall use the information provided by Developer to calculate the total actual costs incurred by

Developer in delivering the TUMF Improvements covered under this Agreement ("Verified Costs"). The AGENCY Public Works Director will use his or her best efforts to determine the amount of the Verified Costs and provide Developer written notice thereof within thirty (30) calendar days of receipt of all the required information from Developer. The Agency may request that WRCOG calculate the amount of the Verified Cost. In this case, the AGENCY shall provide WRCOG written notice and all necessary documentation and allow WRCOG fifteen (15) days to determine costs. Agency will notify the Developer within the previous thirty (30) day deadline

14.5 Reconciliation; Final Credit Offset Against TUMF Obligation. The Developer is aware of and accepts the fact that Credits are speculative and conceptual in nature. The actual amount of Credit that shall be applied by AGENCY to offset the TUMF Obligation shall be equal to the lesser of: (A) the Verified Costs or (B) Unit Cost Assumptions for the TUMF Improvements as determined in accordance with Section 14.3 of this Agreement ("Actual Credit"). No Actual Credit will be awarded until the Verified Costs are determined through the reconciliation process. Please be advised that while a Developer may use an engineer's estimates in order to estimate Credits for project planning purposes, the Actual Credit awarded will only be determined by the reconciliation process.

(a) TUMF Balance. If the dollar amount of the Actual Credit is less than the dollar amount of the TUMF Obligation, the AGENCY Public Works Director shall provide written notice to Developer of the amount of the difference owed ("TUMF Balance") and Developer shall pay the TUMF Balance in accordance with County Ordinance 824 to fully satisfy the TUMF Obligation (see Exhibit "F" - Example "A").

(b) TUMF Reimbursement. If the dollar amount of the Actual Credit exceeds the TUMF Obligation, Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section (see Exhibit "F" - Example "B").

(c) TUMF Overpayment. If the dollar amount of the Actual Credit exceeds the Estimated Credit, but is less than the TUMF Obligation, but the Actual Credit plus additional monies collected by AGENCY from Developer for the TUMF Obligation exceed the TUMF Obligation ("TUMF Overpayment"), Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may be entitled to a refund. The AGENCY's Public Works Director shall provide written notice to WRCOG and the Developer of the amount of the TUMF Overpayment and AGENCY shall direct WRCOG to refund the Developer in accordance with County Ordinance 824 (see Exhibit "F" - Example C)

14.6 Reimbursement Agreement. If authorized under either Section 14.3 or Section 14.5 Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the Actual Credit exceeds the TUMF Obligation, as determined pursuant to Section 14.3 of this Agreement, County Ordinance No. 824, and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement Agreement"). If AGENCY and WRCOG agree to a Reimbursement Agreement with Developer, the Reimbursement Agreement shall be executed on the form set forth in Exhibit "D," and shall contain the terms and conditions set forth therein. The Parties agree that the Reimbursement Agreement shall be subject to all terms and conditions of this Agreement, and that upon execution, an executed copy of the Reimbursement Agreement shall be attached hereto and shall be incorporated herein as a material part of this Agreement as though fully set forth herein.

15.0 Miscellaneous.

15.1 Assignment. Developer may, as set forth herein, assign all or a portion of its rights pursuant to this Agreement to a purchaser of a portion or portions of the Property ("Assignment"). Developer and such purchaser and assignee ("Assignee") shall provide to AGENCY such reasonable proof as it may require that Assignee is the purchaser of such portions of the Property. Any assignment pursuant to this Section shall not be effective unless and until Developer and Assignee have executed an assignment agreement with AGENCY in a form reasonably acceptable to AGENCY, whereby Developer and Assignee agree, except as may be otherwise specifically provided therein, to the following: (1) that Assignee shall receive all or a portion of Developer's rights pursuant to this Agreement, including such credit as is determined to be applicable to the portion of the Property purchased by Assignee pursuant to Section 14.0 et seq. of this Agreement, and (2) that Assignee shall be bound by all applicable provisions of this Agreement.

15.2 Relationship Between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between or among AGENCY. WRCOG and Developer. Developer's contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of AGENCY. This Agreement shall be interpreted and administered in a manner consistent with the TUMF Administrative Plan in effect at the time this Agreement is executed.

15.3 Warranty as to Property Ownership; Authority to Enter Agreement. Developer hereby warrants that it owns fee title to the Property and that it has the legal capacity to enter into this Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

15.4 Prohibited Interests. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer, to solicit or secure this Agreement. Developer also warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Developer, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon the making of this Agreement. For breach of this warranty, AGENCY shall have the right to rescind this Agreement without liability.

15.5 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

To WRCOG:

Western Riverside Council of Governments
3390 University Avenue, Suite 200
Riverside, CA 92501
Attention: Executive Director
Telephone: (951) 405-6700
Fax No. (951) 223-9720

To AGENCY: COUNTY OF RIVERSIDE
Attn: Alvin Medina
4080 Lemon Street
Riverside, CA 92502
Phone No. (951) 955 - 1667

To Developer: Ranch RV & Self Storage- Temescal LLC
Attn: Dan Long
41391 Kalmia Street Suite 200
Murrieta, CA 92562
Phone No. (949) 351-2406

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

15.6 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

15.7 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to AGENCY include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

15.8 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

15.9 Termination. This Agreement shall terminate 10 years after the Effective Date, unless extended in writing by the Parties. In addition, this Agreement shall terminate 5 years after the Effective Date in the event that the TUMF Improvements as specified in the Credit Agreement is not commenced within 5 years of the Effective Date.

15.9.1 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

15.9.2 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

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

15.9.4 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

15.9.5 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Riverside, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

15.9.6 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

15.9.7 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

15.9.8 Entire Agreement. This Agreement contains the entire agreement between AGENCY and Developer and supersedes any prior oral or written statements or agreements between AGENCY and Developer.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

<u>COUNTY OF RIVERSIDE</u>

RECOMMENDED FOR APPROVAL:

By: ________________________________
Mark Lancaster
Director of Transportation

APPROVED AS TO FORM:

By: ________________________________

County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:

By: ________________________________

Chairman, County Board of Supervisors

ATTEST:
Kecia Harper
Clerk of the Board

By: ________________________________

Deputy

<u>DEVELOPER</u>

Ranch RV & Self-Storage – Temescal Valley, LLC, a California limited liability company

By: Rancon Group, Inc., a California corporation
Manager

By:___________________________
James A. Lytle
President

WESTERN RIVERSIDE COUNCIL OF GOVERNMENT:

By: ________________________________
Kurt Wilson
Executive Director

Approved to Form:

By: ________________________________
Steven C. DeBaun
General Counsel

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

[ATTACH BEHIND THIS PAGE]

EXHIBIT A-1

EXHIBIT "B"

FORMS FOR SECURITY

[ATTACHED BEHIND THIS PAGE]

BOND NO. ___________________
INITIAL PREMIUM: ___________________
SUBJECT TO RENEWAL

PERFORMANCE BOND

WHEREAS, the [INSERT "City" OR "County"] of ___________ ("AGENCY") has executed an agreement with ____ (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter the "Work");

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain TUMF Improvement and Credit/Reimbursement Agreement dated ___________________________, (hereinafter the "Agreement"); and

WHEREAS, the Agreement is hereby referred to and incorporated herein by this reference; and

WHEREAS, Developer or its contractor is required by the Agreement to provide a good and sufficient bond for performance of the Agreement, and to guarantee and warranty the Work constructed thereunder.

NOW, THEREFORE, we the undersigned, ______________________________, as Principal and ___________________________________, a corporation organized and existing under the laws of the State of _________________________ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY in the sum of ____ ($______________), said sum being not less than one hundred percent (100%) of the total cost of the Work as set forth in the Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Developer and its contractors, or their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless AGENCY, its officers, employees, and agents, as stipulated in the Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by AGENCY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this ____ day on ______________________, 20__.

____
Principal

By: ___________________________
President

____
Surety

By: ___________________________
Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ________________________________)

On __________________________, before me, ______________________________,
Date Here Insert Name and Title of the Officer

personally appeared ____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature____________________________________
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title of Type of Document:_____________________________________ Document Date:____________
Number of Pages: ___________ Signer(s) Other Than Named Above:________________

Capacity(ies) Claimed by Signer(s)

Signer's Name:________________________________
____
☐ Corporate Officer – Title(s):________________
____
____
☐ Partner - ☐ Limited☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator

Signer's Name:________________________________
____
☐ Corporate Officer – Title(s):________________
____
____
☐ Partner - ☐ Limited☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator

EXHIBIT B-4

☐Other:______________________________________
____
____

Signer is Representing:___
_
____
_

☐Other:______________________________________
____
____

Signer is Representing:___
_
____
_

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________, certify that I am the ________________ Secretary of the corporation named as principal in the attached bond, that _______________________________________ who signed the said bond on behalf of the principal was then _____________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal)

____
Signature

____
Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

BOND NO. ___________________
INITIAL PREMIUM: _________________
SUBJECT TO RENEWAL

LABOR & MATERIAL BOND

WHEREAS, the [INSERT “City” OR “County”] of ___________ (“AGENCY”) has executed an agreement with _____________________________________ (hereinafter “Developer”), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter “Work”);

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain Improvement and Credit / Reimbursement Agreement dated ___________________________, (hereinafter the “Agreement”); and

WHEREAS, Developer or its contractor is required to furnish a bond in connection with the Agreement providing that if Developer or any of his or its contractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the provisions of 3248 of the California Civil Code, with respect to such work or labor, that the Surety on this bond will pay the same together with a reasonable attorney’s fee in case suit is brought on the bond.

NOW, THEREFORE, we the undersigned, ______________________________, as Principal and ____________________________________, a corporation organized and existing under the laws of the State of _________________________ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY and to any and all material men, persons, companies or corporations furnishing materials, provisions, and other supplies used in, upon, for or about the performance of the said Work, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to said Work to be done, and all persons performing work or labor upon the same and all persons supplying both work and materials as aforesaid, the sum of ____ ($_______________), said sum being not less than 100% of the total amount payable by Developer under the terms of the Agreement, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Developer or its contractors, or their heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the

Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein.

In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Sections 8024, 8400, 8402, 8404, 8430, 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this ____ day on ______________________, 20__.

____
Principal

By: ____________________________
President

____
Surety

By: ____________________________
Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ________________________________)

On ___________________________, before me, ______________________________,
Date Here Insert Name and Title of the Officer

personally appeared ____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____________________________________
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title of Type of Document:_____________________________________ Document Date:____________
Number of Pages: ___________ Signer(s) Other Than Named Above:________________

Capacity(ies) Claimed by Signer(s)

Signer's Name:_______________________________
____
☐ Corporate Officer – Title(s):________________
____
____
☐ Partner - ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator

Signer's Name:_______________________________
____
☐ Corporate Officer – Title(s):________________
____
____
☐ Partner - ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator

EXHIBIT B-8

☐Other:______________________________________
____
____
Signer is Representing:___
_
____
_

☐Other:______________________________________
____
____
Signer is Representing:___
_
____
_

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________, certify that I am the ________________ Secretary of the corporation named as principal in the attached bond, that ______________________________________ who signed the said bond on behalf of the principal was then _____________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal)

____
Signature

____
Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

EXHIBIT "C"

DOCUMENTATION TO BE PROVIDED TO AGENCY BY DEVELOPER FOR DETERMINATION OF VERIFIED COSTS

To assist AGENCY in determining the Verified Costs for a completed TUMF Improvement, Developer shall provide the following documents to AGENCY:

1. Plans, specifications and Developer's civil engineer's cost estimate;

2. If Developer is seeking Credit for such costs, documentation evidencing cost of any required environmental studies, preparation of designs, plans and specifications, required right of way acquisition, and other costs directly related to the development of the TUMF Improvement. Only actual, documented and reasonable costs directly related to the TUMF Improvement will be considered. Costs should be documented as specified below.

3. Costs claimed for right of way acquisition must be accompanied by an appraisal (no more than two years old at the time of acquisition) completed by an MAI appraiser, and documentation of transfer of such right of way to the AGENCY, or applicable public agency. The appraisal must be approved by the AGENCY as valid and acceptable.

4. List of bidders from whom bids were requested;

5. Construction schedules and progress reports;

6. Contracts, insurance certificates and change orders with each contractor, consultant, service provider or vendor;

7. Invoices received from all contractors, consultants, service providers and vendors;

8. Canceled checks for payments made to contractors, consultants, service providers and vendors (copy both front and back of canceled checks);

9. Spreadsheet showing total costs incurred in and related to the construction of each TUMF Improvement and the check number for each item of cost and invoice;

10. Final lien releases from each contractor and vendor; and

11. Such further documentation as may be reasonably required by AGENCY to evidence the completion of construction and the payment of each item of cost and invoice.

EXHIBIT "D"

REIMBURSEMENT AGREEMENT
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into this ___ day of __________________, 20___, by and between the [INSERT "City" OR "County"] of __________, [**INSERT "a California municipal corporation" FOR CITY OR "a subdivision of the State of California" FOR COUNTY**] ("AGENCY"), the Western Riverside Council of Governments ("WRCOG"), a Joint Powers Agency and ______________________________, a California [**INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity**], with its principal place of business at [**ENTER ADDRESS**] ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, AGENCY, WRCOG and Developer are parties to an agreement dated ________________, 20___, entitled "Improvement and Credit Agreement - Transportation Uniform Mitigation Fee Program" (hereinafter "Credit Agreement");

WHEREAS, Sections 14.1 through 14.3 of the Credit Agreement provide that Developer is obligated to pay AGENCY the TUMF Obligation, as defined therein, but shall receive credit to offset the TUMF Obligation if Developer constructs and AGENCY accepts the TUMF Improvements in accordance with the Credit Agreement;

WHEREAS, Section 14.5 of the Credit Agreement provides that if the dollar amount of the credit to which Developer is entitled under the Credit Agreement exceeds the dollar amount of the TUMF Obligation, Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the credit exceeds the TUMF Obligation;

WHEREAS, Section 14.5 additionally provides that a reimbursement agreement executed pursuant to the Credit Agreement (i) shall be executed on the form attached to the Credit Agreement, (ii) shall contain the terms and conditions set forth therein, (iii) shall be subject to all terms and conditions of the Credit Agreement, and (iv) shall be attached upon execution to the Credit Agreement and incorporated therein as a material part of the Credit Agreement as though fully set forth therein; and

WHEREAS, AGENCY and WRCOG have consented to execute a reimbursement agreement with Developer pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG.

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Effectiveness. This Agreement shall not be effective unless and until the Credit Agreement is effective and in full force in accordance with its terms.

3.0 Definitions. Terms not otherwise expressly defined in this Agreement, shall have the meaning and intent set forth in the Credit Agreement.

4.0 Amount of Reimbursement. Subject to the terms, conditions, and limitations set forth in this Agreement, the Parties hereby agree that Developer is entitled to receive the dollar amount by which the Actual Credit exceeds the dollar amount of the TUMF Obligation as determined pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement").The Reimbursement shall be subject to verification by WRCOG. AGENCY and Developer shall provide any and all documentation reasonably necessary for WRCOG to verify the amount of the Reimbursement. The Reimbursement shall be in an amount not exceeding [INSERT DOLLAR AMOUNT] ("Reimbursement Amount"). WRCOG shall, upon receipt and approval of information requested by WRCOG, shall be responsible for transmitting the Reimbursement Amount to the Developer. In no event shall the dollar amount of the Reimbursement exceed the difference between the dollar amount of all credit applied to offset the TUMF Obligation pursuant to Section 14.3, 14.4, and 14.5 of the Credit Agreement, and one hundred (100%) of the approved unit awarded, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG.

5.0 Payment of Reimbursement; Funding Contingency. The payment of the Reimbursement Amount shall be subject to the following conditions:

5.1 Developer shall have no right to receive payment of the Reimbursement unless and until (i) the TUMF Improvements are completed and accepted by AGENCY in accordance with the Credit Agreement, (ii) the TUMF Improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, (iii) WRCOG has funds available and appropriated for payment of the Reimbursement amount.

5.2 Developer shall not be entitled to any interest or other cost adjustment for any delay between the time when the dollar amount of the Reimbursement is determined and the time when payment of the Reimbursement is made to Developer by WRCOG through AGENCY.

6.0 Affirmation of Credit Agreement. AGENCY and Developer represent and warrant to each other that there have been no written or oral modifications or amendments of the Credit Agreement, except by this Agreement. AGENCY and Developer ratify and reaffirm each and every one of their respective rights and obligations arising under the Credit Agreement. AGENCY and Developer represent and warrant that the Credit Agreement is currently an effective, valid, and binding obligation.

7.0 Incorporation Into Credit Agreement. Upon execution of this Agreement, an executed original of this Agreement shall be attached as Exhibit "D" to the Credit Agreement and shall be incorporated therein as a material part of the Credit Agreement as though fully set forth therein.

8.0 Terms of Credit Agreement Controlling. Each Party hereby affirms that all provisions of the Credit Agreement are in full force and effect and shall govern the actions of the Parties under this Agreement as though fully set forth herein and made specifically applicable hereto, including without limitation, the following sections of the Credit Agreement: Sections 10.0 through 10.3, Section 12.0, Sections 13.0 through 13.7, Sections 14.0 through 14.6, and Sections 15.0 through 15.17.

[SIGNATURES OF PARTIES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

____
("Developer")

By: _____________________________________

Its: ______________________________________

ATTEST:

By: ________________________________

Its: ________________________________

[INSERT "City" OR "County") of ___________

By: _____________________________________

Its: ______________________________________

ATTEST:

By: ________________________________

Its: ________________________________

EXHIBIT "E"

TUMF CREDIT / REIMBURSEMENT ELIGIBILITY PROCESS

1. Prior to the construction of any TUMF Improvement, Developer shall follow the steps listed below:

(a) Prepare a separate bid package for the TUMF Improvements.

(b) The plans, cost estimate, specifications and contract document shall require all contractors to pay prevailing wages and to comply with applicable provisions of the Labor Code, Government Code, and Public Contract Code relating to Public Works Projects.

(c) Bids shall be obtained and processed in accordance with the formal public works bidding requirements of the AGENCY.

(d) The contract(s) for the construction of TUMF Improvements shall be awarded to the lowest responsible bidder(s) for the construction of such facilities in accordance with the AGENCY's requirements and guidelines.

(e) Contractor(s) shall be required to provide proof of insurance coverage throughout the duration of the construction.

2. Prior to the determination and application of any Credit pursuant to a TUMF Improvement and Credit Agreement executed between AGENCY and Developer ("Agreement"), Developer shall provide the AGENCY and WRCOG with the following:

(a) Copies of all information listed under Item 1 above.

(b) Surety Bond, Letter of Credit, or other form of security permitted under the Agreement and acceptable to the AGENCY and WRCOG, guaranteeing the construction of all applicable TUMF Improvements.

3. Prior to the AGENCY's acceptance of any completed TUMF Improvement, and in order to initiate the construction cost verification process, the Developer shall comply with the requirements as set forth in Sections 7, 14.2 and 14.3 of the Agreement, and the following conditions shall also be satisfied:

(a) Developer shall have completed the construction of all TUMF Improvements in accordance with the approved Plans and Specifications.

(b) Developer shall have satisfied the AGENCY's inspection punch list.

(c) After final inspection and approval of the completed TUMF Improvements, the AGENCY shall have provided the Developer a final inspection release letter.

(d) AGENCY shall have filed a Notice of Completion with respect to the TUMF Improvements pursuant to Section 3093 of the Civil Code with the County Recorder's Office, and provided a copy of filed Notice of Completion to WRCOG.

(e) Developer shall have provided AGENCY a copy of the As-Built plans for the TUMF Improvements.

(f) Developer shall have provided AGENCY copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation and maintenance of any TUMF Improvements.

(g) Developer shall have submitted a documentation package to the AGENCY to determine the final cost of the TUMF Improvements, which shall include at a minimum, the following documents related to the TUMF Improvements:

(i) Plans, specifications, and Developer's Civil Engineer's cost estimates; or Engineer's Report showing the cost estimates.

(ii) If DEVELOPER is seeking Credit for such costs, documentation evidencing cost of any required environmental studies, preparation of designs, plans and specifications, required right of way acquisition, and other costs directly related to the development of the TUMF Improvements. Only actual, documented and reasonable costs directly related to the TUMF Improvements will be considered. Costs should be documented as specified below.

(iii) Costs claimed for right of way acquisition must be accompanied by an appraisal (no more than two years old at the time of acquisition) completed by an MAI appraiser, and documentation of transfer of such right of way to the AGENCY, or applicable public agency. The appraisal must be approved by the AGENCY as valid and acceptable.

(iv) Contracts/agreements, insurance certificates and change orders with each vendor or contractor.

(v) Invoices from all contractors, consultants, service providers and vendors.

(vi) Copies of cancelled checks, front and back, for payments made to contractors, consultants, service providers and vendors.

(vii) Final lien releases from each contractor and vendor (unconditional waiver and release).

(viii) Certified contract workers payroll for AGENCY verification of compliance with prevailing wages.

(ix) A total cost summary, in spreadsheet format (MS Excel is preferred) and on disk, showing a breakdown of the total costs incurred. The summary should include for each item claimed the check number, cost, invoice numbers, and name of payee. See attached sample for details.

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Single Signature Authority Report**

Contact: **Princess Hester, Administrative Services Director, phester@wrcog.us, (951) 405-6704**

Date: **April 4, 2022**

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to notify the Committee of contracts recently signed under the Single Signature Authority of the Executive Director.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #3 - Ensure fiscal solvency and stability of the Western Riverside Council of Governments.

Background:

The purpose of this report is to provide visibility into contracts entered by WRCOG using the authority of the Executive Director. In the process of conducting regular business, WRCOG enters into a number of contracts on an ongoing basis. The process for approving those contracts varies, primarily by amount, and occasionally for other reasons. The Executive Committee has an uncapped level of approval authority (within the constraints of the budget approved by the General Assembly) and the Administration & Finance (A&F) Committee has a limit of $200k.

Actions taken by either the Executive or A&F Committee are taken during public meetings and subject to public review and scrutiny. The Executive Director has Single Signature Authority for contracts up to $100,000, and because the use of that process generally happens outside of a public meeting, this report is provided in order to share the information.

For the months of January 2022 through March 2022, seven contracts were signed by the Executive Director. Additional information is provided below.

1. In January 2022, an engagement agreement was executed with Slovak, Baron, Empey, Murphy & Pinkney to represent WRCOG in pursuing a creditor claim in a pending Chapter 9 Bankruptcy action filed by Western Community Energy. This agreement will be billed at hourly rates.
2. In January 2022, an engagement agreement was executed with Renne Public Law Group to conduct an assessment to advise WRCOG on an employment matter. This agreement will be billed at hourly rates.

3. In January 2022, an engagement agreement was executed with Citygate Associates to review WRCOG fiscal practices. The agreement has a period of performance through June 30, 2022, at an amount not to exceed $20,000.
4. In January 2022, an agreement was executed with Environmental Science Associates to provide advisory services on the revisions to CAPtivate 2.0 project. The agreement has a period of performance through April 30, 2022, at an amount not to exceed $8,000.
5. In February 2022, an agreement was executed with Municipal Resource Group to review aspects of the Western Community Energy bankruptcy process. The agreement has a period of performance through December 31, 2022, at an amount not to exceed $25,000.
6. In February 2022, an agreement was executed with Koff & Associates to conduct a classification and compensation study. The agreement has a period of performance through June 30, 2022, at an amount not to exceed $38,528.
7. In March 2022, an agreement was executed with Rogers, Anderson, Malody & Scott (RAMS) to perform a payroll tax compliance audit. This is a project separate from the Agency financial audit. The agreement has a period of performance through June 30, 2022, at an amount not to exceed $2,500.

Prior Action(s):
None.

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

Attachment(s):
None.

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Proposed Revisions to the Grant Writing Assistance Program Guidelines**

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

Date: **April 4, 2022**

Requested Action(s):

1. Approve the revisions to the Grant Writing Assistance Program Guidelines.

Purpose:

The purpose of this item is to request approval of the revisions to the Grant Writing Assistance Program Guidelines.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #2 - Identify and help secure grants and other potential funding opportunities for projects and programs that benefit member agencies.

Background:

WRCOG commenced its Grant Writing Assistance Program to assist member jurisdictions in grant writing assistance on an as-needed basis as funding is available. The Program Guidelines were approved by the Executive Committee in September 2017, and WRCOG immediately received a number of requests by its member agencies to assist with grant opportunities allowed in the Program. Based on the volume of requests, staff requested additional funding for the Program to enable more assistance to member agencies. The Executive Committee approved an additional $500,000 in funding to this Program in December 2017 for a total of $700,000.

To date, approximately $650,000 has been utilized on the following tasks, which are described in further detail in the following 'Program Benefits' section:

- Direct grant assistance for applications
- Advisory services to WRCOG member agencies
- Grant opportunity tables sent to member agencies on a bi-weekly basis
- Producing grant program fact sheets

Program Benefits

Direct Grant Assistance: The Program has provided direct grant assistance on over 40 grant applications and has assisted jurisdictions within Western Riverside County to attain over $67 million in grant funding. The largest portion of this grant funding was a partnership with the City of Riverside for the grant application development of an Affordable Housing and Sustainable Communities Program and Transformative Climate Communities grants that will provide over $47 million to housing projects and multi-modal transportation improvements, among other improvements. The next largest portion of grant funding attained is through the Active Transportation Program (ATP). The WRCOG Grant Writing Assistance Program has helped attain $17 million in ATP funding for jurisdictions in Western Riverside County.

The Program is currently structured to focus on a few select grant opportunities to allow growth in the future based on success rates, feedback from users, and funding availability. Eligible grants are as follows:

- Caltrans Active Transportation Program (https://dot.ca.gov/programs/local-assistance/fed-andstate-programs/active-transportation-program)
- Caltrans Sustainable Transportation Planning Grant Program (Transportation Planning Grants & Adaptation Planning Grants)(https://dot.ca.gov/programs/transportation-planning/regionalplanning/sustainable-transportation-planning-grants)
- California Strategic Growth Council Affordable Housing and Sustainable Communities Program (AHSC) (https://sgc.ca.gov/programs/ahsc/)
- Clean Cities-related grants (https://cleancities.energy.gov/)
- New planning grant opportunities

The focus of the opportunities is in areas in which WRCOG provides assistance to its member agencies. To maintain flexibility with the Program, “new planning grant opportunities” are being added so that other grant opportunities related to planning may be considered. This category enables members to request assistance if any grant opportunities that focus on planning grants become available – such as those that help fund General Plans, Specific Plans, or Community Plans. The Program is not intended to assist infrastructure grant opportunities, i.e., TIGER, HSIP, FASTLANE, etc.

Advisory Services: In addition to direct assistance, the Program has provided advisory services to member agencies. This has provided member agencies the ability to discuss potential projects or ideas in order to align with the Grant Program that fits best. This service also enables member agencies to learn more about grant programs and the requirements that need to be met in order to attain and exhaust grant funding. Grant funding includes certain reporting requirements so it is also a benefit for member agencies to understand the requirements prior to submitting an application. This has been an aspect of the Program not quantifiable but has proved beneficial in ensuring the efficient use of a jurisdiction’s resources.

Grant Opportunity Tables and Grant Program Fact Sheets: A table that summarizes current grant opportunities and upcoming opportunities is disseminated to members of WRCOG's Technical Advisory, Planning Directors, and Public Works Committees, as well as other member agency staff on a bi-weekly basis. The table includes a synopsis of the grant program, the deadline for submittals, the level of effort needed to develop an application, success rate for each opportunity, and other notes, including the number of applications awarded in relation to the number of applications submitted, if known. This table is updated constantly as grant opportunities are made available on a daily basis. In addition, fact sheets are produced for newer grant programs and larger grant programs that may be of interest to member agencies.

Proposed Revisions to Grant Writing Assistance Program Guidelines

The goal of this Program is to strengthen the subregion's overall competitiveness for statewide funding and to provide needed supplemental support to jurisdictions prevented from seeking grant funds due to limited capacity and/or resources. The Program was able to kick-start as a result of higher-than-anticipated revenues from other programs that the Executive Committee decided to provide back to member agencies. Those higher-than-anticipated revenues have since declined and are projected to decline further. WRCOG's current resources are insufficient to replenish the funds of the Program as a whole at a sustainable rate, so staff have reviewed the Program Guidelines to evaluate how the Program can become more sustainable. One caveat for the near-term future of the Program is that WRCOG is receiving Regional Early Action Planning (REAP) grant funds through SCAG with the goal of assisting member agencies increase housing production and planning. WRCOG has received approval from SCAG to allocate some of the REAP funds to assist member agencies develop grant applications in identified housing-related grant programs to help achieve this goal. All of the programs identified in the housing-related grant programs will be funded through REAP funds, which must be utilized by June 30, 2023.

The proposed revised Program Guidelines are attached to this staff report and summarized below. These changes have also gone to the WRCOG Planning Directors, Public Works, and Technical Advisory Committees for review and input.

Revision #1: The following grant programs will be added to the list of eligible grants that the Program can provide direct assistance, as a result of REAP funding described above:

- Transformative Climate Communities Program
- Infill Infrastructure Program
- Permanent Local Housing Allocations (PLHA)
- Transit Oriented Development Housing Program
- Mobile home Park Rehabilitation & Resident Ownership Program (MPRROP)
- Multi-family Housing Program
- Other grant programs with a direct nexus to housing

Staff is proposing to streamline the Program activities in order to ensure the fiscal sustainability of the program. The staff evaluation considered whether the Program can sustain the different components of the Program, how the Program has been utilized, where efficiencies can be created and the process in which assistance has been provided to member agencies.

Revision #2: Staff is proposing to implement the parameters listed below for the Program based on the following evaluation:

- Member agencies will be permitted direct assistance developing grant applications on one application per grant program per cycle, Call for Projects, or Notice of Funding Availability.
    - e.g., jurisdictions will be provided direct assistance developing a grant application for ATP Cycle VI on one submittal.
- Member agencies will be limited to receiving direct assistance on grant application development for three grant applications every two years.
- The Program will provide direct assistance on a grant application resubmittal once. Further resubmittals will not be provided Program assistance.

Revision #3: WRCOG has had an instance in which a member agency requested assistance to develop a grant application but did not actually submit the grant application. WRCOG is proposing to establish a policy that if a member agency requests assistance to develop a grant application but does not actually submit the grant application, the member agency will be required to reimburse WRCOG the costs for assistance.

Revision #4: There have also been instances in which a member agency requests assistance to develop a grant application but also requests assistance to further develop the project proposal. This has cost the Program a sizeable amount of funding that the Program cannot sustain. Staff proposes to utilize a screening process when an initial request is submitted and is requesting that the member agency requesting assistance submit an application that will include a project description and project parameters, if applicable.

Revision #5: Certain grant programs have become ultra-competitive. The Program provides assistance on a few of them, with the ATP being the most competitive. WRCOG is proposing to utilize a preliminary scoring criterion specifically for requests of assistance on ATP grant applications. WRCOG will utilize the preliminary score to commence a discussion with the requesting member agency. As part of this preliminary scoring criterion, requesting agencies will need to provide certain data. WRCOG is proposing to utilize these data points because they are data sets that are easily accessible.

Prior Action(s):
February 17, 2022: The Technical Advisory Committee received and filed.

December 9, 2021: The Public Works Committee received and filed.

October 14, 2021: The Planning Directors Committee received and filed.

Fiscal Impact:
Transportation and Planning Department activities are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the Transportation Department. The various elements of the Grant Writing Program have different funding sources. Any transportation related grants are funded by prior-year agency carry-over funds and the Local Transportation Funds (LTF), which is provided by RCTC to WRCOG for Transportation Planning purposes. Any support for housing related grant applications is provided through the SCAG REAP program.

Attachment(s):
Attachment 1 - Grant Writing Assistance Program Guidelines 2.0

WRCOG Grant Writing Assistance Program Guidelines 2.0

Program Overview: The WRCOG Grant Writing Assistance Program (Program), launched in September 2017, is designed to assist members in preparing proposals for grant opportunities. To provide a Program that best assists WRCOG members, WRCOG staff convened a Focus Group of member jurisdiction staff to provide feedback on Program specifics and develop Program Guidelines, which were approved by the WRCOG Executive Committee on September 11, 2017. The subsequent Guidelines 2.0 have been presented to the WRCOG Planning Directors Committee and Public Works Committee iteratively to ensure the Program continues to benefit WRCOG member jurisdictions.

Grant Writing Consultants: WRCOG released a Request for Proposals (RFP) in December 2021 for consultants to serve on a "bench" to provide grant writing assistance to WRCOG member jurisdictions. The bench of consultants is available to members on a first-come, first-served basis when funding opportunities for the selected grants become available. The consultants will assist members with the grant application process only, not with subsequent award management or project implementation. The following consultants were selected to assist our member jurisdictions with grant preparation:

- Alta Planning + Design
- Blais & Associates
- Cambridge Systematics
- KTUA
- National Community Renaissance

Program Contact:

Christopher Tzeng
Program Manager, Transportation
Phone: (951) 405-6711
Email: ctzeng@wrcog.us
Website: http://www.wrcog.us/266/Grant-Writing-Assistance

Program Guidelines: The Guidelines define the parameters of the Program, including the following items:

1. Eligible grants;
2. Eligible activities;
3. Expectation of member jurisdictions accepting assistance;
4. Linkage to other WRCOG programs;
5. Screening process; and
6. Process to request grant writing assistance.

#1 - Eligible grants: The Program focuses on a few select grant opportunities. Eligible grants are as follows:

- Active Transportation Program (https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/active-transportation-program)
- Caltrans Sustainable Transportation Planning Grant Program (Transportation Planning Grants & Adaptation Planning Grants) (https://dot.ca.gov/programs/transportation-planning/regional-planning/sustainable-transportation-planning-grants)
- Housing related grant programs, for example:
  - Affordable Housing and Sustainable Communities Program (https://sgc.ca.gov/programs/ahsc/)
  - Transformative Climate Communities Program
  - Infill Infrastructure Program
  - Permanent Local Housing Allocations (PLHA)
  - Transit Oriented Development Housing Program
  - Mobilehome Park Rehabilitation & Resident Ownership Program (MPRROP)
  - Multifamily Housing Program
- Clean Cities related grants (https://cleancities.energy.gov/)
- New planning grant opportunities

Some of the grants identified in the "housing related grant programs" section are new additions to the Program and are highlighted in yellow. WRCOG is receiving REAP funds through SCAG with the goal of assisting local jurisdictions increase housing production and planning. WRCOG has received approval from SCAG to allocate some of the REAP funds to assist jurisdictions develop grant applications in these identified housing related grant programs to achieve this goal. All of the programs identified in the housing related grant programs will be funded through REAP funds that must be utilized by June 30, 2023.

To maintain flexibility with the Program, "new planning grant opportunities" are included so that other grant opportunities related to planning may be considered. This category enables members to request assistance if any grant opportunities that focus on planning grants become available – such as those that help fund General Plans, Specific Plans, or Community Plans.

*Ineligible Grants: The Program is **not** intended to assist infrastructure grant opportunities, i.e., TIGER, HSIP, FASTLANE, etc.*

Assistance with Clean Cities grants is available for WRCOG Clean Cities Coalition members only. Assistance is available for grant opportunities related to Clean Cities activities, such as electric vehicle charging stations and city / county fleet purchasing. Funding for assistance with these grants will be allocated from Coalition funds. WRCOG administers the Coalition on behalf of participating member jurisdictions which pay specific Coalition dues. This Program can increase the Coalition's effectiveness by assisting Coalition members attain grant funding.

#2 - Eligible activities and assistance limitations: The Program will streamline the activities it provides assistance to member jurisdictions in order to ensure a fiscally supportable Program. WRCOG staff conducted an evaluation on necessary changes to enable a sustainable Program. This evaluation looked at if the Program can sustain the different components of the Program, how the Program has been utilized, where efficiencies can be created and the process in which assistance has been provided to member jurisdictions.

WRCOG will be implementing the parameters listed below for the Program based on the evaluation and input from WRCOG Committees:

- Jurisdictions will be permitted direct assistance developing grant applications on one (1) application per grant program per cycle.
    - e.g., Jurisdictions will be provided direct assistance developing a grant application for ATP Cycle VI on one (1) submittal.
- Jurisdictions will be limited to receiving direct assistance on grant application development for three (3) grant applications every two-years.
- The Program will provide direct assistance on a grant application resubmittal once. Further resubmittals will not be provided Program assistance.

#3 - Expectation of member jurisdiction accepting assistance: WRCOG member jurisdictions must submit formal request using the Application for Grant Writing Assistance (http://wrcog.us/DocumentCenter/View/2119) form to WRCOG. WRCOG will only authorize a consultant to provide assistance if it is determined the project will be competitive based on the initial input provided by the requestor (see Screening Process – section #5).

In order for the Program to run effectively and utilize funds efficiently, the member jurisdiction accepting grant writing assistance must agree to the following:

- Dedicate sufficient resources:
    - Obtain all necessary material on the information checklist provided by the consultant
    - Attend kick-off meeting to ensure consultant has needed information to prepare grant application
    - Respond to inquiries from the consultant in a timely manner
- Be the responsible party for grant submittal, including signatory on application and actual submittal of the application

It is expected that once the member jurisdiction is awarded the assistance for a grant application, and the consultant is selected to assist, all parties will participate in a kick-off meeting to discuss the proposal and share necessary information to begin work on the grant application. The consultant will prepare the grant application and all necessary exhibits, tables, etc., for review by the member jurisdiction staff. The member jurisdiction will then provide comments to be addressed by the consultant, and the consultant will then revise the application based on comments provided. Finally, the consultant will provide the member jurisdiction staff with a final draft for review and submittal.

If the member jurisdiction does not actually submit the grant application, the member jurisdiction will be required to reimburse WRCOG the costs for assistance.

#4 - Process to request grant writing assistance:

1. Member jurisdiction submits an application, formally requesting grant writing assistance with a specific grant. WRCOG will leave it to the discretion of the member jurisdiction how this request is made, whether it is through the elected body, WRCOG representative, or other party to act on behalf of the City. WRCOG will assume that if it receives a request for assistance from a member jurisdiction representative, that representative is authorized to act on behalf of the member jurisdiction.
2. WRCOG staff and its grant writing professionals will review the applications within seven calendar days and determine whether the request meets the criteria, as noted below.
3. If the Application meets the criteria set in these Guidelines, WRCOG will work with the applicant to select a proper consultant from the list of pre-approved consultants.
4. Kick-off meeting will be held with jurisdiction and consultant.

#5 - Screening process: In order to ensure funds for the Program are utilized effectively and efficiently, an Application must be submitted to WRCOG for review. The application has been updated to ensure a sustainable Program moving forward.

Required information to initiate request assistance

- To initiate assistance, member jurisdictions are required to submit an application that will include a project description/parameters to WRCOG.
  - The Program will not provide services to develop a project or conduct research on how a proposed project will score.
- The project description will be reviewed by grant writing professionals. WRCOG will determine if application development assistance will be provided based on the professional judgement of its grant writing professionals and application development schedule.
- Furthermore, a preliminary scoring criterion for the ATP will be utilized to determine if assistance will be provided by WRCOG. The criterion will be assessed by grant writing professionals. Member jurisdictions will need to provide the following:
  - Proposed project's Disadvantaged Community (DAC) score
  - Project description
  - Accident data
  - Status of outreach conducted

The criteria set in these Guidelines, serve as basic standards for proposals to be evaluated. The selection of proposals for grant writing assistance will be at the discretion of WRCOG based on available funding, and WRCOG reserves the right to decide which proposals receive grant writing assistance.

Nothing in this Program will be construed as limiting member jurisdictions from hiring other consultants to prepare grants on their behalf.

Item 7.H

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Update on Professional Services Agreements for On-Call Planning Services**

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

Date: **April 4, 2022**

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to provide an update on the Professional Service Agreements (PSAs) being established to provide on-call planning services to WRCOG and the member agencies.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #5 - Develop projects and programs that improve infrastructure and sustainable development in our subregion.

Background:

On-Call Planning Consultant Bench Background

WRCOG has historically received requests from member agencies for assistance on a variety of disciplines related to jurisdictions' planning efforts. WRCOG identified disciplines (Grant Writing Assistance, Land Use / Housing Planning and Transportation Planning) to provide direct assistance to its member agencies and established its On-Call Planning consultant bench in 2017. This was based on the identified disciplines to enable WRCOG the ability to quickly provide continued assistance to the member agencies as requested. Twelve consultants were determined qualified to serve on the initial consultant bench in 2017 and PSAs for these consultants were established then.

On-Call Agreements Background

On-Call Agreements are established with specific language in the agreement stating that specific work is authorized through a task work order process, and that WRCOG is under no obligation to provide the funding as set in the On-Call Agreement. Under this process, the contract or contract amendments specify the maximum amount of work that is authorized. Staff then works with the various professional service providers to authorize work on specific tasks as needed throughout the fiscal year. As an On-Call Agreement, these contracts do not create an obligation that work will be assigned but rather set a maximum limit for work to be authorized. In the case that the need for this work does not arise, WRCOG is under no obligation to provide this funding to these professional service providers.

New On-Call Planning Consultant Bench Procurement Process

Since the original on-call consultant contracts have expired or will expire at the end of the current Fiscal Year, WRCOG released Request for Proposal (RFP) No. 21-13, On-Call Planning Services, on December 6, 2021. Responses to the RFP were due on January 13, 2022. WRCOG received the following number of responses for the respective disciplines:

- 10 submittals for Grant Writing Assistance
- 7 submittals for Land Use / Housing Planning
- 8 submittals for Transportation Planning

The proposal review committee reviewed the qualifications of the firms, as well as the familiarity and experience of the proposed project team with WRCOG and its member agencies. WRCOG values experience in the subregion from consultants and, specifically, the proposed project team members, as the subregion faces unique and historical challenges. The purpose of the consultant bench is to provide assistance as quickly as possible and perform the assistance in an efficient manner. Consultants with experience in the subregion and familiarity with member agency staff are able to achieve this. WRCOG is proposing to place the following consultants on its on-call planning consultant bench, based on the respective discipline category:

Grant Writing Assistance Discipline
- Alta Planning + Design
- B&A
- Cambridge Systematics
- KTUA
- National Community Renaissance of California

Land Use / Housing Planning Discipline
- Michael Baker International
- National Community Renaissance of California
- PlaceWorks
- WSP

Transportation Planning Discipline
- Cambridge Systematics
- Fehr & Peers
- Iteris
- Mark Thomas
- Michael Baker International
- WSP

WRCOG will establish PSAs with the respective consultants when it is determined potential assistance may be needed.

Establish PSAs With Consultants to Assist With Active Transportation Program (ATP) Applications

WRCOG desires to establish PSAs with three consultants to assist with grant application development based on need. The ATP is a program identified in the Program Guidelines as eligible to receive direct assistance on grant application development. WRCOG has provided assistance on 15 applications in past funding ATP rounds and secured $17 million in grant funding for constructing or planning active transportation projects. The Notice of Funding Availability (NOFA) for the next round of ATP funding (Cycle 6) will be released at the beginning of April 2022 and three member agencies have already inquired with WRCOG about assistance on development of an application for the ATP grant program. WRCOG desires to begin establishing this new bench in order to assist member agencies with its grant application development. Developing a grant application for the ATP requires sufficient lead time so WRCOG would like to provide assistance as early as possible. This will enable the member agency and grant professionals ample time to gather the necessary information and hold meetings to meet the requirements of the grant application, ensuring on-time submittal.

WRCOG will be entering into PSAs with the consultants listed below who were found to have vast experience with developing ATP applications. These consultants do not have an existing On-Call PSA with WRCOG. The not-to-exceed amounts for all of the Agreements will be $80,000 and these amounts fall under the WRCOG Executive Director Single Signature Authority as part of the approved Purchasing and Procurement Policy. It is estimated that each consultant will be able to provide technical assistance with at least two grant applications with this amount.

- Alta Planning + Design
- Cambridge Systematics
- KTUA

Prior Action(s):
None.

Fiscal Impact:
Transportation and Planning Department activities are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the Transportation Department. The specific source of these funds are prior-year agency carry-over funds and the Local Transportation Funds (LTF), which is provided by RCTC to WRCOG for Transportation Planning purposes.

Attachment(s):
None.

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **I-REN Status and Activities Updates**

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

Date: **April 4, 2022**

Requested Action(s):

1. Approve the Governance & Operations Charter for the I-REN Program for incorporation into the Memorandum of Agreement upon completion.

Purpose:

The purpose of this item is to provide a status update on Inland Regional Energy Network (I-REN) and recommend approval of a Governance & Operations Charter.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #5 - Develop projects and programs that improve infrastructure and sustainable development in the subregion.

Background:

In December, 2018, the WRCOG Executive Committee authorized a joint cooperative agreement between WRCOG, the Coachella Valley Association of Governments (CVAG), and the San Bernardino Council of Governments (SBCOG) to move forward with the coordination and development of a Regional Energy Network (REN) for the three agencies. In May 2019, the WRCOG Executive Committee authorized the execution and submittal of a PSA with Frontier Energy & Bluepoint Planning for the development of a Business Plan, or application, to the California Public Utilities Commission (CPUC) to establish the I-REN. In February 2021, the I-REN Business Plan was submitted to the CPUC for consideration to authorize I-REN as a Program Administrator (PA) in the State of California, thereby enabling access to the Public Goods Charge funds administered by the CPUC. In November 2021, the CPUC formally approved the I-REN application / business plan with a budget of $65 million for program years 2022 - 2027, naming SoCal Gas as the fiscal agent, and required I-REN to file a Joint Cooperation Memorandum (JCM) by January 21, 2022. In November 2021, WRCOG released a RFP for the I-REN Implementation Plan Development and Programs Launch. On January 21, 2022, the I-REN JCM was filed with the CPUC. On March 7, 2022, the Executive Committee approved the PSA between WRCOG and Frontier Energy, Inc., for Inland Regional Energy Network Implementation Plan Development and Programs Launch for a not to exceed amount of $793,701.

I-REN Memorandum of Agreement (MOA) and Program Agreement

WRCOG, CVAG, and SBCOG* have been collaboratively working on a MOA, which will delegate duties and responsibilities to each partner COG. The authority to approve all contracts and agreements will be assigned to a new Brown Act I-REN Executive Committee that will be made up of elected officials – three from each COG, selected by that COG – and will meet on a quarterly basis. The MOA will also grant WRCOG, as the lead agency, the authority to be the administrator for all invoicing and contracts and agreements once those documents have been approved by the I-REN Executive Committee.

*While SANBAG (San Bernardino Associated Governments) is the legal name of the organization and used for all formal contracts and agreements, SBCOG (San Bernardino Council of Governments) and SBCTA (San Bernardino County Transportation Authority) were branded for specific areas of focus and fall under the umbrella of SANBAG.

The Program Agreement is an agreement between WRCOG, SoCal Gas, and SCE and establishes fiscal authority to SoCal Gas and defines how I-REN funds are to be transferred from one agency to another. Staff is still working with SoCal Gas to finalize the Program Agreement; however, the MOA references the Program Agreement and attachments of the Program Agreement, but it is not ready for approval at this time. Both the MOA and Program Agreement will be brought back through the committees for approval once they are finalized.

I-REN Governance & Operations

At the February 9, 2022, Administration & Finance Committee meeting, staff updated members on the I-REN's status and introduced the development of a MOA and Governance & Operations Charter between WRCOG, CVAG, and SBCOG which would be brought back through the committees when the final drafts were ready.

The I-REN team has developed a Governance & Operations Charter that will be an exhibit to the MOA and will define roles and responsibilities, and delineate scopes of authority of each member COG. The Charter also establishes processes and channels for effective and transparent communication and decision making, and will accommodate future expansion of programs and capacity to scale.

The Charter's framework consists of four main roles: the I-REN Executive Committee, Administrative Lead COG, Program Managers, and the Program Teams.

I-REN Executive Committee

I-REN will be governed by a new Brown Act committee, which will meet on a quarterly basis, and consist of representatives from each COG. The I-REN Executive Committee will have the final responsibility to make all executive decisions regarding overall I-REN prioritization, managing portfolio-level budgets, program design, authorizing relevant CPUC regulatory filings, and authorizing of any procurements. Each COG will make up to three appointments. Regardless of the number of appointments, each COG will have three votes and each COG's governing board will determine how its voting power will be exercised. Decisions will be made based on the majority of total votes cast on a matter, with each COG having its full three votes independent of the number of representatives present at the meeting. For example, if one COG had only one member present at the meeting, that COG member would still get three votes. If another COG had three members present, each would get one vote, totaling three votes for that COG.

It will be the responsibility of each COG to determine who will represent their COG on the I-REN Executive Committee. This could be decided a few different ways, which include, specifically pertaining to WRCOG:

1. A nomination process, whereby members of the WRCOG Executive Committee could nominate members they would like to see represent them on the I-REN Executive Committee; or
2. By appointment, whereby the Chair of the WRCOG Executive Committee could appoint representation; or
3. By volunteer and selection, whereby volunteers would submit a letter or request detailing their expertise and interest in being a member of the I-REN Executive Committee, and have the WRCOG Executive Committee or the Chair of the WRCOG Executive Committee determine the best candidates.

The Administration & Finance Committee had a discussion to determine the best process for selecting WRCOG representation for the I-REN Executive Committee and Chris Barajas of Jurupa Valley and Crystal Ruiz of San Jacinto both volunteered to serve on the I-REN Executive Committee.

I-REN Administrative Lead COG

WRCOG will serve as the administrative lead, purchasing and contracting manager, and primary regulatory contact manager for I-REN, and oversee day-to-day operations. WRCOG's duties will include, but not be limited to:

- Reimbursing CVAG and SBCOG for I-REN-related invoices;
- Submitting invoices to SoCal Gas;
- Reporting to the CPUC and submitting required regulatory filings;
- Participating on the California Energy Efficiency Coordinating Committee (CAEECC);
- Managing all procurement and contracts;
- Providing oversight of budgets, expenses, and reimbursements;
- Coordinating with IOUs and Program Administrator leads; and
- Scheduling and drafting agendas for the I-REN Executive Committee meetings.

WRCOG's Executive Director shall have the authority to take actions and execute agreements on behalf of WRCOG as the Administrative Lead COG following the approval of such actions by the I-REN Executive Committee.

Program Managers

Each COG will provide one Program Manager as the lead person for that COG to serve as the primary point of contact and will be designated to make program decisions on behalf of their COG. The Program Manager will also be responsible for tasks such as program planning, developing relationships with and understanding the needs of program stakeholders, establishing working groups to provide regular input on programs, and providing annual reports to their respective Executive Committee detailing accomplishments for the year, budget information, and goals for the upcoming year.

Each COG will be responsible for leading one of the three sectors: Public sector, Workforce Education and Training sector, and Codes and Standards sector. CVAG has volunteered to be the lead on developing and implementing I-REN's Codes and Standards sector, and WRCOG and SBCOG will share lead responsibility for developing and implementing the Public sector and Workforce Education and Training sector. Although there will be a lead COG for some sectors, each COG will be involved in the development of I-REN's programs in each sector and each COG will be responsible for implementing programs within their jurisdictions.

Program Teams / Working Groups

Each I-REN Program will have a Program Team that will include at least one representative from each member COG as well as consultants and/or technical assistance providers and industry specialists. These sector specific Program Teams or Working Groups will be responsible for, but not be limited to:

- Developing relationships with and understanding the needs of stakeholders within the Program Team member's subregion;
- Taking primary accountability for program implementation and operation within the Program Team member's subregion, as directed by the Program Manager;
- Providing input for program design and implementation strategies;
- Completing tasks and action items delegated by the Program Manager;
- Identifying and communicating programmatic concerns and issues that warrant the consideration of the I-REN Executive Committee; and
- Attending and actively participating in weekly or bi-weekly Program Team / Working Group meetings.

The I-REN team collaborated with other existing RENs and reviewed similar MOAs and Governance & Operations Charters before drafting these documents. The attached Governance & Operations Charter has been vetted by WRCOG's legal counsel and includes their edits and suggestions.

Staff is requesting the Executive Committee approve the Governance & Operations Charter for the I-REN Program for incorporation into the MOA once completed.

Prior Action(s):
March 9, 2022: The Administration & Finance Committee recommended that the Executive Committee approve the Governance & Operations Charter for the I-REN Program for incorporation into the Memorandum of Agreement once completed.

March 7, 2022: The Executive Committee approved the PSA between WRCOG and Frontier Energy, Inc., for Inland Regional Energy Network Implementation Plan Development and Programs Launch for a not to exceed amount of $793,701.

February 17, 2022: The Technical Advisory Committee received and filed.

Fiscal Impact:
All costs associated with this item are included in the approved I-REN budget.

Attachment(s):
Attachment 1 - I-REN Governance & Operations Charter

Attachment

I-REN Governance & Operations Charter

Inland Regional Energy Network (I-REN)
Governance & Operations Charter

Last Updated: February 22, 2022

Purpose of Charter:

To provide the Inland Regional Energy Network (I-REN) member Councils of Governments (COGs) and their staff with a simple and flexible governance and operations framework that:

- Defines roles and responsibilities, and delineates scopes of authority of the member COGs, I-REN Executive Committee, Administrative Lead COG, Program Managers, and Program Teams;
- Establishes processes and channels for effective and transparent communication and decision making; and
- Accommodates future expansion of programs and capacity to scale.

Overview of I-REN:

I-REN is a consortium of Coachella Valley Association of Governments (CVAG), San Bernardino Associated Governments (SANBAG), and Western Riverside Council of Governments (WRCOG), who have joined together to establish locally administered, designed, and delivered energy efficiency programs. I-REN's current portfolio of programs, as authorized by the California Public Utilities Commission (CPUC), includes:

- Workforce Education and Training (WE&T)
- Codes and Standards (C&S)
- Public Sector

The above program names are used for CPUC communications. For marketing purposes, I-REN has rebranded the programs as the following:

- WE&T: TBD
- C&S: TBD
- Public Sector: TBD

I-REN's overall Administrative Lead COG is WRCOG. Each individual program in I-REN's portfolio is administered by one or more Program Lead COG based on their existing expertise, interest, and knowledge of the region. One representative from each Program Lead COG is selected - by the Program Lead COG - to be the Program Manager. Each program has a Program Team, including at least one representative from each member COG.

The table below showing I-REN's initial staffing is included to illustrate the above:

Sector	Program Lead COG(s)	Program Manager	Program Team Member Titles
Public Sector	SANBAG and WRCOG	SANBAG Program Manager– co-lead WRCOG Program Manager – co-lead	CVAG – Program Manager/Mgmt. Analyst SANBAG – Program Manager/Mgmt. Analyst WRCOG – Program Manager/Mgmt. Analyst Consultant support
Workforce, Education and Training	SANBAG and WRCOG	SANBAG Program Manager– co-lead WRCOG Program Manager – co-lead	CVAG – Program Manager/Mgmt. Analyst SANBAG – Program Manager/Mgmt. Analyst WRCOG – Program Manager/Mgmt. Analyst Consultant support
Codes and Standards	CVAG	CVAG Program Manager	CVAG – Program Manager/Mgmt. Analyst SANBAG – Program Manager/Mgmt. Analyst WRCOG – Program Manager/Mgmt. Analyst Consultant support

* *Program Team members are encouraged to attend other meetings to facilitate coordination and learn about other program activities. Staff only involved in some program services or activities are included as Program Team members.*

<u>Governance & Operations</u>:

I-REN's Governance & Operations framework consists of four main roles. Each role is listed below with its associated responsibilities and scopes of authority, as well as any relevant processes and channels intended to promote and enhance effective and transparent communication and decision making.

1. **I-REN Executive Committee**:

I-REN is governed by an Executive Committee on which each COG will have three votes. Each COG's governing board will determine how its voting power will be exercised, including the number of representatives it will have on the I-REN Executive Committee and whether its representatives will be elected officials, staff members, or a combination of elected officials and staff members. Decisions will be made based on majority of the total votes cast on a matter, with each COG having its full three votes independent of the number of its representatives present at the meeting.

The I-REN Executive Committee has final responsibility to make all executive decisions including:

- Establishing portfolio-level strategy and overall I-REN prioritization;
- Establishing and managing portfolio-level budgets;
- Addressing and resolving high-level programmatic concerns and issues such as program design, branding and marketing, strategy, procurement, and consulting support;
- Authorizing responses to relevant CPUC regulatory filings, inquiries, data requests, etc.
- Authorizing procurements above the threshold set in the procurement policy to be established by the Executive Committee.
- Amending the Charter, provided that such amendments are consistent with the Memorandum of Agreement for the 2022-2027 Inland Regional Energy Network (I-REN) dated XXXXX, 2022. Any amendments to the Charter must be approved by a six-ninths supermajority vote of the I-REN Executive Committee.

2. **I-REN Administrative Lead COG**: WRCOG will serve as the fiscal agent, purchasing and contracting manager and primary regulatory contact manager for I-REN, and as such is responsible as I-REN Administrative Lead COG for administering I-REN on a day-to-day basis in accordance with the Memorandum of Agreement for the 2022-2027 I-REN dated XXXXX, 2022, as the same may be amended from time-to-time, to which this Charter is an exhibit. WRCOG's administrative responsibilities include:

- Submitting monthly invoices to SoCal Gas, I-REN's CPUC appointed Investor-Owned Utility (IOU) fiscal agent.
- Reporting to the CPUC on a monthly, quarterly, and annual basis.
- Coordinating with the CPUC Energy Division staff; and filing required regulatory submissions.
- Participating on the California Energy Efficiency Coordinating Committee (CAEECC).
- Managing of all procurement and contracts.
- Providing oversight of budgets, expenses, and reimbursements.
- Coordinating with IOU leads for all regulatory requirements.
- Scheduling and drafting agendas for the I-REN Executive Committee, with input from the Program Managers.

WRCOG's Executive Director shall have the authority to take actions and execute agreements on behalf of WRCOG as the I-REN Administrative Lead COG following the approval of such actions and agreements as may be required by the I-REN Executive Committee in accordance with the procurement policy to be established by it referred to above.

3. **Program Managers**: As noted above, one representative from each Program Lead COG is selected - by the Program Lead COG - to be the Program Manager. Program Manager responsibilities include:

- Serving as the primary point of contact for all program-specific interactions with consultants and implementers. This includes project initiation, planning, execution, and monitoring and review. Project initiation will include gathering input from program team members. Intermediate deliverables at established milestones will also be distributed for Program Team member comment as appropriate;

- Making overall program decisions;
- Participating in local and state industry webinars, conferences and events, researching other similar programs, sharing and leveraging best practices to inform program design;
- Developing relationships with and understanding the needs of program stakeholders in all three COG subregions;
- Establishing a working group of such stakeholders to provide regular input to the Program Manager on the administration of the program;
- Coordinating with other RENs and IOUs regarding program design and delivery to enhance program performance and achieve mutual objectives;
- Developing and presenting program design and implementation strategies consistent with the Implementation Plan for Program Team member input and approval;
- Developing and updating annual Strategic Action Plans and work plans; and establishing and communicating program-level roles and priorities;
- Delegating tasks as appropriate to Program Team members;
- Managing program-level performance and providing program-level reporting to the I-REN Administrative Lead COG;
- Managing program-level budget;
- Scheduling and drafting agendas for Program Team meetings; sending agenda at least 24 hours prior to meeting; and sending meeting notes and action items within 24 hours after the meeting;
- Supporting CPUC regulatory filings (e.g., metrics) as necessary; and
- Coordinating and communicating with the I-REN Executive Committee, including preparing staff reports for the I-REN Executive Committee meetings.

4. **Program Teams**: Each I-REN Program has a Program Team including at least one representative from each member COG as well as consultants and/or technical assistance providers. Program Team member responsibilities include:

- Developing relationships with and understanding the needs of stakeholders within the Program Team member's subregion;
- Taking primary accountability for program implementation and operation within the Program Team member's subregion, as directed by the Program Manager;
- Providing input and/or alternative suggestions for program design and implementation strategies presented by the Program Manager;
- Completing tasks and action items delegated by the Program Manager within the timeframe allotted;
- Understanding defined program-level roles and priorities and communicating with the Program Manager if and when clarification is needed;
- Identifying and communicating programmatic concerns and issues that warrant the consideration of the I-REN Executive Committee; and
- Attending and actively participating in weekly or bi-weekly Program Team meetings.

Inland Regional Energy Network (I-REN) Meetings

To further promote and enhance effective and transparent communication and decision-making, critical meetings with pre-established frequency and with invitations sent to all pertinent members have been identified and detailed in the matrix below. Each of the meetings has been previously referenced as a responsibility under each of the aforementioned roles.

Meeting Type	Frequency	Mode	Time
I-REN Executive Committee	Quarterly	In-Person / Virtual	TBD
Program Team / Member COG All-Staff*	Bi-Weekly (or weekly as needed)	Virtual	TBD

**Member COG All-Staff meetings are meant to drive program implementation and resolve operational issues.*

The I-REN Executive Committee is subject to the Brown Act. Meeting information will be generated and distributed in a manner consistent with the requirements of the Brown Act.

If a Program Manager or Program Team member is not present at meetings, it is such person's responsibility to review shared meeting notes and deliver assigned action items. All I-REN related meetings, events or related travel shall include an invitation to XX@IREN.org.

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: **April 4, 2022**

Requested Action(s):

1. Receive and file.

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

WRCOG 2022-2027 Strategic Plan Goal:
Goal #1- Serve as an advocate at the regional, state, and federal level for the Western Riverside region.

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.

An update on legislation of interest to Cal Cities members is provided as Attachment 1.

Prior Action(s):
March 17, 2022: The Technical Advisory Committee received and filed.

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

Attachment(s):
Attachment 1 - Cal Cities Legislative Update

LEAGUE OF CALIFORNIA CITIES
Riverside County Division

SB 897 (Wieckowski) Accessory Dwelling Units.

This measure would make numerous changes to existing ADU law. Most notably, SB 897 would require local governments to allow ADUs to be constructed with a height of up to 25 feet.

Cal Cities Position: Oppose

SB 1067 (Portantino) and **AB 2097 (Friedman) Parking Requirements.**

These two measures would significantly restrict parking requirements within one half-mile of public transit. Public transit is defined as 1) a high-quality transit corridor with 15-minute headways; 2) major transit stop — ferry terminal, rapid transit stop, or the intersection of multiple major bus routes with 15-minute headways.

Cal Cities Position: Oppose

SB 1369 (Wieckowski) Adaptive Reuse. By-Right.

This measure would require local jurisdictions to approve “adaptive reuse projects” by right in all areas regardless of the zoning of the site.

“Adaptive reuse project” means any commercial, public, industrial, or office building or structure that has 25 percent occupancy or less, which is converted into a housing development project. “Adaptive reuse project” does not include a project to convert an industrial building adjacent to active industrial uses on three or more sides of the building.

Cal Cities Position: Pending

SB 1466 (Stern) Affordable Housing and Community Development Investment Program.

This measure would create a local-state partnership to provide up to $2 billion annually to fund state-approved affordable housing, infrastructure, and economic development projects that also support state policies to reduce greenhouse gas emissions, expand transit-oriented development (TOD), address poverty, and revitalize neighborhoods.

Cal Cities Position: Sponsor/Support

AB 1976 (Santiago) Housing Element Compliance. Rezoning.

This measure would subject all cities and counties in the Southern California Association of Governments (SCAG) that have not rezoned to accommodate 100 percent of the need for housing for very low and lower income households, to the following:

- Up to $10,000 per day fine; or
- The Department of Housing and Community Development shall complete the rezoning on behalf of the local jurisdiction.

Cal Cities Position: Pending

LEAGUE OF CALIFORNIA CITIES
Riverside County Division

AB 1748 (Seyarto) Surplus Lands Act.

This measure would exempt specified city or county owned parcels from the Surplus Lands Act if:

- Housing production exceeds RHNA goals from the proceeding housing element cycle, regardless or income category.
- The city or county is making proportionate progress towards meeting RHNA goals for each income category on an annual basis for the current housing element cycle.
- The city or county has been designated as prohousing by the Department of Housing and Community Development.

Cal Cities Position: Support

AB 1945 (Aguiar-Curry) Affordable Disaster Housing Revolving Development and Acquisition Program.

This measure would, upon appropriation by the Legislature, establish the Affordable Disaster Housing Revolving Development and Acquisition Program. This program would expedite relief funding for the development or preservation of affordable housing in the state's declared disaster areas.

Community Development Financial Institutions (CDFIs) would provide short-term loans—including loans to local agencies—with favorable terms and conditions until federal assistance arrives. Federal funds would then be used to repay the short-term assistance.

Cal Cities Position: Support

AB 2705 (Quirk-Silva) Very High Fire Hazard Severity Zones.

This measure would prohibit a city or county from approving a discretionary entitlement that would result in a new residential development project being located within a very high fire hazard severity zone, unless the city or county finds that the residential development project will meet new standards intended to address wildfire risks.

Cal Cities Position: Pending

SB 1383 Local Assistance Grant Program Budget Ask – $180 million

- $180 million to help cities and counties implement SB 1383 (Lara, 2016).
- Supplements the $60 million allocated for this purpose in last year's budget.
- Local government coalition led by Cal Cities.

Cal Cities Position: Co-Author/Support

LEAGUE OF CALIFORNIA CITIES
Riverside County Division

AB 1985 (R. Rivas) Organic Waste. List. Available Products.

This measure would seek to help cities with their SB 1383 (Lara, 2016) procurement requirements. Specifically, the measure would require CalRecycle to compile and maintain a list on its website, organized by ZIP code, of information regarding persons or entities that produce and have organic waste products available and update the list every 6 months.

Cal Cities Position: Co-Sponsor/Support

SB 54 (Allen) Plastic Pollution Producer Responsibility Act.

This measure is a vehicle for negotiations to reduce the amount of single-use plastics and make such products fully recyclable or compostable.

Cal Cities Position: Support in Concept

AB 2247 (Bloom) Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) and PFAS Products and Product Components. Publicly Accessible Reporting Platform.

This measure would require the Department of Toxic Substances Control to establish by January 1, 2024, a publicly accessible reporting platform to collect information about PFAS and products or product components containing regulated PFAS being sold, offered for sale, distributed, or offered for promotional purposes in, or imported into the state.

Cal Cities Position: Pending Support

AB 2120 (Ward) Federal Funding in Local Bridges.

This measure would ensure a fair and needs-based allocation of bridge formula funding from the federal Infrastructure Investment and Jobs Act (IIJA).

Cal Cities Position: Support

SB 932 (Portantino) Circulation Element.

The measure would require cities to adopt significant bicycle, pedestrian, and traffic calming elements when they develop and revise their general plans.

Cal Cities Position: Oppose

AB 2953 (Salas) Recycled Material.

This bill would require a local agency to use, to the extent feasible and cost effective, recycled materials in streets and highways.

Cal Cities Position: Oppose

AB 1789 (Bennett) Trails and Greenways Program.

This measure would include a one-time $75 million appropriation (General Fund) and an annual $15 million appropriation for investments that would create, expand, and improve the natural surface trails networks throughout the state.

Cal Cities Position: Support

AB 2346 (Gabriel) Outdoor Recreation. Equitable Access Grant Program.

This measure would establish the Equitable Access Grants Program to implement community access projects.

Cal Cities Position: Support

AB 1737 (Holden) Children's Camps. Local Registration and Inspections.

This measure would implement a series of children's camp safety requirements related to local registration and inspection. Most notably, this measure would require local agencies to make announced and unannounced visits to each children's camp in their jurisdiction and make public any cited violations.

Cal Cities Position: Concerns (Seeking Amendments)

AB 2465 (Bonta) Pupil Instruction. Literacy Grant Programs.

This measure would require the Department of Education to develop and implement a competitive grant program to award funds to local educational agencies, library districts, and public libraries to provide a library card to every public-school pupil enrolled in the local educational agency.

Cal Cities Position: Pending Support

SB 1047 (Limón) Early Learning and Care.

This measure would expand the range of childcare and early learning services that a state preschool contracting agency may provide.

Specifically, this measure would authorize the expansion of services through the California State Preschool Program to children from 18 months to five years of age, amend eligibility requirements for certain childcare programs, and make changes to childcare contracting terms and conditions.

Cal Cities Position: Support

AB 2547 (Nazarian) Housing Stabilization to Prevent and End Homelessness Among Older Adults and People with Disabilities Act.

This measure would require the California Department of Aging to offer competitive grants to nonprofit community-based organizations, continuums of care, and public housing authorities to administer a housing subsidy program for older adults and persons with a disability experiencing homelessness or at risk of homelessness.

Cal Cities Position: Pending Support

AB 2630 (O'Donnell) Housing. California Interagency Council on Homelessness. Report.

This measure would require each city and county that has used funds from any source to assist in addressing homelessness to submit a report to the California Interagency Council on Homelessness.

Cal Cities Position: Concerns

AB 2631 (O'Donnell) Government Claims Act.

This measure would allow cities and counties to sue one another if a neighboring jurisdiction's failure to effectively address this crisis results in another community being negatively impacted.

Cal Cities Position: Concerns

SB 513 (Hertzberg) Homeless Shelters Grants: Pets and Veterinary Services.

This measure would require the Department of Housing and Community Development to create and administer a program to award grants to homeless shelters that allow pets. These grants would enable shelters to provide food, housing, and veterinary services for pets that are owned by homeless individuals.

Cal Cities Position: Support

SB 1338 (Umberg) Community Assistance, Recovery, and Empowerment (CARE) Court Program.

This bill would establish the Community Assistance, Recovery, and Empowerment (CARE) Court Program to connect a person struggling with untreated mental illness and substance use disorders with a court-ordered CARE plan.

Cal Cities Position: Watch

SB 929 (Eggman) Community Mental Health Services. Data Collection.

This measure would expand the type of data collected by the Department of Health Care Services related to conservatorships, clinical outcomes, and services provided.

Cal Cities Position: Pending

LEAGUE OF CALIFORNIA CITIES
Riverside County Division

SB 1154 (Eggman) Facilities for Mental Health or Substance Use Disorder Crisis. Database.

This measure would require the State Department of Public Health to develop a real-time, behavioral health bed registry.

Cal Cities Position: Pending

AB 1944 (Lee) Local Government. Open and Public Meetings.

This measure would allow members of a local legislative body, upon majority vote, to allow members to waive Brown Act requirements to publish their private address, and make their private address open to members of the public.

If the city does this, they would be required to live stream the meeting and allow for video/audio or audio remote public participation for members of the public to address the body.

Cal Cities Position: Support in Concept

AB 2449 (B. Rubio) Open Meetings: Local Agencies. Teleconferences.

This measure would authorize a local agency to use teleconferencing without complying with teleconferencing requirements if a quorum of the legislative body members participate in person from a singular location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction.

This measure would impose requirements for this exception relating to notices, agendas, the means and manner of access, and procedures for disruptions.

Cal Cities Position: Support in Concept

AB 2647 (Levine) Local Government. Open Meetings.

This measure would clarify that material distributed to a majority of a local legislative body less than 72 hours before a meeting can be posted online to satisfy the requirements of the Brown Act.

Cal Cities Position: Sponsor/Support

SB 1100 (Cortese) Open Meetings. Orderly Conduct.

This measure would define "willful interruption" to ensure an individual(s) is removed from a public meeting if they substantially impair or render infeasible the orderly conduct of the meeting in accordance with law. This measure would also establish a warning system to require that removal of an individual(s) causing a willful interruption be preceded by a request that the individual curtail their disruptive behavior or be subject to removal.

Cal Cities Position: Watch

SB 1044 (Durazo) Employers. Natural Disasters. Retaliation.

This measure would prohibit an employer, in the event of a state of emergency, from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace within the affected area because the employee feels unsafe due to the emergency.

Cal Cities Position: Oppose

AB 1751 (Daly) Workers' Compensation. COVID-19. Critical Workers.

This measure would extend the COVID-19 Workers' Compensation presumption from January 1, 2023, to January 1, 2025.

Cal Cities Position: Oppose

SB 1127 (Atkins) Workers' Compensation. Liability Presumptions.

This measure would fundamentally alter longstanding rules and timeframes for determining eligibility for workers' compensation claims. This measure would reduce the timeline for employers to make a decision about covering a claimed injury and would change the rules for all claims.

Cal Cities Position: Oppose

AB 2808 (O'Donnell) Elections. Ranked Choice Voting.

This measure would disallow cities from using ranked choice voting.

Cal Cities Position: Oppose

Item 7.K

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Legislative Activities Update**

Contact: **Bill Blankenship, On-Call Legislative Consultant, billblankenship63@gmail.com, (951) 206-9020**

Date: **April 4, 2022**

Requested Action(s):

1. Receive and file.

Purpose:
The purpose of this item is to provide an update on key legislative items.

WRCOG 2022-2027 Strategic Plan Goal:
Goal #1 - Serve as an advocate at the regional, state, and federal level for the Western Riverside subregion.

Background:
This item is reserved for an update on key legislative proposals, dates, and deadlines. The updates are summarized as an attachment to this Staff Report.

Prior Action(s):
March 10, 2022: The Planning Directors Committee received and filed.

Fiscal Impact:
Transportation and Planning Department activities are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the Transportation Department. In addition, this project is covered by REAP funding that has already been approved by SCAG.

Attachment(s):
Attachment 1 - Legislative Update

Key Legislative Deadlines – 2022 Legislative Session

- **February 18th -** Last day for new bills to be introduced.
- **May 27th -** Last day for bills to be passed out of the house of origin.
- **June 15th -** State Budget must be passed.
- **June 30th -** Last day for legislative measures to be placed on the November 8th Ballot.
- **August 25th -** Last Day to amend bills.
- **August 31st -** Last day for each house to pass bills.

Our Neighborhood Voices Initiative

Background:
ACA 7 stipulated that **"all decisions regarding local land use control are made within the affected communities."** As the 2021 Legislative Session progressed, ACA 7 failed to receive a committee hearing. As a next step, Redondo Beach Mayor, Bill Brand and a small group of community leaders formed a bipartisan, grassroots group called ***Communities for Choice***.

The Communities for Choice Campaign created an initiative which purports to do the following: protect a community's ability to shape local growth, preserve the character of neighborhoods, and require developers to produce more affordable housing and contribute to the costs associated with new housing. They also believe that their initiative will restore California residents' voice in community decisions.

On August 16, 2021 the Communities for Choice Campaign submitted their proposed initiative to the California Attorney General for summary and title. The Attorney General of California has prepared the following title and summary for the chief purpose and points of the proposed November 2022 Ballot Measure:

PROVIDES THAT LOCAL LAND-USE AND ZONING LAWS OVERRIDE CONFLCITING STATE LAWS. INITIATIVE CONSTITUTIONAL AMENDMENT.

Provides that city and county land-use and zoning laws (including local housing laws) override all conflicting state laws, except in certain circumstances related to three areas of statewide concern: (1) the California Coastal Act of 1976; (2) siting of power plants; or (3) development of water, communication, or transportation infrastructure projects. Prevents state legislature and local legislative bodies from passing laws invalidating voter-approved local land-use or zoning initiatives. Prohibits state from changing, granting, or denying funding to local governments based on their implementation of this measure. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: ***Fiscal effects of the measure depend on future decisions by the cities and counties and therefore are unknown.***

2022 Update:
The campaign is currently raising money and collecting signatures to qualify for the November 2024 ballot; the campaign was originally aiming for the General Election this November. A detailed update on the campaign can be found here. The campaign has gained momentum and their coalition has grown to 79 California cities that have adopted a resolution and over 500 elected officials have signed the petition in support of the initiative. The campaign has also received support from the Southern California Association of Governments, Los Angeles Contract Cities Association and the South Bay Council of Governments.

New Bills Introduced in the 2021–2022 Legislative Session

SB 922, as introduced, Wiener. California Environmental Quality Act: exemptions for transportation-related projects. CEQA Law, currently exempts requirements for bicycle transportation plans in an urbanized area. The plans include projects for restriping of streets, bicycle parking, signal timing with the purpose of improving street and highway intersection operations, related signage for bicycles, pedestrians, and vehicles. The bill would extend the current exemption from January 1, 2030 to indefinitely. The bill would also repeal the current requirement that a bicycle transportation plan is for urbanized areas and would further extend the exemption to an active transportation plan or pedestrian plan, or for a feasibility and planning study for active transportation, bicycle facilities and pedestrian facilities.

AB 411, as introduced, Irwin. Veterans Housing and Homeless Prevention Bond Act of 2022. Under current law, the Veterans Housing and Homeless Prevention Bond Act of 2014 authorizes the issuance of bonds in the amount of $600,000,000. The bond is to provide housing for veterans and their families. The bill would enact the Veterans Housing and Homeless Prevention Bond Act of 2022 which will authorize the issuance of bonds in an amount, not to exceed $600,000,000. The bill also stipulates that the handling and disposition of the funds would occur in the same manner as the 2014 bond act. **The bill requires a 2/3rds vote.**

AB 482, as introduced, Ward. Housing authorities: City of San Diego, County of San Bernardino, and County of Santa Clara: middle-income housing projects pilot program. Current law authorizes a housing authority of a city or county to lease and operate housing projects and housing developments for low-income individuals. Current law also authorizes a housing authority located in the City of San Diego, the County of San Bernardino, or the County of Santa Clara to implement a pilot program to develop and finance a middle-income housing project, if the project receives gap financing, as defined by state law. The bill would extend the ability of a housing authority located in the City of San Diego, the County of San Bernardino, or the County of Santa Clara to implement the above-described pilot program from January 1, 2022 to January 1, 2026.

AB 682, as introduced, Bloom. Planning and zoning: density bonuses: cohousing buildings. Current Density Bonus Law stipulates a city or county must provide a developer that proposes a housing development project within their jurisdiction a density bonus and other incentives, if the developer agrees to construct a project with specified percentages of units for moderate-income, lower income, or very low-income households. This bill would require that a density bonus be granted to a developer who agrees to construct a housing development that is a cohousing building, as defined by state law. The bill further stipulates that a project would meet specific requirements and contain either 10% of the total square footage for lower income households, as defined, or 5% of the total square footage for very low-income households.

AB 1695, as introduced, Santiago. Housing construction subsidy programs: adaptive reuse projects. The bill declares that it would be the intent of the Legislature to enact legislation which would provide a state housing construction subsidy program by providing funding for adaptive reuse projects. The projects would repurpose existing buildings with the goal of producing affordable housing units for extremely low and very low-income individuals. The bill would complement established federal funding programs for adaptive reuse of vacant underused commercial or industrial sites.

AB 2179, as introduced, Grayson. Development fees and charges: deferral. This bill would prohibit a noncompliant local agency, as defined, that imposes any fees or charges on a qualified development, as defined, from requiring the payment of those fees or charges until 20 years from the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. The bill would authorize a noncompliant local agency that defers a fee or charge to require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge if the fee or charge is not fully paid before the issuance of a building permit for the construction of any portion of the qualified development encumbered by the fee or charge, as provided.

2021 Bills that are active 2-year bills

AB 1445, as amended, Levine. Planning and zoning: regional housing need allocation: climate change impacts. Under current Planning and Zoning law each city and county are required to adopt a comprehensive general plan for development of land inside and outside of its boundaries. The general plan includes mandatory elements, such as a housing element. The law further stipulates that the council of governments or the planning department for cities and counties, without a council of governments adopt a final regional housing need plan that allocates a share of the regional housing need for each city and county. The proposed bill would stipulate, as of January 1, 2025, that a council of governments, or the Department of Housing and Community Development also consider the following: An emergency evacuation route, wildfire risk, rise in sea level risk and other impacts caused by climate change. ***March 11th – the Bill was referred to the Assembly***

Committee on Housing and Community Development and Local Government. The Bill became a 2-year Bill. January 31, 2022 the Bill was read for a third time and passed out of the Assembly on a vote of 57-16. The Bill has now been ordered to the Senate.

AB 1551, as amended, Santiago. Planning and zoning: development bonuses: mixed-use projects. Under current Density Bonus Law, a city or county must grant a developer that proposes a housing development with a density bonus, additional incentives or concessions. The incentives are provided if the developer agrees to construct a percentage of units for lower income, very low income, or senior citizen housing, among other things, subject to certain requirements. The current law was in place until January 1, 2022. The bill would reenact the above-described provisions regarding the granting of development bonuses for certain projects. The bill would also require a city or county to submit to the Department of Housing and Community Development information describing the approved commercial development bonus.

The bill would repeal these provisions on January 1, 2028 and add these duties to a local planning official. ***March 11th – the Bill was referred to the Assembly Committee on Housing and Community Development and Local Government. The Bill became a 2-year Bill. January 27, 2022 the Bill was read for a third time and passed out of the Assembly on a vote 61-0. The Bill has been referred to the Senate Committee on Rules and is waiting a Committee assignment.***

2021 Bills that have become 2-year bills

SB 5, amended, Atkins. Affordable Housing and Community Development Investment Program. The "Housing Bond Act" Bill would issue $6,500,000,000 in bonds for the purposes of financing housing-related programs that serve the homeless population and households that are classified as extremely low and very low-income. The bond would be placed on the November 8, 2022, Statewide General Election Ballot. ***March 18, 2021 - the Bill was amended and re-referred to the Committee on Housing and Governance and Finance and will require a 2/3rds vote. The Bill became a 2-year Bill. The Bill did not move forward under the 2-year bill house of origin deadline. The bill was returned to the Secretary of the Senate pursuant to Joint Rule 56.***

SB 809, as amended, Allen. Multijurisdictional regional agreements: housing element. The Bill would authorize a city or a county to satisfy part of their requirement for residential development by adopting and implementing a multijurisdictional regional agreement. The Bill stipulates a regional agreement to be between two or more cities and counties within the same county or the adjacent county. The agreement would also clearly establish parameters that the jurisdiction which is contributing suitable land for residential development and the jurisdiction or jurisdictions contributing funding for the development. A jurisdiction that is part of a multijurisdictional agreement would provide specified information in its housing element, including how the regional agreement wouldsatisfy the jurisdiction's housing need for various income levels. ***March 18, 2021 – the Bill was re-referred to the Committee on Housing and Government and Finance. The Bill became a 2-year Bill. The Bill did not move forward under the 2-year bill house of origin deadline. The bill was returned to the Secretary of the Senate pursuant to Joint Rule 56.***

AB 617, as introduced, Davies. Planning and zoning: regional housing needs: exchanges of allocation. The Bill would authorize a city or county, by agreement, to transfer all or a portion of its allocation of regional housing need to another city or county. The Bill would allow for the transferring city to pay the transferee city or county an amount determined by that agreement, as well as a surcharge to offset the impacts and associated costs of the additional housing on the transferee city. The Bill would also require the transferring city or county and the transferee city or county to report to the council of governments and the department specified, information about the transfer, as provided. ***February 25th - the Bill was re-referred to the Senate Committee on Housing and Community Development and Local Government. The Bill became a 2-year Bill. The Bill did not move forward under the 2-year bill house of origin deadline. The bill was filed with the Chief Clerk pursuant to joint rule 56.***

AB 1372, as introduced, Muratsuchi. Right to temporary shelter. The Bill would require a city or county to provide homeless individuals with temporary shelter, mental health treatment, job training and job placement services, until the designated homeless person obtains permanent housing. The requirement that triggers the mandate would be as follows: *a homeless person actively seeking temporary shelter for at least three consecutive days in a specific jurisdiction and was unable to be accommodated entry into any of the temporary shelters.* The legislation would require the city or the county provide a rent subsidy, if it is unable to provide temporary shelter. The Bill would also authorize a homeless person to enforce the provisions of the legislation by bringing a civil action against the city or the county. **March 4th - the Bill was referred to the Assembly Committee on Judiciary and Housing and Community Development. The Bill became a 2-year Bill. The Bill did not move forward under the 2-year house of origin deadline. The bill was filed with the Chief Clerk pursuant to Joint Rule 56.**

Item 7.L

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: SCAG Activities Update

Contact: Arnold San Miguel, Regional Affairs Officer, Southern California Association of Governments, sanmigue@scag.ca.gov, (213) 453-6594

Date: April 4, 2022

Requested Action(s):

1. Receive and file.

Purpose:
The purpose of this item is to provide an update by staff at the Southern California Associations of Governments (SCAG).

WRCOG 2022-2027 Strategic Plan Goal:
Goal #1- Serve as an advocate at the regional, state, and federal level for the Western Riverside region.

Background:
Founded in 1965, SCAG is a Joint Powers Authority under California state law, established as an association of local governments and agencies that voluntarily convene as a forum to address regional issues. Under federal law, SCAG is designated as a Metropolitan Planning Organization and under state law as a Regional Transportation Planning Agency and a Council of Governments.

Update

March 2022 SCAG activities summaries are attached to this Staff Report.

Prior Action(s):
March 17, 2022: The Technical Advisory Committee received and filed.

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

Attachment(s):
Attachment 1 - SCAG Activities Update Summary March 2022

INNOVATING FOR A BETTER TOMORROW

SOUTHERN CALIFORNIA
ASSOCIATION OF GOVERNMENTS
900 Wilshire Blvd., Ste. 1700
Los Angeles, CA 90017
T: (213) 236-1800
www.scag.ca.gov

To: WRCOG Technical Advisory Committee

Subject: SCAG Update March 2022

From: Arnold San Miguel, SCAG Regional Affairs Officer;
sanmigue@scag.ca.gov

HIGHLIGHTS FROM THE MARCH 3rd REGIONAL COUNCIL MEETING

ACTION
REGIONAL COUNCIL APPROVES DRAFT COMPREHENSIVE BUDGET FOR FISCAL YEAR 2023

The Regional Council has moved to approve SCAG's Draft Comprehensive Budget for Fiscal Year 2022-23, including the Draft Overall Work Plan (OWP). The framework for developing the Draft Comprehensive Budget is SCAG's multi-year Strategic Plan that focuses on SCAG's vision and priorities and improves the organization and its operations.

The Regional Council's vote also authorized the release of the Draft OWP for a 30-day period of public review from March 3 to April 3. Comments may be sent by email to nguyenk@scag.ca.gov or by completing the comment form.

At the close of the public comment period, the Final OWP will be submitted to the Regional Council for approval on May 5. The General Fund Budget and the Membership Assessment will be submitted to the General Assembly for approval.

INFORMATION
CONNECT SOCAL 2024 UPDATE

Connect SoCal 2024, the Regional Transportation Plan/Sustainable Communities Strategy, will be prepared by SCAG over the next two years in anticipation of an April 2024 adoption date. Today, SCAG staff provided an update to members of the Regional Council and Community, Economic and Human Development Committee on the plan development. For more information on Connect SoCal, visit scag.ca.gov/connect-socal.

POLICY DEVELOPMENT FRAMEWORK

At the direction of the Executive/Administration Committee, SCAG has prepared a draft Policy Development Framework for Connect SoCal 2024 that includes the preliminary plan vision and goals, key policy priorities, including those identified by the

INNOVATING FOR A BETTER TOMORROW

SOUTHERN CALIFORNIA
ASSOCIATION OF GOVERNMENTS
900 Wilshire Blvd., Ste. 1700
Los Angeles, CA 90017
T: (213) 236-1800
www.scag.ca.gov

board since 2020, and an outline for the focus and responsibility of each Policy Committee and three new sub-committees.

This framework is designed to outline a policy development leadership structure and an outlook to foster policy education, engagement, consensus-building and decision-making.

SCAG will share this draft Policy Development Framework with each Policy Committee in April to ask for feedback and input before bringing it to the Regional Council in June. Share your feedback on the draft plan Goals and Vision or on the draft plan Performance Measures through **April 30**.

REGIONAL DATA PLATFORM & LOCAL DATA EXCHANGE

In February, SCAG launched the Regional Data Platform, a revolutionary system for collaborative data sharing and planning designed to facilitate better planning for cities and counties of all levels across the region. As one of SCAG's largest and most transformative initiatives to date, the Regional Data Platform places data and technology in the hands of local jurisdictions to support more robust, transparent and collaborative community planning.

As a part of the launch, SCAG introduced the Local Data Exchange to begin an extensive data exchange process with local jurisdictions to support Connect SoCal 2024 development. This bottom-up approach ensures that local jurisdictions are actively involved in the development of SCAG's regional plans and that the data is correct. Over the next several months, SCAG will meet one-on-one with local jurisdictions to discuss the preliminary Data/Map Books, provide background on the development of Connect SoCal 2024 and provide training in tools available to local jurisdictions.

SCAG Regional Affairs Officers will be working with sub-regional organizations to present on the RDP. If you would like to explore the Regional Data Platform or take part in the Local Data Exchange process, contact the Local Information Services Team at list@scag.ca.gov or visit the Regional Data Platform Hub at hub.scag.ca.gov.

NEWS FROM THE PRESIDENT

SCAG TOURS TWO REGIONAL GOODS MOVEMENT HUBS

On Feb. 15, SCAG President Clint Lorimore joined Congresswoman Young Kim for a tour of the Port of Los Angeles to learn about the challenges facing our supply chain, and how SCAG can support this vital industry through convenings of all the critical stakeholders. On Feb. 18, President Lorimore along with Regional Council members Alan Wapner, Dennis Michael, and Ray Marquez took a tour of Ontario Airport. The

INNOVATING FOR A BETTER TOMORROW

SOUTHERN CALIFORNIA
ASSOCIATION OF GOVERNMENTS
900 Wilshire Blvd., Ste. 1700
Los Angeles, CA 90017
T: (213) 236-1800
www.scag.ca.gov

tour focused on the FedEx distribution center at the airport and how air cargo and the airport are integrating into the expanding goods movement industry in the Inland Empire.

NEWS FROM THE EXECUTIVE DIRECTOR

REGISTRATION IS NOW OPEN! 2022 REGIONAL CONFERENCE AND GENERAL ASSEMBLY

Join Southern California's most influential elected officials and policymakers on May 5–6 at the JW Marriott Desert Springs Resort & Spa for the 57th annual Regional Conference & General Assembly. This two-day event will focus on solution-oriented discussions to address the most pressing problems facing communities, businesses and families throughout the SCAG region.

Don't wait to make your plans – register by Thursday, March 31 using the code **EARLYBIRD** get $100 off the general admission price. The event is free for elected officials and city managers in the region. If you are interested in sponsorship opportunities, please contact Houston Laney at laney@scag.ca.gov. For more information about the event, including COVID-19 protocols, visit scag.ca.gov/ga2022.

The full Executive Director's Report and past reports will be available on the SCAG website.

ADDITIONAL NEWS & INFORMATION

2022 SCAG SCHOLARSHIP PROGRAM

Applications are now available for the 2022 SCAG Scholarship Program! The SCAG Scholarship Program offers a **$4,000 scholarship award** for seven high school seniors or community college students from the SCAG region (and potentially two additional scholarship awards that are not tied to a specific county but may be awarded at the Regional Council's discretion) and the opportunity to meet with elected officials and practicing planners to learn more about careers in public service.

To be eligible for the scholarship, students must be a resident within the SCAG region, enrolled as a high school senior or community college student, have at least a 3.0 GPA and be eligible to work in the United States. Applicants must complete an application form and submit an essay, two letters of recommendation, and a current transcript. All materials must be submitted by **Friday, April 1**.

For more information, visit scag.ca.gov/students.

SCAG™
INNOVATING FOR A BETTER TOMORROW

SOUTHERN CALIFORNIA
ASSOCIATION OF GOVERNMENTS
900 Wilshire Blvd., Ste. 1700
Los Angeles, CA 90017
T: (213) 236-1800
www.scag.ca.gov

UPCOMING MEETINGS

MARCH

2nd Executive/Administration Committee
3rd Regional Council and Policy Committees
8th Regional Transit Lanes Technical Advisory Committee
10th Safe and Active Streets Working Group
14th General Assembly Host Committee
15th Legislative/Communications & Membership Committee
17th Technical Working Group
22nd Transportation Conformity Working Group
23rd Modeling Task Force
24th Equity Working Group
28th General Assembly Host Committee
30th Regional Transit Technical Advisory Committee

APRIL

6TH Executive/Administration Committee
7TH Regional Council and Policy Committees
14TH General Assembly Host Committee
19TH Regional Transit Lanes Technical Advisory Committee
26th Transportation Conformity Working Group
28th Emerging Technologies Committee

14TH GENERAL ASSEMBLY HOST COMMITTEE
19TH LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE
19TH REGIONAL TRANSIT LANES TECHNICAL ADVISORY COMMITTEE
26TH TRANSPORTATION CONFORMITY WORKING GROUP
28TH EMERGING TECHNOLOGIES COMMITTEE

Item 8.A

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **Update from the California State Association of Counties**

Contact: **Andrea Mares, Board Assistant, County of Riverside - District 3, AnMares@rivco.org, (951) 955-1030**

Date: **April 4, 2022**

Requested Action(s):

1. Receive and file.

Purpose:
The purpose of this item is to provide an update of activities undertaken by the California State Association of Counties (CSAC).

WRCOG 2022-2027 Strategic Plan Goal:
Goal #1- Serve as an advocate at the regional, state, and federal level for the Western Riverside region.

Background:
The primary purpose of CSAC is to represent county government before the California Legislature, administrative agencies, and the federal government. CSAC places a strong emphasis on educating the public about the value and need for county programs and services. While California's 58 counties – ranging from Alpine with a little more than 1,000 people, to Los Angeles with more than 10 million – are diverse, yet many common issues exist. CSAC's long-term objective is to significantly improve the fiscal health of all California counties so they can adequately meet the demand for vital public programs and services. CSAC is proud to represent the counties of California. With continuing member involvement and staff commitment, we are refining and expanding programs and services that will ensure the success of counties well into the future as the closest level of government to the people.

CSAC convened its Executive Committee on Wednesday, March 23, 2022, to discuss the State's recently announced Community Assistance, Recovery, and Empowerment (CARE) Court Proposal. The CARE Court would allow family members, behavioral health providers, and first responders to ask civil court judges to order a clinical evaluation and, if necessary, implement a plan for an unhoused person in need of mental health services. The proposal envisions County Behavioral Health, Public Defenders, Public Guardians, as well as many other county services as key providers for the treatment plan. While all counties share the urgency to assist those who are living with serious mental illness, this proposal, and tackling homelessness overall, requires all levels of government – counties, cities, and the state – to work together with clearly defined roles and sustainable resources. CSAC continues to engage in conversation with the Administration to address concerns related to funding, along with intensive efforts at all levels of government to ensure housing and services for those most in need. CARE Court, of which the cost is unknown, will service an estimated 7,000 to 12,000 people, or less than 10% of the State's homeless population. Housing is a major piece of this puzzle. Without it, innovative programs like CARE Court will likely not experience anticipated levels of success. We also need to examine the chronic underfunding of key supportive services, something that the Inland Empire has experienced for decades. While there are many unknowns with the proposal as presented, counties wholeheartedly agree with the direction and intent of CARE Court, and desire to work hand-in-hand with cities and the State to create a mutually productive proposal.

For more information on CARE Court and its relationship to counties, please visit www.counties.org/press-release/csac-responds-governors-proposal-care-court and https://www.latimes.com/california/story/2022-03-22/newsom-homeless-plan-court-ordered-treatment.

Prior Action(s):
March 7, 2022: The Executive Committee received and filed.

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

Attachment(s):
None.

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: 2nd Quarter Draft Budget Amendment for Fiscal Year 2021/2022

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

Date: April 4, 2022

Requested Action(s):

1. Approve the 2nd Quarter draft Budget Amendment for Fiscal Year 2021/2022.

Purpose:

The purpose of this item is to request approval of WRCOG's 2nd Quarter draft Budget Amendment for Fiscal Year (FY) 2021/2022.

WRCOG 2022-2027 Strategic Plan Goal:

Goal #3 - Ensure fiscal solvency and stability of the Western Riverside Council of Governments.

Background:

HERO Legal

During FY 2020/2021, WRCOG’s partner in the residential HERO Program, Renovate America, terminated its HERO product and subsequently filed for Chapter 11 Bankruptcy in December 2020, effectively ending the Program. Additionally, at the December 2020 WRCOG Executive Committee meeting, staff was directed to terminate the remaining residential PACE administration agreements with the two other companies that have partnered with WRCOG; Renew Financial and PACE Funding Group. Under the terms of the Renovate contract, WRCOG was indemnified from a wide range of legal issues. When Renovate filed for bankruptcy protections, it also stopped honoring the indemnity agreement. This effectively forced WRCOG to take on new, and previously unanticipated, litigation responsibilities and expenses. Due to this, the Program has incurred significantly more legal costs related to the Renovate bankruptcy as well as legal costs associated with existing assessments that have deemed to be fraudulent and have been paid off by WRCOG.

As the budget was being developed for FY 2021/2022, $750k was budgeted for legal costs in the Program, which was a notable increase from the FY 2020/2021 original budget of $100k; however, the actual expenses incurred by the end of the year eclipsed $1 million. Staff anticipated that the increases in cases, and the associated costs, would level off and return closer to previous levels. Recent trends indicate that is still the case; however, it has not occurred as early as previously anticipated.

Expenditures incurred through December 2021 are at $930k and staff is recommending a budget amendment of $900k, for a total legal budget of $1.65 million for FY 2021/2022 for the HERO Program. While this is a significant increase in expenditures, staff will be able to point to two offsets for the increased expenditures.

While the HERO Program is no longer completing new projects, it still manages and receives administrative fees on the existing pool of assessments, which fund the Program. During FY 2020/2021, there was a sharp increase in early payoffs, which generated additional revenue for the Program. This potentially could be due to the market conditions, as home values have increased substantially over the past year, increasing equity along with mortgage refinance rates hit all-time lows, and may have factored in to this significant increase of payoffs.

This trend has continued in FY 2021/2022 and the anticipated revenue was originally budgeted based on the existing payoff fees; however, the fees were increased in July 2021 in order to adequately reflect the time and cost to process payoffs and it is anticipated that revenues will exceed the budgeted amount. Staff have conservatively estimated this increase at $250k.

Additionally, while the HERO Program was terminated in December 2020, there was one final batch of projects that were completed, but the associated WRCOG revenues were delayed as part of the litigation process. As things progressed in the case, WRCOG was able to negotiate a percentage payout of the final HERO closing. This amount totaled to $679k and will bring additional revenue to the HERO Administration Program, but is being seen as an offset to the increased legal expenses.

Net Revenue increase to the HERO Program: $29,548

For additional context, attached is a presentation made at the Executive Committee in September 2021 that provides a general overview of the HERO (PACE) Program.

<u>Prior Action(s)</u>:
<u>March 7, 2022</u>: The Executive Committee approved the REN portion of the 2nd quarter Budget amendment for Fiscal Year 2021/2022 and requested staff return with more detail to discuss the HERO legal portion prior to approval.

<u>February 17, 2022</u>: The Technical Advisory Committee recommended that the Executive Committee approve the 2nd quarter Budget Amendment for Fiscal Year 2021/2022.

<u>February 9, 2022</u>: The Administration & Finance Committee recommended that the Executive Committee approve the 2nd quarter Budget Amendment for Fiscal Year 2021/2022.

<u>January 27, 2022</u>: The Finance Directors Committee recommended that the Executive Committee approve the 2nd quarter Budget Amendment for Fiscal Year 2021/2022.

<u>Fiscal Impact</u>:
For the 2nd Quarter of FY 2021/2022, there will a total increase of $5,051,019 in revenues and expenditures due to the I-REN going live, which was already approved at the March 7, 2022, Executive Committee meeting, and a net increase of revenues of $29,548 in the HERO Program.

<u>Attachment(s)</u>:
Attachment 1 - FY 2021/2022 Q2 Budget Amendment

Attachment

FY 21-22 Q2 Budget Amendment

Western Riverside Council of Governments
Q2 Budget Amendment
For the Year Ending June 30, 2022

Program: HERO Administration

	Thru 12/31/2021 Actual	Approved 6/30/2022 Budget	Amendment Needed 12/31/2021
Revenues			
HERO Administrative Revenue	1,179,891	2,250,000	250,000
HERO Sponsor Revenue	679,548	-	679,548
Total	**1,859,439**	**2,250,000**	**929,548**
Expenditures			
Legal	**1,016,146**	**750,000**	**900,000**
Total net increase			**29,548**

Attachment

September 2021 Executive Committee PACE Presentation

PACE Program: general overview

KURT WILSON
EXECUTIVE DIRECTOR

1

What Is PACE?

Path to Energy Efficiency Products

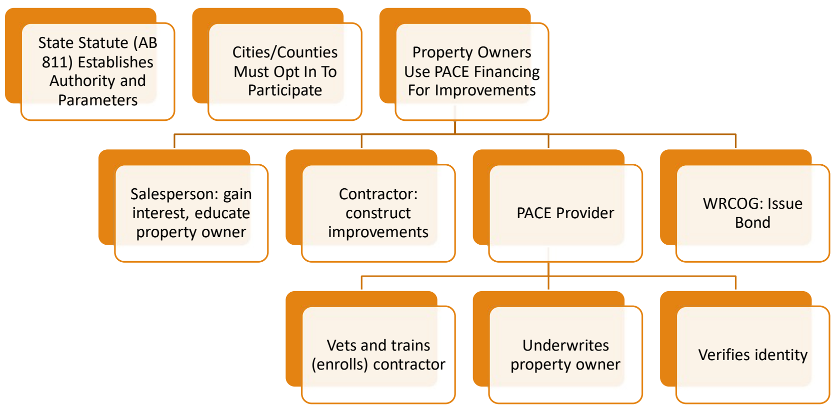
- Solar Panels
- Insulation
- Windows
- Air Conditioning Systems
- Low Flow Toilet Fixtures
- Energy efficient Doors
- (Anchored in Title 24)

Property-based Financing

Supports Broader Energy/Climate Objectives

2

How Does PACE Work?



3

How Does PACE Work? (Cont'd)

Quality Control Measures

- Verify Property Owner Identity
- Verify Property Owner Intent
- Verify Project Completion
  - Property Owner Signs Certificate of Completion

Lien Placed On Property

Payoffs:

- DTA Calculates Funding Estimate
- BB&K Provides Legal Services
- WRCOG Initiates Release of Lien
- County Releases Lien

4

PACE Criticisms

- **FHA Refusal To Transfer Lien Upon Title Transfer**
  - Requires Payoff of Lien To Sell Home
- **Realtors Dislike Program**
  - Successfully Lobbied Bakersfield to Exit Program
- **Allegations of Predatory Practices / Lack of Quality Control**

5

Program Active and Thriving → Eligible For New Construction → Low Volume (approx. 12 per year) → High Dollar Projects → Highly Sophisticated Participants

Commercial PACE

6

Commercial PACE Cont'd

- Sole WRCOG Revenue Source: 70 basis points (.7 %) of Project Value
  - Incorporated in Cost of Issuance
- Cap of $250k
- WRCOG Authority for Admin Fee
  - Currently Set to $0
- C-PACE Providers:
  - Twain ($34 million project last year)
  - Greenworks,
  - Clean Fund (can only work in WRCOG footprint; no activity)
  - Lever (no activity)
- Program Remains Strong

7

Residential PACE

- WRCOG Partnered With Renovate America
- They Solicited 49 Counties (84%) and 384 Cities (80%)
- Associate Members of WRCOG

8

Residential PACE (HERO)

Started FY 2012

Stopped Enrolling New Participants in 2021 (Directed by Exec Comm.)

Renovate America Had Evergreen Contract (97-98% of revenues)

Trend From WRCOG and State

- Increase Consumer Protections
- Audio Recording of Confirmed Terms Calls
- Increase Quality Control
- Added “Ability to Pay” Criteria
- Additional Documentation Requirements
- Longer Approval Times

9

Residential PACE (HERO) Changes

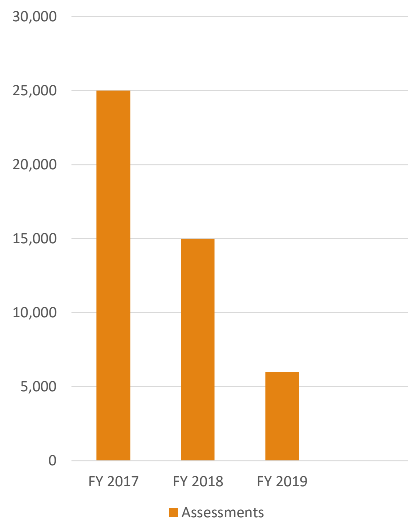
2016: Exec Comm. Opted To Increase Sub Region Competition

- Renew (terminated 2021)
- PFG (terminated 2021)
- Ygrene (never actually launched)
- Market Saturation from non-WRCOG PACE providers

Renovate Offered Benji

- Possible Violation of WRCOG Agreement
- Unsecured
- Less Restrictive
- Decreased Oversight
- Faster Approvals

10



Decline of Residential PACE (HERO)

11

Claims and Allegations

- WRCOG Indemnified by Renovate America
- Renovate Filed For Bankruptcy December 2020
- Sale of BENJI
- Surprise Filing

12

Financial

WRCOG Is Bond Issuer (not holder)	Primary Historic Funding Source is 1% of Project Value	Administration Fee

• Comes With Some Obligations
• BB&K is Bond Counsel
	• Incorporated in Cost of Issuance
	• Mismatch of Short and Long-term Revenues and Obligations
		• Annual Property Tax Assessment ($25-90/95)
		  • County: recording lien
		  • DTA: administrative calculations
		  • BB&K: legal
		  • WRCOG: admin

13

Delinquencies

First National Association (FNA)
- Ensures Bondholders Are Paid
- Avoids Foreclosures If Property Owner Is Delinquent
- Small Revenue for WRCOG

14

(Pre)Payment of Lien

- Administrative Fee for Recording, etc.
- Average 10k Payoffs Per Year
- Last Year Began With 50k Assessments
- This Year Began With 34k Assessments
- Initial Fee $175; Now $225; Actual Cost Approx. $260
- Refund of Overpayment
  - Fee is $25
  - Last Year = $33k

15

Thank You!

16

Western Riverside Council of Governments Executive Committee

Staff Report

Subject: **PACE Administrative and Legal Services**

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

Date: **April 4, 2022**

Requested Action(s):

1. Authorize the Executive Director to enter into a Professional Services Agreement with Best Best & Krieger for Administrative and Legal services for the WRCOG PACE Programs through June 30, 2024, with no more than two options to renew or amend.

Purpose:

The purpose of this item is to provide an update on the Request for Proposal (RFP) for Administrative and Legal Services and to select a provider of these services for WRCOG PACE Programs

WRCOG 2022-2027 Strategic Plan Goal:

Goal #3 - Ensure fiscal solvency and stability of the Western Riverside Council of Governments.

Background:

In December 2011, WRCOG initiated its Property Assessed Clean Energy (PACE) Program within the WRCOG subregion, providing financing to property owners to implement energy saving, renewable energy, water conservation, and seismic strengthening improvements to their residence or businesses. In 2014, the WRCOG's PACE Program was expanded to allow jurisdictions throughout the state to join, allowing property owners in jurisdictions outside of WRCOG area to participate.

In March 2015, WRCOG amended its general legal counsel agreement with Best Best & Krieger (BB&K) to include legal services to support a statewide PACE Program, specifically bond, special, and disclosure counsel and public finance legal services. In June 2016, this agreement was amended a third time replacing a previously amended fee schedule.

Given the amount of amendments made to the contract and the number of years under contract, in accordance with WRCOG's Purchasing and Procurement Policy, staff issued a Request for Proposal (RFP) to identify potential firms with relevant knowledge and experience to provide for administrative and legal services for WRCOG's PACE Programs. The RFP was distributed on August 24, 2021. Staff received only one proposal, from the incumbent contract holder, BB&K.

To evaluate the proposal(s), an evaluation committee was appointed by Chair Spiegel, comprised of elected official representatives from the Cities of Jurupa Valley, Menifee, and San Jacinto. The evaluation committee recommended staff re-advertise the RFP and allow ample time for additional legal firms to propose.

On November, 22, 2021, staff re-issued the RFP. After allowing potential firms over seven weeks to assess and develop proposals, staff received proposals from two firms: Best Best & Krieger and Stradling Yocca Carlson & Rauth.

After subsequent review, and subsequent report-out of the proposals by the evaluation committee to the Administration & Finance Committee, it was recommended that the Executive Committee enter into a Professional Services Agreement with Best Best & Krieger given their deep experience, and existing structure of administrative and legal operations.

Since the inception of the PACE Programs, it has always been the intent that the Program pay for the services of the Program; in this case bond and legal services through the fees of the Program. Historically, the fees that have paid for such services have come from two sources: 1) the cost of issuance of bond sales, a one-time fee provided at bond closing, and 2) annual administrative fees incurred by property owners with WRCOG PACE assessments. These fees are pass through costs paid directly from participants of the Program. With the discontinuation of WRCOG's Residential PACE Program in December 2020, this impacted the revenue to pay for bond and legal services. Bond counsel and administrative services related to the commercial portion (C-PACE) of the Program will continue to be paid through the cost of issuance of C-PACE bonds, as has been the historical practice. The proposed contract includes a revised compensation schedule that balances and creates a consistent compensation model based upon the current assessment and prepayment volume instead of a volume of bonds issued.

	Previous Contract	Proposed Contract
Cost of Issuance	0.73% of bonds closed	N/A
Annual Administrative Fee	$3 per assessment	$16 per assessment
Prepayment Fee	$0	$20 per prepayment
Total Estimated Annual Compensation	$1,503,288 (average from FY 2017/2018 through FY 2020/2021)	$680,000

One advantage to this proposed contract is that it provides certainty as to the expenses and services to be provided. By basing the fee on the number of active assessments and prepayments, WRCOG staff will be better able to project anticipated expenses associated with this contract. With fewer than 30,000 residential assessments remaining, the Annual Administrative Fee would be roughly $480,000. As assessments are paid off, the total number of assessments and the Fee would decline year over year. Since 2019, approximately 10,000 assessments have been prepaid each year, resulting in an approximate $200,000 fee. Combined, the maximum amount of fees is approximately $680,000. As the number of outstanding assessments decline due to prepayments and fully matured assessments, this cost will only steadily decline over time.

Based on the RFP and proposed Professional Services Agreement, the services included in this agreement include the following:

<u>Administrative Services</u>:

1. Store and maintain the original transcripts for all bonds issued by WRCOG for its PACE Program.

2. Review incoming prepayments and prepare addenda to Notice of Assessment / Payment of Contractual Assessment Required (NOA / PCAR) in the event of the prepayment of Assessments, in whole or in part; provide copies of recorded documents and a summary of assessment administrator's prepayment notifications.
3. Prepare releases to the NOA / PCAR as requested by property owners to clear title on properties for which the assessment liens have matured.
4. Review incoming invoices from Trustee, Assessment Administrator, and other participants in the ongoing administration of the PACE Programs and prepare requisitions and coordinate signatures and submission to Trustee.
5. Review and audit PACE Program fund payments; prepare requisitions for Trustee or transfer instructions for bond calls, as applicable.
6. Review incoming invoices and prepare requisitions for costs of issuance or administrative expenses including requisitioning for HERO Refund check fees, as applicable.
7. Respond to requests for recorded documents and provide copies when necessary.
8. In conjunction with the Legal Services described in clause 9 below, review incoming and background bankruptcy pleadings and file proofs of claims, if needed.
9. Prepare corrections to recorded documents (e.g., property descriptions, Assessment Parcel Numbers).
10. Prepare resolutions for annual levy and assist with coordination of placement of roll on county tax rolls.
11. Attend WRCOG PACE Program calls on an as needed basis.
12. Prepare and provide WRCOG the prepayment lockbox transfers breakdown from Trustees.
13. Prepare and provide WRCOG HERO, including Statewide, full Release of Lien delivery list.
14. Review incoming delinquency reports, reports to the Trustee, and correspondence from Assessment Administrator on an as needed basis.
15. Provide any necessary PACE training to assist WRCOG staff with the Program.

<u>Legal Services related to</u>:

1. The bonds issued by WRCOG for the PACE Program (the "Bonds").
2. The terms and conditions, covenants and other obligations of WRCOG under the Master Indentures.
3. Assessment Contracts entered into by WRCOG and property owners participating in the PACE Programs.
4. The collection of Assessment Installments.
5. Enforcement of the collection of delinquent Assessment Installments including judicial foreclosure or deferral thereof.
6. Property owner complaints related to Assessment Contracts or the Assessments levied against such property owner's property.
7. Changes in federal or state law affecting the Bonds, the Assessment Contracts, the Assessments or the continuing administration of the Bonds and/or the Assessments.
8. Claims on the CAEATFA Loan Loss Reserve.
9. Provide advice regarding and representation of WRCOG in bankruptcy proceedings of property owners participating in PACE Programs.
10. Provide additional Legal Services pertaining to the PACE Program as requested by WRCOG.

On March 9, 2022, the Administration & Finance Committee recommended that the Executive Committee select Best Best & Krieger to provide Administrative and Legal Services for PACE Programs.

This item does not include a staff recommendation because the same firm that provides General Counsel services to WRCOG and those services are specifically overseen by the Executive Committee rather than the Executive Director.

Prior Action(s):

March 9, 2022: The Administration & Finance Committee recommended that the Executive Committee select Best Best & Krieger to provide Administrative and Legal Services for PACE Programs.

Fiscal Impact:

PACE Program Activities are included in the Agency's adopted Fiscal Year 2021/2022 Budget under the Energy & Environmental Department.

Attachment(s):

Attachment 1 - PSA BB&K PACE Administrative and Legal Services

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into this 1st day of January, 2022, by and between the Western Riverside Council of Governments, a California public agency ("WRCOG"), and Best Best & Krieger LLC., a bond, disclosure, and special counsel firm ("Consultant"). WRCOG and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by WRCOG on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional consulting services to support administrative services, legal advice and representation for WRCOG's subregion HERO Program, the California HERO Program, Renew Financial Program and PACE Funding Program, is licensed in the State of California, and is familiar with the plans of WRCOG.

2.2 Project.

WRCOG desires to engage Consultant to render such professional services for the Administrative and Legal Services for PACE Programs ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to WRCOG all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the operational, cost, and legal services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and which are stated in the proposal to WRCOG and approved by WRCOG's Executive Committee. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from January 1, 2022 to June 30, 2024, with no more than two options to renew or amend unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. WRCOG retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of WRCOG and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "A" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, WRCOG shall respond to Consultant's submittals in a timely manner. Upon request of WRCOG, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of WRCOG.

3.2.4 Substitution of Key Personnel. Consultant has represented to WRCOG that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of WRCOG. In the event that WRCOG and Consultant cannot agree as to the substitution of key personnel, WRCOG shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to WRCOG, or who are determined by the WRCOG to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the WRCOG. The key personnel for performance of this Agreement are as follows: Mrunal Shah, Partner.

3.2.5 WRCOG's Representative. WRCOG hereby designates the WRCOG Executive Director, or his or her designee, to act as its representative for the performance of this Agreement ("WRCOG's Representative"). WRCOG's Representative shall have the power to act on behalf of WRCOG for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than WRCOG's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates Mrunal Shah, Partner, or his or her designee, to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures, and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with WRCOG staff in the performance of Services and shall be available to WRCOG's staff, consultants, and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and sub- contractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and sub-contractors have all licenses, permits, qualifications, and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense, and without reimbursement from WRCOG, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by WRCOG to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to WRCOG, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules, and/or regulations, and without giving written notice to WRCOG, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify, and hold WRCOG, its Directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to WRCOG that it has secured all insurance required under this section, in a form and with insurance companies acceptable to WRCOG. In addition, Consultant shall not allow any sub-contractor to commence work on any subcontract until it has provided evidence satisfactory to WRCOG that the sub-contractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or sub-contractors. Consultant shall also require all of its sub-contractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement / location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* $1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of $1,000,000 per accident for bodily injury or disease.

3.2.10.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Services, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than $2,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors, or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

3.2.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by WRCOG to add the following provisions to the insurance policies:

(A) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) Bodily Injury and Property Damage; (2) Personal Injury / Advertising Injury; (3) Premises / Operations Liability; (4) Products / Completed Operations Liability; (5) Aggregate Limits that Apply per Project; (6) Explosion, Collapse and Underground (UCX) exclusion deleted; (7) Contractual Liability with respect to this Agreement; (8) Broad Form Property Damage; and (9) Independent Consultants Coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(iii) The policy shall give WRCOG, its Directors, officials, officers, employees, volunteers and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from WRCOG's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(B) Automobile Liability.

(i) The automobile liability policy shall be endorsed to state that: (1) WRCOG, its Directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired, or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects WRCOG, its Directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by WRCOG, its Directors, officials, officers, employees, agents, and volunteers shall be in excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against WRCOG, its Directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Defense costs shall be payable in addition to the limits set forth hereunder. Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to WRCOG, its Directors, officials, officers, employees, volunteers and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater.

(i) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of WRCOG (if agreed to in a written contract or agreement) before WRCOG's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella / excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(ii) Consultant shall provide WRCOG at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to WRCOG at least ten (10) days prior to the effective date of cancellation or expiration.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by WRCOG, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(v) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, WRCOG has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by WRCOG will be promptly reimbursed by Consultant or WRCOG will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, WRCOG may cancel this Agreement. WRCOG may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(vi) Neither WRCOG nor any of its Directors, officials, officers, employees, volunteers or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

3.2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to WRCOG, its Directors, officials, officers, employees, agents, and volunteers.

3.2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by WRCOG. Consultant shall guarantee that, at the option of WRCOG, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects WRCOG, its Directors, officials, officers, employees, agents, and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

3.2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, licensed to do business in California, and satisfactory to WRCOG.

3.2.10.8 Verification of Coverage. Consultant shall furnish WRCOG with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to WRCOG. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by WRCOG if requested. All certificates and endorsements must be received and approved by WRCOG before work commences. WRCOG reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.9 Sub-consultant Insurance Requirements. Consultant shall not allow any sub-contractors or sub-consultants to commence work on any sub-contract until they have provided evidence satisfactory to WRCOG that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such sub-contractors or sub-consultants shall be endorsed to name WRCOG as an additional insured using ISO Form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, WRCOG may approve different scopes or minimum limits of insurance for particular sub-contractors or sub-consultants.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state, and federal laws, rules, and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life-saving equipment and procedures; (B) instructions in accident prevention for all employees and sub-contractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment, and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. Extra Work may be authorized, as described below, and, if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to WRCOG a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. WRCOG shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by WRCOG.

3.3.4 Extra Work. At any time during the term of this Agreement, WRCOG may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by WRCOG to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from WRCOG's Representative.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and advice if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. WRCOG shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Services available to interested parties upon request, and post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify, and hold WRCOG, its Directors, officials, officers, employees, volunteers, and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of WRCOG during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. WRCOG may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to WRCOG, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, WRCOG may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, WRCOG may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

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

Consultant: **Best Best & Krieger LLP**
3390 University Avenue, 5th Floor
Riverside, CA 92502
Attn: Mrunal Mehta Shah, Partner

WRCOG: **Western Riverside Council of Governments**
3390 University Avenue, Suite 200
Riverside, CA 92501
Attn: Casey Dailey, Director of Energy and Environmental Programs

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for WRCOG to copy, use, modify, reuse, or sub-license any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all sub-contractors to agree in writing that WRCOG is granted a non-exclusive and perpetual license for any Documents & Data the sub-contractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by WRCOG. WRCOG shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at WRCOG's sole risk.

3.5.3.2 Intellectual Property. In addition, WRCOG shall have and retain all right, title, and interest (including copyright, patent, trade secret, and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

WRCOG shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by WRCOG, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of WRCOG.

Consultant shall also be responsible to obtain in writing separate written assignments from any sub-contractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the WRCOG.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

WRCOG further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

3.5.3.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of WRCOG, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use WRCOG's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television, or radio production or other similar medium without the prior written consent of WRCOG.

3.5.3.4 Infringement Indemnification. Consultant shall defend, indemnify, and hold WRCOG, its Directors, officials, officers, employees, volunteers, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by WRCOG of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative, or otherwise, 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 attorney's fees and all other costs of such action.

3.5.6 Indemnification. Consultant shall defend, indemnify, and hold WRCOG, its Directors, officials, officers, consultants, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants and contractors, arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense, and risk, any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted against WRCOG, its Directors, officials, officers, consultants, employees, agents or volunteers. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against WRCOG or its Directors, officials, officers, consultants, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse WRCOG and its Directors, officials, officers, consultants, employees, agents, or volunteers, for any and all legal expenses and costs, including reasonable attorneys' fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by WRCOG, its Directors, officials, officers, consultants, employees, agents, or volunteers. This section shall survive any expiration or termination of this Agreement. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

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

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

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

3.5.10 WRCOG's Right to Employ Other Consultants. WRCOG reserves the right to employ other consultants in connection with this Project.

3.5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of WRCOG. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and sub-contractors of Consultant, except as otherwise specified in this Agreement. All references to WRCOG include its Directors, officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

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

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WRCOG shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, Director, officer, official, agent volunteer, or employee of WRCOG, during the term of his or her service with WRCOG, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer, and it shall not discriminate against any sub-contractor, employee, or applicant for employment because of race, religion, color, national origin, handicap, 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. Consultant shall also comply with all relevant provisions of any of WRCOG's Minority Business Enterprise Program, Affirmative Action Plan, or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of WRCOG. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE TO

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
PROFESSIONAL SERVICES AGREEMENT**

IN WITNESS WHEREOF, the Parties hereby have made and executed this Agreement as of the date first written above.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS	BEST BEST & KRIEGER LLC
By: ______________________________	By: ______________________________
Title: Executive Director	Title: Partner
	ATTEST:
	By: ______________________________
	Its: ______________________________

*A corporation requires the signatures of two corporate officers.

One signature shall be that of the Chairman of Board, the President or any Vice President, and the second signature (on the attest line) shall be that of the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to WRCOG.

EXHIBIT “A”

SCOPE AND SCHEDULE OF SERVICES

	Residential (annual)	Commercial (annual)	Annual hourly totals
1. Store and maintain the original transcripts for all bonds issued by WRCOG for its PACE Program.	120	50	170
2. Review incoming prepayments and prepare addenda to Notice of Assessment/Payment of Contractual Assessment Required (NOA/PCAR) in the event of the prepayment of assessments, in whole or in part; provide copies of recorded documents and a summary of assessment administrator’s prepayment notifications.	2,520	10	2,530
3. Prepare releases to the NOA/PCAR as requested by property owners to clear title on properties for which the assessment liens have matured.	240	n/a	240
4. Review incoming invoices from Trustee, Assessment Administrator, and other participants in the ongoing administration of the PACE Programs and prepare requisitions and coordinate signatures and submission to Trustee.	312	10	322
5. Review and audit PACE Program fund payments; prepare requisitions for Trustee or transfer instructions for bond calls, as applicable.	84	10	94
6. Review incoming invoices and prepare requisitions for costs of issuance or administrative expenses including requisitioning for HERO Refund check fees, as applicable.	108	-	108
7. Respond to requests for recorded documents and provide copies when necessary.	240	15	255

8. In conjunction with the Legal Services described in clause 9 below, review incoming and background bankruptcy pleadings and file proofs of claims, if needed.	-	-	50
9. Prepare corrections to recorded documents (e.g., property descriptions, Assessment Parcel Numbers).	-	-	25
10. Prepare resolutions for annual levy and assist with coordination of placement of roll-on county tax rolls.	-	-	70
11. Attend WRCOG PACE Program calls on an as needed basis.			50
12. Prepare and provide WRCOG the prepayment lockbox transfers breakdown from Trustees.			180
13. Prepare and provide WRCOG HERO including Statewide full Release of Lien delivery list.			100
14. Review incoming delinquency reports, reports to the Trustee, and correspondence from Assessment Administrator on an as needed basis.	36	10	46
15. Provide any necessary PACE training to assist WRCOG staff with the Program.	-	-	25
Total Admin	**3,660**	**605**	**4,265**

EXHIBIT “B”

COMPENSATION BILLING RATES

$4 per quarter per assessment with a minimum of $15,000 per quarter; and

$20 per prepayment per parcel.

The total estimated budget will vary annually based on the number of outstanding assessments and prepayments during such year.

Legal Services will be provided and billed on an hourly as follows:

- $390 per hour for Partners and Of Counsel
- $280 per hour for Senior Associates
- $245 per hour for Junior Associates
- $190 per hour for Senior Paralegal
- $170 for Junior Paralegal and
- $160 per hour for Closing Coordinator

The fee schedule above is effective implemented as of January 1, 2022. We are requesting this implementation date because our existing fee schedule is based upon a combination of receiving fees for the issuance of bonds for new residential assessments and some administrative fees.

Fees increase on every January 1, effective January 1, 2023 by the amount of the consumer price index.

Services rendered in connection with our role as bond counsel for WRCOG’s commercial programs with connection with the issuance of bonds shall be provided per the fee schedule currently established by WRCOG. Following the issuance of bonds, ongoing services shall be provided at the hourly rate set forth herein.