



Western Riverside Council of Governments Planning Directors Committee

AGENDA

Thursday, August 12, 2021
9:30 AM

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

Members of the public are encouraged to participate in this meeting via Zoom.

Join Zoom Meeting
Meeting ID: 891 1167 8032
Password: 460857
Dial in: (669) 900 6833 U.S.

SPECIAL NOTICE – COVID-19 RELATED PROCEDURES IN EFFECT

Due to the state and local State of Emergency resulting from the threat of Novel Coronavirus (COVID-19), Governor Newsom has issued Executive Order N-29-20 (issued March 17, 2020) in which Section 3 supersedes Paragraph 11 of Executive Order N-25-20 (issued on March 12, 2020). This order states that WRCOG does not need to make a physical location available for members of the public to observe a public meeting and offer public comment. The Order allows WRCOG to hold Committee meetings via teleconferencing and allows for members of the public to observe and address the meeting telephonically or electronically.

To follow the Order issued by the Governor, the Planning Directors Committee meeting scheduled for Thursday, August 12, 2021, at 9:30 a.m. will be held in-person at the location listed on the agenda and virtually, on the Zoom platform. Members of the public may submit public 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 at 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 (John Hildebrand, Chair)**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**

4. PUBLIC COMMENTS

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

5. SELECTION OF PLANNING DIRECTORS COMMITTEE LEADERSHIP FOR FISCAL YEAR 2021/2022

A. Recognition of Outgoing Chair and Leadership Selection for Fiscal Year 2021/2022

- Requested Action(s):** 1. Select Planning Directors Committee Chair, Vice-Chair, and 2nd Vice-Chair positions for Fiscal Year 2021/2022.

6. 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 June 10, 2021, Planning Directors Committee Meeting

- Requested Action(s):** 1. Approve the Summary Minutes from the June 10, 2021, Planning Directors Committee meeting.

7. REPORTS / DISCUSSION

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

A. 2021 TUMF Credit Agreement Template Update

- Requested Action(s):** 1. Recommend that the Executive Committee approve the revised 2021 TUMF Credit Agreement Template.

B. Update to RCA's MSHCP Mitigation Fee Implementation Manual

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

C. TUMF Applications on Projects Without City Permitting

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

D. TUMF CCI Implementation

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

E. Legislative Activities Update

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

8. REPORT FROM THE DEPUTY EXECUTIVE DIRECTOR

Chris Gray

9. ITEMS FOR FUTURE AGENDAS ~ Members

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

10. GENERAL ANNOUNCEMENTS ~ Members

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

11. NEXT MEETING

The next Planning Directors Committee meeting is scheduled for Thursday, September 9, 2021, at 9:30 a.m. in-person at the WRCOG's office and virtually on the Zoom platform.

12. ADJOURNMENT



Western Riverside Council of Governments Planning Directors Committee

Staff Report

Subject: Recognition of Outgoing Chair and Leadership Selection for Fiscal Year 2021/2022
Contact: Chris Gray, Deputy Executive Director, cgray@wrcog.us, (951) 405-6740
Date: August 12, 2021

Requested Action(s):

1. Select Planning Directors Committee Chair, Vice-Chair, and 2nd Vice-Chair positions for Fiscal Year 2021/2022.
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Purpose:

The purpose of this item is to recognize the outgoing Chair and select Planning Directors Committee leadership positions for Fiscal Year (FY) 2021/2022.

Background:

WRCOG would like to recognize the Fiscal Year 2020/2021 Chair, John Hildebrand, Riverside County, for his efforts in leading the Planning Directors Committee meetings during the previous year. Staff appreciates his hard work and dedication in leading the meetings, particularly as WRCOG transitioned to the virtual format due to COVID-19.

WRCOG's Committee leadership positions are selected at the start of each fiscal year. The leadership for the Executive Committee for Fiscal Year 2021/2022 is as follows:

Chair: Karen Spiegel, County of Riverside – District 2
Vice-Chair: Crystal Ruiz, City of San Jacinto
2nd Vice-Chair: Chris Barajas, City of Jurupa Valley

Historically, most WRCOG Committees leadership positions have coincided with those of the Executive Committee. There is no requirement that WRCOG Committees follow this approach and the Committee is free to nominate any member to serve in these leadership positions.

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 Planning Directors Committee

Minutes

1. CALL TO ORDER

The meeting of the Planning Directors Committee was called to order by Chair John Hildebrand at 9:33 a.m. on June 10, 2021, on the Zoom platform.

2. PLEDGE OF ALLEGIANCE

Chair Hildebrand led members and guests in the Pledge of Allegiance.

3. ROLL CALL

- City of Banning - Adam Rush*
- City of Beaumont - Christina Taylor
- City of Corona - Joanne Coletta
- City of Eastvale - Gustavo Gonzalez
- City of Hemet - Monique Alaniz-Flejter
- City of Lake Elsinore - Richard MacHott
- City of Menifee - Doug Darnell
- City of Moreno Valley - Patty Nevins
- City of Murrieta - Jarrett Ramaiya
- City of San Jacinto - Travis Randel
- City of Temecula - Matt Peters
- City of Wildomar - Matt Bassi
- County of Riverside - John Hildebrand (Chair)
- March Joint Powers Authority - Mathew Evans
- Riverside Transit Agency - Kristin Warsinkski

*Arrived after roll call

4. PUBLIC COMMENTS

There were no public comments.

5. CONSENT CALENDAR – (San Jacinto / Beaumont) 12 yes; 0 no; 2 abstention. Items 5.A was approved. Representatives from the Cities of Lake Elsinore and Wildomar abstained.

A. Summary Minutes from the April 8, 2021, Planning Directors Committee Meeting

Action:

1. Approved the Summary Minutes from the April 8, 2021, Planning Directors Committee meeting.

6. REPORTS / DISCUSSION

A. 2021 TUMF Credit Agreement Template Update

Cameron Brown, WRCOG Program Manager, presented on the updated TUMF Credit Agreement template. This revised template was provided to this Committee at its April 2021 meeting for review and comment. The purpose of the update is so WRCOG can become the third party on the Credit Agreement. By being added as the third party on the Agreement, WRCOG can verify the estimated TUMF obligation on a development and confirm the maximum amount of credit that can be given on the construction of a TUMF facility. Another positive to being added is that upon reconciliation of a credit agreement, whereas the developer shows all invoices for TUMF-eligible work and the development constructed, WRCOG can confirm the amount a developer can be repaid, and/or how much a developer owes on their project.

Next steps will include requesting a recommendation be forwarded to the Executive Committee for consideration at its July 2021 meeting.

Action:

1. Recommended that the Executive Committee approve the revised 2021 TUMF Credit Agreement Template.

(San Jacinto / Menifee) 14 yes; 0 no; 0 abstention. Item 6.A was approved.

B. Indirect Source Rule Presentation

Dr. Kalam Cheung, Research Assistant with the South Coast Air Quality Management District (AQMD), provided an update on AQMD's recently adopted Warehouse Indirect Source Rule (ISR). This rule focuses on reducing emissions associated with vehicles and mobile equipment operating in and out of warehouse distribution centers. With consumer demand for online retail and just-in-time delivery increasing, goods delivered between the region's seaports, airports, and businesses across the nation may increase mobile source emissions, even with the deployment of newer, cleaner vehicles and equipment. The Warehouse ISR provides multiple options for warehouse operators to reduce emissions associated with their facility.

Action:

1. Receive and file.

C. Subregional Cannabis Activities Update

Mark Teague, Principal at PlaceWorks, provided an update on cannabis policies throughout the subregion with a focus on micro-businesses. Proposition 64, the Adult Use of Marijuana Act, took effect January 1, 2018. Since then, WRCOG member agencies have each enacted local ordinances to regulate cannabis activities locally. In January 2018, staff surveyed member agencies on local policies planned or in place related to cannabis activity. At the time of the survey, some agencies had already taken action, many to ban all cannabis activity, while others had not yet made final determinations on which activities to ban or allow. The most recent update on local permitting was presented to the

Planning Directors Committee (PDC) in March 2019. In June 2019, WRCOG invited the City of Desert Hot Springs to present to the PDC its insights related to challenges encountered and strategies employed by the City to regulate cannabis uses.

Since WRCOG last updated the PDC in May 2019 on local cannabis permitting regulations, local policies have continued to evolve. In May 2021, WRCOG surveyed its members to confirm the current policies related to cannabis across the subregion. Information was provided on the advantages, costs, and logistics to enact and implement a new ordinance allowing micro-business permits, along with case studies on agencies with active micro-businesses, offering insights into best practices, some of which are applicable to all permit types.

Action:

1. Received and filed.

D. Legislative Activities Update

Bill Blankenship, WRCOG's On-Call Legislative Consultant, provided an update and overview of current key legislative dates and deadlines for the month of June and July.

Mr. Blankenship is available for consultation regarding legislation primarily focused on planning.

Action:

1. Received and filed.

7. REPORT FROM THE DEPUTY EXECUTIVE DIRECTOR

Chris Gray reported that registration for WRCOG's 30th Annual General Assembly is now open. The event will take place Thursday, June 24, 2021, from 4:00 - 5:00 p.m., and features Daymond John. Mr. Gray included that this event will only be broadcasted one time. At the June Executive Committee meeting the Committee appointed Dr. Kurt Wilson as WRCOG's new Executive Director.

8. ITEMS FOR FUTURE AGENDAS

There were no items for future agendas.

9. GENERAL ANNOUNCEMENTS

There were no general announcements.

10. NEXT MEETING

The July 8, 2021, Planning Directors Committee meeting is CANCELED. The next Planning Directors Committee meeting is scheduled for Thursday, August 12, 2021, at 9:30 a.m., in-person at the WRCOG's office and virtually on the Zoom platform.

11. ADJOURNMENT

The meeting of the Planning Directors Committee adjourned at 10:38 a.m.



Western Riverside Council of Governments Planning Directors Committee

Staff Report

Subject: 2021 TUMF Credit Agreement Template Update
Contact: Cameron Brown, Program Manager, cbrown@wrcog.us, 951-405-6712
Date: August 12, 2021

Requested Action(s):

1. Recommend that the Executive Committee approve the revised 2021 TUMF Credit Agreement Template.

Purpose:

The purpose of this item is to request approval of the revised TUMF Credit Agreement Template.

Background:

WRCOG's Transportation Uniform Mitigation Fee (TUMF) Program is a regional fee program designed to provide transportation and transit infrastructure that mitigates the impact of new growth in Western Riverside County. Each of WRCOG's member agencies and the March JPA participate in the Program through an adopted ordinance, collects fees from new development, and remits the fees to WRCOG.

WRCOG, as administrator of the TUMF Program, allocates TUMF to the Riverside County Transportation Commission (RCTC), groupings of jurisdictions – referred to as TUMF Zones – based on the amounts of fees collected in these groups, the Western Riverside County Regional Conservation Authority (RCA), and the Riverside Transit Agency (RTA).

Update

WRCOG staff has revised the TUMF Credit Agreement template. This revised template was provided to this Committee for review and comment at its April 2021 meeting. The TUMF Credit Agreement is an agreement made between the local agency and the developer for TUMF credit to be given towards the developer's TUMF obligation as defined by the current TUMF fee schedule. With a Credit Agreement, developers can receive credits on the facilities built as a condition for the approval of their development with a local jurisdiction. If these facilities are part of the TUMF Network, the developer can receive this amount as credit towards its TUMF obligation.

Changes to the Credit Agreement Template

WRCOG is updating the Credit Agreement template so that WRCOG becomes a third party on the Credit Agreement. By becoming a third party, WRCOG can verify the estimated TUMF obligation on a development and confirm the maximum amount of credit that can be given on the construction of a TUMF facility. Also, upon reconciliation of a Credit Agreement, whereas the developer shows all

invoices for TUMF-eligible work and the development constructed, WRCOG can confirm the amount a developer can be repaid, and/or how much a developer owes on their project. WRCOG can then also legally make direct payments to the developer on costs beyond their TUMF obligation, rather than having to move through multiple parties to make final payment. Other updates to the Credit Agreement template clarify that WRCOG can be assigned the task to perform the Credit Agreement reconciliation at the request of a local agency.

At the Public Works Committee meeting on June 10, 2021 two issues were raised concerning the Credit Agreement template. Due to these issues, it was decided to table the recommendation for approval until they were properly addressed. The first issue was regarding the selling of credits to other projects. The original version of the template included language allowing developers to sell their excess credits to other projects. Due to the complexity regarding the distribution of funding, it was decided that this provision would be removed from the template, and that WRCOG would continue to disallow the selling of credits to other projects.

The second issue was concerning the acquisition of Right-of-Way (ROW). The template states that to obtain credit for ROW acquisitions there would need to be an appraisal of the property, and the local jurisdiction would need to accept this appraisal. An idea was brought forward to change this language to allow for recent purchase costs to be used in place of an appraisal. After discussion internally with WRCOG staff and legal counsel, it was decided that the appraisal requirement would remain to properly account for ROW credits.

It should also be noted that in order to execute a Credit Agreement, the Agreement must be authorized by the WRCOG Executive Committee, to be signed by the WRCOG Executive Director. Once this is complete, the local jurisdiction should sign the agreement as authorized by its own City Council / Board.

Next Steps

WRCOG is requesting a recommendation from this Committee to forward to the Executive Committee for consideration at its September meeting. The revised TUMF Credit Agreement template has been provided as Attachment 1 to this Staff Report.

Prior Action(s):

June 10, 2021: The Public Works Committee tabled this item to clarify the issue on the selling of credits.

June 10, 2021: The Planning Directors Committee recommended that the Executive Committee approve the revised 2021 TUMF Credit Agreement.

Fiscal Impact:

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

Attachment(s):

[Attachment 1 - WRCOG TUMF Credit Agreement Template - Revised](#)

For Use Between Public Agency and Developer
"Master Agreement"

**IMPROVEMENT AND CREDIT / REIMBURSEMENT AGREEMENT
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM**

This **IMPROVEMENT AND CREDIT AGREEMENT** ("Agreement") is entered into this ___ day of _____, 20___, (the "Effective Date") by and between the [**INSERT "City" OR "County" of _____, [**a California municipal corporation or a subdivision of the State of California **] ("AGENCY"), the Western Riverside Council of Governments, a joint powers Agency, ("WRCOG")and _____, a California [**INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity**], with its principal place of business at [**ENTER ADDRESS**] ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

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

WHEREAS, Developer has requested from AGENCY-certain entitlements and/or permits for the construction of improvements on the Property, which are more particularly described as _____

_____ ("Project");

WHEREAS, the AGENCY is a member agency of 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 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 **[INSERT TUMF IMPROVEMENTS]**

_____, and as shown more specifically on the plans, profiles, and specifications which have been or will be prepared by or on behalf of Developer and approved by AGENCY, and which are incorporated herein by this reference ("TUMF Improvements"). Construction of the TUMF Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. Developer shall be responsible for the replacement, relocation, or removal of any component of any existing public or private improvement in conflict with the construction or installation of the TUMF Improvements. Such replacement, relocation, or removal shall be performed to the complete satisfaction of AGENCY and the owner of such improvement. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the TUMF Improvements.

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

2.2 Permits and Notices. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the TUMF Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work

in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer.

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

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

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

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

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

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

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

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

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

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

3.0 Maintenance of TUMF Improvements. AGENCY shall not be responsible or liable for the maintenance or care of the TUMF Improvements until AGENCY approves and accepts them. AGENCY shall exercise no control over the TUMF Improvements until accepted. Any use by any person of the TUMF Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to AGENCY's acceptance of the TUMF Improvements. Developer shall maintain all of the TUMF Improvements in a state of good repair until they are completed by Developer and approved and accepted by AGENCY, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by AGENCY. If Developer fails to properly prosecute its maintenance obligation under this section, AGENCY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. AGENCY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the TUMF Improvements or their condition prior to acceptance. 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 _____ (___%) 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 occurrence limit of Two Million Dollars (\$2,000,000) and aggregate limit of Four Million Dollars (\$4,000,000) for bodily injury, personal injury, and property damage.

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

13.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence, at all times during which insured retains employees.

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

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

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

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

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

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

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

14.0 TUMF Credit.

14.1 Developer’s TUMF Obligation. Developer hereby agrees and accepts that as of the date of this Agreement, the amount Developer is obligated to pay to AGENCY _ pursuant to Ordinance No. (insert appropriate reference for city or county) as part of the TUMF Program is **[INSERT DOLLAR VALUE OF TUMF REQUIREMENT]** _____ (\$ _____) (“TUMF Obligation”). This TUMF Obligation shall be initially determined under the TUMF fee schedule in effect for the AGENCY at the time the Developer submits a building permit application for the TUMF Improvement. Notwithstanding, this TUMF Obligation does not have to be paid until the Certificate of Occupancy is obtained.

14.2 Fee Adjustments. Notwithstanding the foregoing, Developer agrees that this Agreement shall not estop AGENCY from adjusting the TUMF in accordance with the provisions of Ordinance No. (insert appropriate reference for city or county) .

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

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

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

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

structure(s), shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

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

14.4 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 (insert appropriate reference for city or county) to fully satisfy the TUMF Obligation (see Exhibit "F" - Example "A").

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

(c) TUMF Overpayment. If the dollar amount of the Actual Credit exceeds the Estimated Credit, but is less than the TUMF Obligation, but the Actual Credit plus additional monies collected by AGENCY from Developer for the TUMF Obligation exceed the

TUMF Obligation (“TUMF Overpayment”), Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may be entitled to a refund. The AGENCY’s Public Works Director shall provide written notice to WRCOG and the Developer of the amount of the TUMF Overpayment and AGENCY shall direct WRCOG to refund the Developer in accordance with (insert appropriate reference for city or county) (see Exhibit “F” - Example C)

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

15.0 Miscellaneous.

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

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

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

15.4 Prohibited Interests. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer, to solicit or

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

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

To AGENCY:

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 Developer:

Attn: _____

Fax No. (____) _____

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

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES OF PARTIES ON NEXT PAGE]

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

DEVELOPER:
[**INSERT NAME OF DEVELOPER**]

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

**WESTERN RIVERSIDE COUNCIL OF
GOVERNMENT:**

By: _____

Its: Executive Director-_____

ATTEST:

By: _____

Its: _____

AGENCY:
[**INSERT NAME OF AGENCY**]

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

For Use Between Public Agency and Developer
"Master Agreement"

EXHIBIT “A”

LEGAL DESCRIPTION OF PROPERTY

[ATTACH BEHIND THIS PAGE]

EXHIBIT A-1

EXHIBIT “B”

FORMS FOR SECURITY

[ATTACHED BEHIND THIS PAGE]

EXHIBIT B-1

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

EXHIBIT B-2

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

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 _____

Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title of Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Signer's Name: _____

Corporate Officer –
Title(s): _____

Corporate Officer –
Title(s): _____

- Partner - Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator

- Partner - Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator

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 C-1

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. [ATTACH SAMPLE, IF APPLICABLE; OTHERWISE DELETE
REFERENCE TO ATTACHED SAMPLE



Western Riverside Council of Governments Planning Directors Committee

Staff Report

Subject: Update to RCA's MSHCP Mitigation Fee Implementation Manual
Contact: Jennifer Fuller, Financial Administration Manager, Riverside County
 Transportation Commission, jfuller@rctc.org, (951) 787-7141
Date: August 12, 2021

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to notify RCA's member agencies of its intent to update the Multiple Species Habitat Conservation Plan (MSHCP) Mitigation Fee Implementation Manual and to seek input to the Manual from RCA member agencies.

Background:

The Western Riverside County Regional Conservation Authority (RCA) was formed in 2004 to achieve one of America's most ambitious environmental efforts, the MSHCP. The MSHCP is vital to the future economic, residential, and transportation needs of Western Riverside County. It is the largest conservation plan of its kind in the nation at 500,000 acres with nearly 410,000 acres assembled in the reserve to date. The MSHCP provides Endangered Species Act coverage under federal and state permits for critical wildlife areas, expediting the construction of transportation improvement projects.

At its December 2020 Board meeting, the RCA approved a 2020 Nexus Study, a revised MSHCP Local Development Mitigation Fee (LDMF) Fee Ordinance and Fee Resolution, and the MSHCP Mitigation Fee Manual. Prior to December 2020, RCA had not updated its original Nexus Study, which was used to determine the original LDMF back in 2004. Therefore, the fee adopted in 2004 had not changed except for periodic Consumer Price Index adjustments.

The 2020 Nexus Study provides the financial and technical justification for changes to the LDMF schedule that applies to Local Permittee participants in the MSHCP. These changes are necessary to ensure adequate funding of the obligations of the Local Permittees under the MSHCP and the associated Incidental Take Permit and Implementing Agreement. The resulting increased fee revenues will support the continued implementation of the MSHCP and the streamlining of endangered species' incidental take permitting for new Western Riverside County development provided under the MSHCP, while providing the funding necessary to acquire, monitor, and manage the 500,000 acres required by the MSHCP. The 2020 Nexus Study is consistent with the requirements of California Government Code Section 66000 et seq. ("the Mitigation Fee Act") that requires specific findings (as well as administration and implementation procedures) for "any action establishing, increasing, or imposing a fee as a condition

of approval of a development project by a local agency.”

The Building Industry Association of Southern California - Riverside Chapter reviewed the 2020 Nexus Study and provided feedback to RCA staff. Based on that discussion, a two-phased fee increase was recommended with half of the increase effective July 1, 2021, and the full fee effective January 1, 2022, along with a 15-year extension of the land acquisition period so the fee increase will not be so substantial.

In order to make it easier for the Local Permittees to implement the fee, RCA staff assembled, and the RCA Board approved, the Manual that sets further guidance for fee implementation, collection, and remittance; outlines the appropriate methods for calculating mitigation payments for different types of projects; and provides multiple examples of how to apply the LDMF.

Next Steps

Now that the member agencies have adopted an updated MSHCP LDMF Fee Ordinance and Fee Resolution, and the LDMF fee has increased effective July 1, 2021, RCA is seeking feedback from the member agencies to update and improve the Manual. RCA will be convening a Mitigation Fee Implementation Manual Committee, which will meet on select Tuesdays from August 31, 2021, through November 16, 2021, to address comments received from RCA member agencies with the intent of taking the updated Manual to its February 2022 Board meeting for approval.

RCA is requesting all RCA member agencies to provide comments during the comment period starting August 12, 2021, and ending October 11, 2021. Additionally, RCA is requesting participation from three additional volunteers to join the Mitigation Fee Implementation Manual Committee to assist in the review and resolution of comments received for potential inclusions in the updated Manual.

A draft of the updated Manual will be emailed to the RCA member agencies on August 12, 2021.

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 Planning Directors Committee

Staff Report

Subject: TUMF Applications on Projects Without City Permitting
Contact: Cameron Brown, Program Manager, cbrown@wrcog.us, 951-405-6712
Date: August 12, 2021

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to discuss issues regarding permitting of new development where the local jurisdiction is not the permitting authority.

Background:

WRCOG's Transportation Uniform Mitigation Fee (TUMF) Program is a regional fee program designed to provide transportation and transit infrastructure that mitigates the impact of new growth in Western Riverside County. Each of WRCOG's member agencies and the March JPA participates in the Program through an adopted ordinance, collects fees from new development, and remits the fees to WRCOG.

WRCOG, as administrator of the TUMF Program, allocates TUMF to the Riverside County Transportation Commission (RCTC), groupings of jurisdictions – referred to as TUMF Zones – based on the amounts of fees collected in these groups, the Western Riverside County Regional Conservation Authority (RCA), and the Riverside Transit Agency (RTA).

Update

As part of the TUMF Program, TUMF obligations must be met prior to a TUMF member agency issuing a Certificate of Occupancy on any development. The typical process involves setting up a permit application for a new development, then creating a TUMF application with either WRCOG or the local agency to pay this obligation. When the obligation is met, WRCOG, or the local agency, verifies the payment and issues a receipt to the developer acknowledging that the TUMF obligation has been met. The Certificate of Occupancy is then issued.

Potential Issue

A potential issue has been brought forth by one of TUMF's participating agencies with this process. There are some developments that are not permitted through the local jurisdiction nor go through the local jurisdiction review process. However, these developments do not qualify for a TUMF exemption and need to fulfill its TUMF obligation. An example of this would be Office of Statewide Health Planning and Development (OSHPD) projects, such as clinics, medical offices, or larger hospital facilities. Other

state and federal buildings would have similar issues regarding permitting. Only ancillary site projects such as signs, lighting, wall permits, etc., are permitted by the local jurisdiction. The process in which the local jurisdiction has implemented to ensure TUMF obligations are met prior to Certificate of Occupancy issuance are not valid in these instances.

Questions to Resolve the Issue

The questions that WRCOG staff would like to address are:

1. Have any member agencies experienced these issues previously and, if so, how often does it occur?
2. Are any member agencies collecting TUMF on these types of projects?
3. Does WRCOG need to adopt a policy that requires TUMF obligations on these projects?

Prior Action(s):

None.

Fiscal Impact:

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

Attachment(s):

None.



Western Riverside Council of Governments Planning Directors Committee

Staff Report

Subject: TUMF CCI Implementation
Contact: Cameron Brown, Program Manager, cbrown@wrcog.us, (951) 405-6712
Date: August 12, 2021

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to provide an update on the process to approve the Transportation Uniform Mitigation Fee (TUMF) Construction Cost Index adjustment, as directed by WRCOG's Executive Committee.

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. The Construction Cost Index (CCI) is an increase in TUMF tied to increases in land, labor, and materials needed to implement transportation projects in the WRCOG subregion.

Update

At the July 7, 2021, Executive Committee meeting, staff presented a TUMF CCI adjustment for consideration. The Executive Committee approved the item and set the following fee levels: As of January 1, 2022, the following fee levels will be in effect:

- Single-Family: \$10,104 per dwelling unit
- Multi-Family: \$6,580 per dwelling unit
- Retail: \$7.72 per square foot
- Service: \$4.89 per square foot
- Industrial: \$1.86 per square foot

Implementation Process

To implement these changes, each of WRCOG's member agencies will need to adopt a new TUMF resolution. A template updated fee resolution and template Staff Report are attached.

The process for adopting the resolution requires that the jurisdiction provide notice of the meeting at which the fee increase will be considered. If a group, such as the BIA, has previously requested written

notice of any fee increases, WRCOG staff asks that they receive a written notice. Staff would defer to each agency regarding the specific procedures related to resolution adoption.

Please note that WRCOG member agencies do not have to adopt a new TUMF Ordinance as the language of the Ordinance allows amendments to the Ordinance and updates to the fee resolutions. The updated fee resolution enacts new fees that take effect by January 1, 2022, so WRCOG's requests adoption of this resolution no later than in a timely fashion to allow the new fees to go into effect prior to January 1, 2022.

Staff is available to attend any meetings regarding the resolution and would be available to present if needed regarding the overall TUMF Program or the CCI adjustment specifically. Please follow-up with Chris Gray, WRCOG Deputy Executive Director, at (951) 405-6710 or cgray@wrcog.us should you require any WRCOG staff to attend any meetings on this issue.

Prior Action(s):

July 12, 2021: The Executive Committee approved the implementation of the adjusted TUMF CCI as of January 1, 2022, with the following fee amounts: a) Single-Family: \$10,104 per dwelling unit; b) Multi-Family: \$6,580 per dwelling unit; c) Retail: \$7.72 per square foot; d) Service: \$4.89 per square foot; and e) Industrial: \$1.86 per square foot.

Fiscal Impact:

Adoption of a CCI adjustment would increase the TUMF Program revenues by approximately 1.5% in the 2021/2022 Fiscal Year.

Attachment(s):

[Attachment 1 - TUMF Fee Resolution-2021CCI](#)

[Attachment 2 - Template Staff Report-2021 CCI](#)

Attachment 1

TUMF Fee Resolution Template –
2021 CCI

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF [INSERT CITY NAME]
AMENDING THE APPLICABLE TRANSPORTATION UNIFORM MITIGATION FEE (TUMF)
APPLICABLE TO ALL DEVELOPMENTS IN THE [INSERT CITY NAME]**

WHEREAS, the [INSERT CITY NAME] (“City”) is a member agency of the Western Riverside Council of Governments (“WRCOG”), a joint powers agency comprised of the County of Riverside and eighteen cities located in Western Riverside County; and

WHEREAS, the member agencies of WRCOG recognized that there was insufficient funding to address the impacts of new development on the regional system of highways and arterials in Western Riverside County (the “Regional System”); and

WHEREAS, in order to address this shortfall, the member agencies formulated a plan whereby a transportation mitigation fee would be assessed on new development and would be used to fund the necessary improvements for the Regional System; and

WHEREAS, WRCOG, with the assistance of TUMF Program participating jurisdictions, has prepared an updated Nexus Study entitled “Transportation Uniform Mitigation Fee Nexus Study: 2016 Update” (“2016 Nexus Study”) pursuant to California Government Code sections 66000 et seq. (the Mitigation Fee Act), for the purpose of updating the fees. On July 10, 2017, the WRCOG Executive Committee reviewed the 2016 Nexus Study and TUMF Program and recommended TUMF participating jurisdictions amend their applicable TUMF ordinances to reflect changes in the TUMF network and the cost of construction in order to update the TUMF Program; and

WHEREAS, consistent with its previous findings made in the adoption of Ordinance No. _____, the City Council has been informed and advised, and hereby finds, that if the capacity of the Regional System is not enlarged and unless development contributes to the cost of improving the Regional System, the result will be substantial traffic congestion in all parts of Western Riverside County, with unacceptable Levels of Service. Furthermore, the failure to mitigate growing traffic impacts on the Regional System will substantially impair the ability of public safety services (police and fire) to respond and, thus, adversely affect the public health, safety and welfare. Therefore, continuation of a TUMF Program is essential; and

WHEREAS, the City Council finds and determines that there is a reasonable and rational relationship between the use of the TUMF and the type of development projects on which the fees are imposed because the fees will be used to construct the transportation improvements that are necessary for the safety, health, and welfare of the residential and non-residential users of the development in which the TUMF will be levied; and

WHEREAS, the City Council finds and determines that there is a reasonable and rational relationship between the need for the improvements to the Regional System and the type of development projects on which the TUMF is imposed because it will be necessary for the residential and non-residential users of such projects to have access to the Regional system. Such development will benefit from the Regional System improvements and the burden of such developments will be mitigated in part by payment of the TUMF; and

WHEREAS, the City Council finds and determines that the cost estimates set forth in the

new 2016 Nexus Study are reasonable cost estimates for constructing the Regional System improvements and the facilities that compromise the Regional System, and that the amount of the TUMF expected to be generated by new development will not exceed the total fair share cost to such development; and

WHEREAS, the fees collected pursuant to the TUMF Ordinance shall be used to help pay for the design, planning, construction of and real property acquisition for the Regional System improvements and its facilities as identified in the 2016 Nexus Study. The need for the improvements and facilities is related to new development because such development results in additional traffic and creates the demand for the improvements;

WHEREAS, by notice duly given and published, the City Council set the time and place for a public hearing on the 2016 Nexus Study and the fees proposed thereunder and at least ten (10) days prior to this hearing, the City Council made the 2016 Nexus Study available to the public; and

WHEREAS, at the time and place set for the hearing, the City Council duly considered data and information provided by the public relative to the cost of the improvements and facilities for which the fees are proposed and all other comments, whether written or oral, submitted prior to the conclusion of the hearing; and

WHEREAS, section [SECTION 4.C. OF MODEL ORDINANCE] of the TUMF Ordinance authorizes periodic review and adjustment to the applicable TUMF in accordance with any adjustments made by the WRCOG Executive Committee; and

WHEREAS, the fees collected pursuant to this Resolution shall be used to finance the public facilities described or identified in the Nexus Study; and

WHEREAS, the levying of TUMF has been reviewed by the City Council and staff in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines and it has been determined that the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

NOW, THEREFORE, the City Council of [INSERT CITY NAME] does resolve as follows:

SECTION 1. Findings. The recitals set forth above are hereby adopted as findings in support of this Resolution. In addition, the City Council re-adopts the findings contained in Section [INSERT SECTION 2 OF CITY ORDINANCE] in support of the adjusted TUMF contained herein.

SECTION 2. TUMF Schedule. In accordance with Section [SECTION 4.C. OF MODEL ORDINANCE] of the TUMF Ordinance, there is hereby adopted the following fee schedule for the TUMF which replaces the fee schedule set forth in Sections 2 and 3 of Resolution No. ___ in its entirety as of [DATE], provided that the fee for retail commercial projects shall go into effect upon the Effective Date set forth in Section 4, below:

A. There is hereby adopted the following TUMF schedule:

- (1) \$9,810.00 per single-family residential unit
- (2) \$6,389.00 per multi-family residential unit
- (3) \$1.81 per square foot of an industrial project

- (4) \$7.50 per square foot of a retail commercial project
- (5) \$4.75 per square foot of a service commercial project
- (6) \$2.38 per square foot of a service Class A and B Office

The resolution will establish the Fee Schedule as follows:

B. For single-family residential, multi-family residential, and non-residential projects, the fees set forth in Section 2.A. shall be as follows:

From January 1, 2022, the fee schedule shall be as follows:

- (1) \$10,104.00 per single family residential unit
- (2) \$6,580.00 per multi-family residential unit
- (3) \$1.86 per square foot of an industrial project
- (4) \$7.72 per square foot of a retail commercial project
- (5) \$4.89 per square foot of a service commercial project
- (6) \$2.45 per square foot of a service Class A and B Office

SECTION 3. CEQA Findings. The City Council hereby finds that in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines the adoption of this Resolution is exempt from CEQA pursuant to Section 15061(b)(3).

SECTION 4. Effective Date. This Resolution shall become on XXXXXXXX.

ADOPTED this _____ day of _____ 2021.

By: _____
 Mayor, City of [INSERT CITY NAME]

ATTEST:

[NAME OF CITY CLERK]
 CITY CLERK

By: _____

Attachment 2

TUMF Fee Resolution Staff Report
Template – 2021 CCI

STAFF REPORT TEMPLATE

TO: CITY COUNCIL / BOARD OF SUPERVISORS

FROM: CITY MANAGER / DIRECTOR OF PUBLIC WORKS / DIRECTOR OF
TRANSPORTATION & LAND MANAGEMENT

SUBJECT: PROPOSED ORDINANCE TO UPDATE PARTICIPATION IN THE TUMF
PROGRAM; RESOLUTION ADOPTING A TUMF SCHEDULE.

DATED: _____, 2021

BACKGROUND:

The City / County is a Member Jurisdiction of the Western Riverside Council of Governments (“WRCOG”), a joint powers agency comprised of the County of Riverside and eighteen (18) cities located in Western Riverside County. Acting in concert, in 2002-2003, WRCOG member jurisdictions developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System of Highways and Arterials due to new development in Western Riverside County could be made up in part by a Transportation Uniform Mitigation Fee (“TUMF”) on future residential, commercial, and industrial development. As a member jurisdiction of WRCOG and as a TUMF participating jurisdiction, the City / County participated in the preparation of a certain “Western Riverside County Transportation Uniform Fee Nexus Study,” (“2002 Nexus Study”) later adopted by the WRCOG Executive Committee. Based on the 2002 Nexus Study, the City / County adopted and implemented an ordinance authorizing the City’s participation in a TUMF Program.

Pursuant to the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*), WRCOG has prepared a new Nexus Study (“2016 Nexus Study”) to update the fees. On July 10, 2017, the WRCOG Executive Committee reviewed the 2016 Nexus Study and recommended TUMF participating jurisdictions update their fees by amending their applicable TUMF Ordinances to reflect changes in the TUMF Network and the cost of construction.

DISCUSSION:

The proposed Ordinance provides the legal basis for a revised TUMF schedule. The actual TUMF schedule will be established through the Resolution.

In accordance with the Mitigation Fee Act, the proposed Ordinance and 2016 Nexus Study: (i) identify the purpose of the revised fees; (ii) identify the use to which the revised fees is to be put, including identification of any facilities to be financed; (iii) determine how there is a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed; (iv) determine how there is a reasonable relationship between the need for the public facilities and the type of development project upon which the fees are imposed; and (v) determine how there is a reasonable relationship between the amount of the fees and the cost of the public facilities or portion of the public facility attributable to the development on which the fees are imposed.

A. There is hereby adopted the following TUMF schedule:

- (1) \$9,810.00 per single family residential unit
- (2) \$6,389.00 per multi-family residential unit
- (3) \$1.81 per square foot of an industrial project
- (4) \$7.50 per square foot of a retail commercial project
- (5) \$4.75 per square foot of a service commercial project
- (6) \$2.38 per square foot of a service Class A and B Office

The resolution will establish the Fee Schedule for TUMF as follows:

B. For single-family residential, multi-family residential and non-residential projects, the fees set shall be as follows:

From January 1st, 2022, the fee schedule shall be as follows:

- (1) \$10,104.00 per single family residential unit
- (2) \$6,580.00 per multi-family residential unit
- (3) \$1.86 per square foot of an industrial project
- (4) \$7.72 per square foot of a retail commercial project
- (5) \$4.89 per square foot of a service commercial project
- (6) \$2.45 per square foot of a service Class A and B Office

RECOMMENDATION:

Staff recommends:

- (1) Adoption of the attached Resolution No. _____, adopting a TUMF schedule.



Western Riverside Council of Governments Planning Directors Committee

Staff Report

Subject: Legislative Activities Update
Contact: Bill Blankenship, On-Call Legislative Consultant, billblankenship63@gmail.com, (951) 206-9020
Date: August 12, 2021

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to provide key legislative dates and deadlines for the remaining portion of the 2021 Legislative Session.

Background:

Key Legislative Deadlines (70 days)

- August 16 - Legislature reconvenes after summer recess.
- August 27 - Last day for fiscal committees to meet and report bills.
- August 30 - September 10th - Only Floor Session and the Rules Committee will meet.
- September 3 - last day to amend bills on the Assembly and Senate Floor.
- September 10 - Last Day for bills to be passed.
- October 10 - Last Day for the Governor to sign or veto bills.

The 2021 Legislative Session

The State Legislature is now heading into their last 40 days of the 2021 legislative session.

SB 6, as amended, Caballero. Local planning: housing: commercial zones. The Bill would make housing developments an “authorized use” in commercial zones. A development project in a commercial zone could be streamlined in the development review process, if 50% or more of the site has been vacant for a period of at least three years. This bill shares many of the same goals that were part of AB 3107 from the 2020 legislative session. ***May 24th – the Bill passed on the Senate Floor by a vote of 32-2. May 24th – the Bill is in the Assembly and waiting for its committee assignment.***

SB 9, as amended, Atkins. Housing development: approvals. The Bill has been introduced by the Speaker Pro Tem and has several key legislative coauthors, including Senators Caballero, Weiner and Rubio. The Bill would allow for lot splits to occur in single-family residential neighborhoods and the construction of duplexes will also be allowed by-right. ***May 26th – the Bill passed on the Senate Floor***

by a vote of 28-6. June 23rd – the Bill passed the Assembly Housing and Community Development Committee by a vote of 5-1. The Bill has now been re referred to the Assembly Committee on Appropriations.

SB 10, as amended, Wiener. Planning and zoning: housing development: density. The Bill would permit local government agencies to pass an ordinance to zone a parcel up to 10 units of residential density, if the parcel is located in an area that is deemed a transit rich area, job rich area, or an urban infill site. SB 10 shares similar goals to SB 902 that was introduced in 2020 and was opposed by several prominent unions and a list of cities. ***May 26th – the Bill passed on the Senate Floor by a vote of 27-7. June 22nd – the Bill passed the Assembly Committee on Housing and Community Development by a vote of 6-1 and has been referred to the Assembly Committee on Local Government and is awaiting a final vote.***

SB 12, as amended, McGuire. Planning and zoning: wildfires. The bill would impose certain fire hazard planning responsibilities on local governments. The bill will require cities and counties to make specified findings on fire standards, prior to permitting a development in very high hazard fire severity zones (VHFHSZ) and incorporates fire hazard planning into regional housing needs allocation (RHNA) objectives and methodology. The bill requires that State and local government agencies to identify lands that they are responsible for fire prevention and suppression. The bill would also revise the RHNA methodology, with the seventh housing element. The RHNA allocation would be reduced in each region, if the goal of housing needed by a city or county must identify lands within the VHFHSZ to meet its RHNA requirement. ***June 1st – the Bill passed on the Senate Floor by a vote of 31-8. June 10th – the Bill was referred to the Assembly Committees on Local Government and Housing and Community Development. July 12th – the Bill failed by a vote of 4-2 and the Bill was granted reconsideration.***

SB 44, as amended, Allen. California Environmental Quality Act: streamlined judicial review: environmental leadership transit projects. The Bill would establish procedures for the administrative and judicial review, which pertain to the required environmental review and approvals granted for a transit project. The Bill would require the Judicial Council, on or before April 1, 2022, to adopt rules of the court. The set rules would establish procedures related to judicial review, pursuant to CEQA or the granting of project approvals, including any appeals to the court of appeal or the Supreme Court. The Bill would also stipulate that the judicial review must be resolved, to the extent feasible, within 270 days of the filing of the certified record. The transit project would have to meet certain labor and environmental requirements to be eligible for the protections that are contained in this Bill. ***May 26th – the Bill passed on the Senate Floor by a vote of 37-0. June 3rd – the Bill was referred to the Assembly Committee on Natural Resources and Judiciary and on July 13th – the Bill was re-referred to the Assembly Committee on Appropriations***

AB 68, as amended, Salas. Department of Housing and Community Development: housing appeals committee: housing development and financing. The Bill focuses on implementing the recommendations from the California State Auditor's Report 2020-108, issued on November 17, 2020. The Auditor's Report addressed the local impediments to housing production. The Report outlined that the current State law and oversight are insufficient to ensure that cities and counties are working to create the construction of adequate affordable housing construction. The bill revises and modernizes the quadrennial Statewide Housing Plan and expands upon the requirements of the annual report from the Department of Housing and Community Development. The bill requires future Statewide Housing Plans to include an inventory of affordable units needed, the cost to produce the units and the financial

resources that are available to produce the units. The Bill further mandates that the report include any housing element enforcement actions that were taken and details pertaining to program grants that were awarded in the previous year. **June 16th – AB 68 was referred to the Senate Committee on Housing. July 12th - the Bill was re referred to the Senate Committee on Appropriations.**

AB 571, as amended, Mayes. Planning and zoning: density bonuses: affordable housing. The Bill would amend the existing “Density Bonus Law.” The Bill would prohibit affordable housing impact fees, including inclusionary zoning fees, public benefit fees, and in-lieu fees from being imposed on a housing development’s bonus units and affordable units, created by the production of lower income housing units. **May 27th – AB 571 passed on the Assembly Floor by a vote of 75-0. June 17th – the Bill passed the Senate Committee on Governance and Finance by a vote of 8-0. July 1st – the Bill was re referred to the Senate Committee on Appropriations.**

AB 602, as amended, Grayson. Development fees: impact fee nexus study. The Bill would require after January 1, 2022, that a city, county, or special district that conducts an impact fee nexus study to follow specific standards. The Bill would also stipulate that the nexus study identify the existing level of service and that the fee imposed on a housing development project are **directly tied to the square footage of the proposed unit or units** in the project. **May 27th – AB 602 passed on the Assembly Floor by a vote of 76-0. July 1st – the Bill was re-referred to the Senate Committee on Appropriations.**

AB 950, as amended, Ward. Department of Transportation: sales of excess real property: Affordable housing.

The Bill would authorize the Department of Transportation to sell excess property to the city or county where the property is located, if the city or county agrees to use the property for the sole purpose of implementing affordable housing. The bill would exempt these transfers and sales from the California Environmental Quality Act. **June 1st – AB 950 passed on the Assembly Floor by a vote of 69-0. June 16th – the Bill was referred to the Senate Committees on Transportation and Environmental Quality. July 12th – the Bill was re-referred to the Senate Committee on Appropriations.**

AB 1401, as amended, Friedman. Residential and commercial development: parking requirements. The Bill would prohibit a local government agency from imposing minimum parking requirements or the enforcement of minimum parking requirements on residential, commercial and other development. The Bill stipulates that the parking requirement is lifted when the development is located within a one-half mile distance of a public transit facility that is defined under existing law. **June 1st – AB 1401 passed on the Assembly Floor by a vote of 51-17. June 16th – the Bill was referred to the Senate Committees on Governance and Finance and Housing. July 5th – the Bill was re-referred to the Senate Committee on appropriations.**

2021 Bills that have been signed into law

SB 7, as amended, Atkins. Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2021. The Bill declares an urgency, requiring a 2/3rds vote of both houses. **The bill has passed both houses of the legislature, signed by the Governor, chaptered by the Secretary of State and will now take effect immediately.** The bill attempts to reform an aspect of the CEQA process and would enact the **Environmental Leadership Act of 2021**. The Bill would authorize the Governor, up to January 1, 2024, to certify projects that meet certain requirements for the streamlining benefits which are related to CEQA. The Bill would also add coverage for housing development projects which meet certain conditions of eligibility for certification under CEQA. The Bill

attempts to revise and reset the labor related requirements on a public agency project and private equity project. The Bill would further authorize the Governor to certify a project before a lead agency certifies the EIR for a specified project. **May 10th – the Bill passed on the Assembly Floor by a vote of 70-1. May 20th – the Bill was signed by the Governor and also on May 20th the Bill was Chaptered by the Secretary of State.**

Assembly Bill (AB) 140, as amended, Ting, Chairman of the Assembly Budget Committee. Housing and homeless provisions of the Budget Act of 2021. The Bill is the enabling language that establishes provisions for Housing and Homeless programs related to the 2021 Budget. The Bill establishes the **California Dream for All First Time Home Buyer Program**, by directing the State Treasurer, California Department of Housing and Community Development (HCD) and other relevant stakeholders to develop a first-time homebuyer's program. The working group has a deadline of July 19, 2022 to recommend a program to the State Legislature. The Bill makes certain changes to speed development of housing on State excess lands. The Bill provides \$2 billion in funding in the next two years for flexible aid for local governments to combat homelessness, through the Homeless Housing Assistance and Prevention Program (HHAPP). The Bill also addresses Affordable Housing Backlog with the allocation of funding to qualified rental housing developments that relies on federal and state low-income housing tax credits. The Bill establishes the **Foreclosure Intervention Housing Preservation Program**, which allows HCD to contract with program administrators by offering grants or loans to qualifying nonprofits or community land trusts to purchase housing properties in default or out of foreclosure. The Bill also provides funding for **Project Homekey** for the acquisition, rehabilitation and conversion of hotels, motels, commercial properties for housing of homeless individuals. **July 15th - the Bill passed on the Senate Floor by a vote of 38-0. July 19th – the Bill was signed by the Governor and also on July 19th the Bill was Chaptered by the Secretary of State.**

Assembly Bill (AB) 687, as introduced, Seyarto. Joint powers authorities: Riverside County Housing Finance Trust. The Bill would authorize the creation of the Western Riverside County Regional Housing Trust (Trust). The Bill would enable member agencies of WRCOG to voluntarily enter into a joint powers agreement for the purposes of creating and operating an agency to fund housing projects in Western Riverside County. The Trust would assist with the creation of housing opportunities for the homeless population and persons and families of extremely low, very low, and low income as defined in the Health and Safety Code. The Trust may receive funding from public and private sources and will have the ability to authorize and issue bonds. The Trust would be governed by a separate Board of Directors, made up of elected officials representing the County of Riverside and cities within the WRCOG subregion. **April 8th - AB 687 passed on the Assembly Floor by a vote of 74-0. July 12th - the Bill passed on the Senate Floor by a vote of 39-0. July 23rd – the Bill was signed into law by the Governor and also on July 23rd the Bill was Chaptered by the Secretary of State.**

2021 Bills that failed to move out of Committee

SB 5, as amended, Atkins Affordable Housing and Community Development Investment Program. The "Housing Bond Act" Bill has several legislative authors, in addition to the Speaker Pro Tem. The Bill would authorize the issuance of \$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 18th – SB 5 was amended and re-referred to the Committees on Housing and Governance and Finance and will require a 2/3rds vote.**

SB 809, as amended, Allen. Multi-jurisdictional 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 who is contributing suitable land for residential development and the jurisdiction or jurisdictions contributing funding for the development. A jurisdiction that is part of a multi-jurisdictional agreement provide specified information in its housing element, including how the regional agreement will satisfy the jurisdictions housing need for various income levels. **March 18th – SB 809 was re-referred to the Committees on Housing and Government and Finance.**

AB 617, as introduced, Davies. Planning and zoning: regional housing needs: exchanges of allocation. The bill authorizes 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 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 – AB 617 was re-referred to the Senate Committees on Housing and Community Development and Local Government.**

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 would trigger the mandate is as follows: a homeless person actively seeks 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 they are 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 – AB 1372 was referred to the Assembly Committees on Judiciary and Housing and Community Development. The Bill has not been amended or scheduled for a hearing.**

Assembly Constitutional Amendment (ACA) 1, as introduced, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: voter approval. ACA 1 has a large group of coauthors, including principal coauthor Senator Scott Wiener. The passage of ACA 1 would place on the next Statewide ballot an initiative that would lower the voter threshold from 66% to 55% for general obligation bonds relating to the construction of new schools, affordable housing projects, public infrastructure, and special taxes at the local level. **April 22nd – ACA 1 was referred to the Committee on Local Government and Appropriations and has not been assigned a legislative hearing date.**

Assembly Constitutional Amendment (ACA) 7 as introduced, Muratsuchi. All local land-use controls and zoning regulations to remain within the communities: voter approval. ACA 7 would ensure all decisions regarding local land use control and zoning regulations are made within the affected communities, in accordance with local law. The measure will continue to allow either local or state law to control where state and local law conflicts, regarding the development of an infrastructure project. The author states that, it is in the best interest for California that the complex decisions related to developments are made at the local level. Local communities are best equipped to make development decisions based on

their unique individual city's development plan. ***The Bill has not been amended or scheduled for a hearing.***

Prior Action(s):

June 10, 2021: The Planning Directors Committee received and filed.

Fiscal Impact:

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

Attachment(s):

None.