



# Western Riverside Council of Governments Public Works Committee

## AGENDA

Thursday, August 12, 2021  
2:00 PM

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: 848 6381 6709**  
**Password: 904522**  
**Dial in: (669) 900 9128 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 Public Works Committee meeting scheduled for Thursday, August 12, 2021, at 2:00 p.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](mailto: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](mailto: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 (Sam Nelson, 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 agendized items at the time the item is called for discussion. No action may be taken on items not listed on the agenda unless authorized by law. Whenever possible, lengthy testimony should be presented to the Committee in writing and only pertinent points presented orally.

**5. SELECTION OF PUBLIC WORKS 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 Public Works 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, Public Works Committee Meeting**

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

**7. REPORTS / DISCUSSION**

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

**A. 2021 TUMF Credit Agreement Template Update**

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

**B. Smart Streetlights Implementation Plan**

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

**C. Public & Partner Map-based Surveys for Upcoming Caltrans District 8 Active Transportation Plan**

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

**D. TUMF CCI Implementation**

**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 Public Works Committee meeting is scheduled for Thursday, September 9, 2021, at 2:00 p.m. in-person at the WRCOG's office and virtually on the Zoom platform.

## 12. ADJOURNMENT



# Western Riverside Council of Governments Public Works 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](mailto:cgray@wrcog.us), (951) 405-6740  
**Date:** August 12, 2021

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### **Requested Action(s):**

1. Select Public Works 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 Public Works Committee leadership positions for Fiscal Year (FY) 2021/2022.

### **Background:**

WRCOG would like to recognize outgoing Chair Sam Nelson, City of Norco, for his efforts in leading the Public Works 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, 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 Public Works Committee

## Minutes

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### 1. CALL TO ORDER

The meeting of the Public Works Committee was called to order by Chair Sam Nelson at 2:01 p.m. on June 10, 2021, on the Zoom platform.

### 2. PLEDGE OF ALLEGIANCE

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

### 3. ROLL CALL

- City of Banning - Art Vela
- City of Beaumont - Jeff Hart
- City of Calimesa - Michael Thornton
- City of Eastvale - Jimmy Chung
- City of Hemet - Steve Loriso
- City of Jurupa Valley - Mike Myers
- City of Lake Elsinore - Yu Tagai
- City of Menifee - Carlos Geronimo
- City of Murrieta - Bob Moehling
- City of Norco - Sam Nelson (Chair)
- City of Riverside - Chris Scully
- City of Temecula - Patrick Thomas
- City of Wildomar - Dan York
- County of Riverside - Alvin Medina
- March Joint Powers Authority - Lauren Sotelo
- Riverside County Transportation Commission - Jillian Guizado
- Riverside Transit Agency - Kristin Warsinkski

### 4. PUBLIC COMMENTS

There were no public comments.

**5. CONSENT CALENDAR** – (Murrieta / Wildomar) 17 yes; 0 no; 0 abstention. Items 5.A was approved.

### A. Summary Minutes from the April 8, 2021, Public Works Committee Meeting

**Action:**

1. Approved the Summary Minutes from the April 8, 2021, Public Works 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.

After further discussion and comments, the Committee requested that information regarding the selling of credits be more specific. Staff will be bringing this item back at the next meeting; no action was taken.

**Action:**

1. None.

**B. RIVCOM Update**

Jason Pack, Principal at Fehr and Peers, provided an update on the development of the Riverside County Transportation Analysis Model (RIVCOM). Development of RIVCOM kicked-off in August 2018. The project team includes Fehr & Peers and WSP. The project team has developed the TransCAD-based, 4-step model and has finalized a validated 2018 base year, including both static and dynamic validation, and a 2045 fiscally constrained future year scenario. The model is ready to be used for roadway volume forecasts.

RIVCOM, which will replace RIVTAM, has a base year of 2018 and a future year of 2045. The model focuses on Riverside County but includes travel to and from San Bernardino, Orange, Los Angeles and San Diego Counties. The goal of the new model is to have base year and future year data that accurately reflects Riverside County networks and employment / population centers, and that will generate regional travel forecasts sensitive to the planned land-use and network changes in the County. RIVCOM will also include an EMFAC post-processor tool, an Active Transportation analysis tool, and a user friendly Vehicle Miles Traveled (VMT) calculator. WRCOG included the VMT tool to make it easy to calculate VMT for SB 743 requirements after model runs. These tools are currently being finalized and are estimated to be ready for dissemination in July 2021.

**Action:**

1. Received and filed.

**C. Introduction to TUMF Nexus Study Update**

Darren Henderson, Vice President with WSP, provided an update on the TUMF Nexus Study, which is

scheduled to begin in fall 2021. The Study will take between 12 and 18 months to complete and at the conclusion will propose a new TUMF fee structure that reflects the evaluation of the TUMF Network and project costs, as well as current economic factors such as construction costs. The TUMF Program was created to ensure that the new development in Western Riverside County would contribute toward the cost of mitigating the cumulative, indirect regional transportation impacts of the development.

Since the inception of TUMF, the Program has generated \$941 million in revenues that have been used to complete 110 projects throughout the subregion. State law and the TUMF Administrative Policy require that the Program be updated from time to time to keep up with the changing costs and needs, as well as to keep the integrity of the Program whole. Since the last Nexus Study was completed in 2017, SCAG has adopted a new Regional Transportation Plan / Sustainable Communities Strategy that includes new socioeconomic forecasts for population and employment growth. Along with the adoption from SCAG, the costs of labor, materials and right-of-way have all increased significantly.

As requirements are passed down from the State, flexibility is allowed in calculation and establishment of mitigation fees which allows agencies to establish the nexus that fits the Programs complexity. As part of the initial steps for the Nexus Study, staff and local agency partners will complete a comprehensive review of the TUMF network.

**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 is featuring 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.

Mr. Gray shared that this will be Ivana Medina's last meeting as she has decided to pursue her Master's degree out of state.

**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, Public Works Committee meeting is CANCELED. The next Public Works Committee meeting is scheduled for Thursday, August 12, 2021, at 2:00 p.m., in-person at WRCOG's office and virtually on the Zoom platform.

**11. ADJOURNMENT**

The meeting of the Public Works Committee adjourned at 3:15 p.m.



# Western Riverside Council of Governments Public Works Committee

## Staff Report

**Subject:** 2021 TUMF Credit Agreement Template Update  
**Contact:** Cameron Brown, Program Manager, [cbrown@wrcog.us](mailto: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 of 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 and requested that the information surrounding the selling of credits be more specific.

**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]**

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\_\_\_\_\_, 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 “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 Public Works Committee

## Staff Report

**Subject:** Smart Streetlights Implementation Plan  
**Contact:** Daniel Soltero, Program Manager, [dsoltero@wrcog.us](mailto:dsoltero@wrcog.us), (951) 405-6738  
**Date:** August 12, 2021

### **Requested Action(s):**

1. Receive and file.

### **Purpose:**

The purpose of this item is to provide information on the Smart Streetlights Implementation Plan.

### **Background:**

*At the direction of the Executive Committee, WRCOG developed a Regional Streetlight Program that assisted 10 member agencies and a Community Service District to purchase streetlights within jurisdictional boundaries which were previously owned and operated by Southern California Edison (SCE). Once the streetlights purchased by the member agency, the lamps were retrofitted to light-emitting diode (LED) technology to provide more economical operations (i.e., lower maintenance costs and reduced energy use). Local control of the streetlight system provides agencies with opportunities for future revenue generation such as digital-ready networks and telecommunications and information technology strategies. In order to identify and elaborate on these new opportunities, WRCOG entered into an agreement with Michael Baker International (MBI) in February 2021 to develop a Smart Streetlights Implementation Plan and Broadband Assessment that will include participants of the Regional Streetlight Program and all WRCOG member agencies.*

### **Smart Streetlights Implementation Plan**

By fall 2020, the Regional Streetlight Program entered the maintenance phase whereby all participating agencies had completed streetlight acquisitions and LED conversion projects. Taking local control of the streetlight system provides participating agencies with opportunities for future revenue generation such as digital-ready networks and telecommunications, as well as opportunities to improve public services by utilizing streetlights as smart city assets. In order to identify and elaborate on these new opportunities, WRCOG entered into an agreement with Michael Baker International (MBI) in February 2021 to develop a Smart Streetlights Implementation Plan and Broadband Assessment that will include participants of the Regional Streetlight Program and all WRCOG member agencies.

Between February and May 2021, MBI and WRCOG staff completed a community assessment and coordinated interviews with peer agencies to learn of their smart streetlight and smart city programs. The community assessment is completed and has been used to support identification of readiness in

agencies to utilize streetlights as smart city assets - see Attachment 1. Staff submitted a survey to each agency to gather information on a variety of smart city prerequisites such as number of streetlights and traffic signals, types of networking / IT assets maintained by the agency, and if there are any existing policies or plans related to data collection, data privacy, or smart city technologies. At the conclusion of the community assessment a total of 12 agencies responded to the survey, including the Cities of Banning, Calimesa, Eastvale, Lake Elsinore, Menifee, Murrieta, Perris, Riverside, San Jacinto, Temecula, and Wildomar, and the Jurupa Community Services District.

Rather than starting off with a solution in mind, implementing smart streetlight solutions should solve identified problems in public agencies. The needs of each of WRCOG's member agencies and Streetlight Program participants will vary, and any implementation strategy will need to account for these variations. A review of how other locations, "peer agencies," have deployed smart streetlight solutions can provide context for WRCOG member agencies to assess the possibilities of smart city technologies addressing their individual needs. Since March 2021, staff and MBI conducted online research on seven peer agency implementations of smart streetlight technologies, including the Cities of Atlanta, Columbus, Detroit, Kansas City, Las Vegas, Los Angeles and San Diego. Additionally, four interviews were completed with staff from the Cities of Kansas City, Las Vegas, Los Angeles, and San Diego. Key findings from the peer agency review include identifying program parameters and metrics and establishing a business model so the technologies pay for themselves or recognize the expense to solve an identified need or issue. Another key finding is that agencies should consider the capabilities and responsibilities of traffic signal and IT staff in regards to maintaining a smart city system. See Attachment 2 for a detailed draft summary of the peer agency reviews.

Staff and MBI held a smart streetlights workshop on July 20, 2021, to provide an update on the Plan and to seek member input on preferred smart streetlight or smart city technologies, including technologies that fall into one of the five pillars: public safety, economic, environmental, mobility, and connectivity. Ahead of the workshop, WRCOG distributed a pre-workshop survey to ask members a series of questions. A total of eight responses were received from the Cities of Corona, Hemet, Jurupa Valley, Menifee, San Jacinto, Temecula, and Wildomar, as well as the Moreno Valley Electric Utility. Staff and MBI noted that many agencies have an interest in smart city infrastructure, and many have already begun converting to LED streetlights. The Cities of Corona and Temecula in particular noted that they already have a wireless dimming and asset management control system. The City of Menifee also noted that it is planning to release a Request for Proposal (RFP) that will cover smart city infrastructure generally, though City staff are interested in smart streetlights and 5G applications. Finally, the Cities of Eastvale, Hemet, Lake Elsinore, and San Jacinto have implemented license plate reader cameras to assist with theft / burglary response.

Also presented at the workshop was an overview of findings from the review of peer agencies with smart streetlight programs, including the importance of public outreach and engagement regarding what data is being collected to address privacy concerns, and the importance of defining who will own the data collected by sensors. An online poll was used to ask workshop participants how their agencies envisioned smart streetlight technology benefiting their communities. Feedback varied and included preventing illegal activities, improving traffic operations and emergency response times, and saving money. A detailed list of responses is as follows:

- Reduce vandalism
- Traffic calming, smart speeds
- Improve connectivity

- Extend water meter coverage
- Potentially resolve illegal dumping issues in right-of-way
- Signal synchronization
- Save money by dimming streetlights - less energy use
- Improve operational efficiencies

Staff and MBI then provided an overview of potential technologies that could be deployed with smart streetlights. Following the presentation of potential technologies, Public Safety was still the most highly rated category, followed by Mobility / Transportation, Economic, and Connectivity, while Environmental was still the lowest rated category. Participants also identified that several mobility issues could be solved with technology applications, including speeding, peak hour traffic, and bike and pedestrian count collection. In summary, the major takeaways from the workshop included member agencies' concern with public safety and crime prevention and response. Mobility for traffic management was also a key interest, with potential revenue sources also incurring interest.

**Prior Action(s):**

**July 15, 2021:** The Technical Advisory Committee received and filed.

**July 14, 2021:** The Administration & Finance Committee received and filed.

**March 18, 2021:** The Technical Advisory Committee received and filed.

**March 10, 2021:** The Administration & Finance Committee received and filed.

**Fiscal Impact:**

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

**Attachment(s):**

[Attachment 1 - WRCOG Smart Streetlights - Agency Readiness Survey Results](#)

[Attachment 2 - WRCOG Smart Streetlights - Draft Peer Agency Review Summary](#)

# Attachment 1

## WRCOG Smart Streetlights - Agency Readiness Survey Results

**WRCOG Smart Streetlights - Agency Readiness Survey Results**

Date Received:	Email Response		4/22/21	4/9/21	4/6/21	4/5/21	4/5/21	4/5/21	4/2/21	3/25/21	3/25/21	3/25/21
What jurisdiction or municipality do you work for?	City of Eastvale	City of Wildomar	City of Lake Elsinore	City of Perris	City of Calimesa	City of Banning	City of San Jacinto	City of Riverside	City of Menifee	Jurupa Community Services District	Temecula	City of Murrieta
How many streetlights are currently within your jurisdiction/municipality?	4201	1405 (soon to be 1411) City-owned streetlights; 73 signal safety lights; approx. 100-200 other non-City streetlights (SCE owned).	3500	4,943	340		3052	Approximately 30,000	Refer to Daniel	approx 2000	approx 7,400	6500
Who owns the streetlights in your jurisdiction?	Combination of City of Eastvale and SCE	See above	City	City of Perris	SCE	City of Banning	City	Riverside Public Utilities	City of Menifee	Mostly us; some SCE	City	City. SCE owns lights in certain HOA areas.
How many streetlights have been converted to LED?	Most	Most	All	Most	Most	Most	Most	Some	Most	Most	All	Most
Are additional streetlights planned for LED conversion?	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	No
Does your jurisdiction/municipality provide public wi-fi in any capacity?	No	Yes	No	No	Yes	No	Yes	Yes	Yes	No	Yes	Yes
Where does your jurisdiction/municipality provide public wi-fi?	My jurisdiction does not provide public wi-fi	City/County/Municipality Buildings	City/County/Municipal buildings	My jurisdiction/municipality does not provide public wi-fi	City/County/Municipal buildings	City/County/Municipal buildings	City/County/Municipal buildings	Library	City/County/Municipal buildings	My jurisdiction/municipality does not provide public wi-fi	City/County/Municipal buildings	City/County/Municipal buildings

How many traffic signals are within your jurisdiction/municipality?	58	17 City owned/maintained signals; two additional signals are currently under construction and are expected to be complete by end of 2021/beginning of 2022, bringing the total to 19; One signal is on the City border with the City of Murrieta but is maintained by Wildomar; 8 County/Lake Elsinore maintained signals: these signals are on the City border with either the County or Lake Elsinore and serve more than one jurisdiction; 4 Caltrans owned/maintained signals.	60	94	5 intersections, approximately 125 signal heads	18	172	Approximately 400	More than 80, but I do not have the exact count - see Daniel Soltero	N/A	127	We have 100 signalized intersections
Who owns and maintains the traffic signals in your jurisdiction/municipality?	City owns the traffic signals, and they are maintained through contract with Econolite Systems.	See above	City	City, County, Shared Municipalities	City owned	Banning, Beaumont and Caltrans	Riverside County Transportation	The Public Works Department	City of Menifee	N/A	City	City
Are there communications systems tying the signals together?	Yes	No	No	I'm not sure	No	No	No	Yes	Yes	I'm not sure	Yes	Yes

What kind of "Hard" IT/networking assets does your jurisdiction/municipality own and maintain (e.g., Fiber optics backbone, server or cloud processing, etc.)?	Some fiber, some copper, some wireless. No central server	No response	Server or cloud processing	Server or cloud processing		Server or cloud processing	Server or cloud processing	Fiber optics backbone	Server or cloud processing, Wireless (Microwave) and limited Fiber backbone	N/A	Fiber optics backbone	Fiber optics backbone
How does your city maintain (within your jurisdictional limits; please include staff numbers committed to streetlights)?	Maintained through an umbrella contract with WRCOG, Siemens provided maintenance services for streetlights.	Contract with Siemens/WRCOG for maintenance. Public Works Inspector may coordinate with Siemens staff during reinstallations of knocked-down streetlights.	Out source	The maintenance and repair of City owned streetlights is contracted out to a third party.	SCE maintained	City of Banning Electric Department. There isn't a set amount of linemen that are dedicated to street light maintenance.	Contractor	15	City Staff for Streetlight administrative duties: • Office Specialist • PW Analyst • PW Supervisor • PW Manager Streetlight Maintenance and Repairs: City has a maintenance contract with WRCOG and SIEMENS. SIEMENS is the contractor assigned to maintenance and repairs.	Contract with external vendor	City maintains with 2 Traffic Signal Technicians, contractors on-call for major maintenance requirements	We contract with Siemens for maintenance services
How does your city maintain (within your jurisdictional limits; please include staff numbers committed to) traffic signals?	Maintained through contract with Econolite Systems.	Contract with Siemens for maintenance. Public Works Inspector may coordinate specific signal issues with Siemens staff, as necessary.	Out Source	The maintenance and repair of City owned traffic signals is contracted out to a third party.	Contract with Siemens	Contractor	Riverside County Transportation	5	City contracts with the County of Riverside TLMA	N/A	same as above	We contract with County of Riverside for most maintenance. However, we also have one staff member responsible for coordinating maintenance, programming traffic signals, troubleshooting issues at intersection cabinets.

How does your city maintain (within your jurisdictional limits; please include staff numbers committed to) City/Public IT/networking?	Maintained through contract with Econolite Systems.	Contract with Interwest Consulting Group for City IT Services. Two City employees coordinate with IT Services as necessary.	City Staff	5		In house staff (3) and contractors.	City (2)	5	Maintenance/support duties are shared among five different people.	N/A	same as above	Internal IT staff. 3
How does your city maintain (within your jurisdictional limits; please include staff numbers committed to) wi-fi?	City does not have public wi-fi	Contract with Interwest Consulting Group for City IT Services, including wi-fi support at City Hall. Two City employees coordinate with IT Services as necessary.	City staff	N/A		In house staff (3)	0	1	Maintenance/support duties are shared among five different people.	N/A	City IT Department	Internal IT staff. 3
Do you have any policies or ordinances related to collection of data from publicly owned IT/networking assets?	No	No - I don't believe so, but not 100% sure	No	Yes		No	No	No	Yes		Yes	unknown

# Attachment 2

## WRCOG Smart Streetlights – Draft Peer Agency Review Summary

**Daniel Soltero, Program Manager**  
**Western Riverside Council of Governments**  
3390 University Ave, Suite 200  
Riverside, CA 92501

**Subject: WRCOG Smart Streetlights: Peer Agency Review**

Michael Baker is assisting the Western Riverside Council of Governments (WRCOG) in developing a Smart Streetlight Implementation Strategy. As part of this effort, Michael Baker has reviewed five peer agencies that have applied smart streetlight technologies to learn from their successes and problems, which will inform WRCOG's implementation of their program. The review included a combination of online research, interviews with key staff, and first-hand knowledge from staff involvement on Smart City plans, where applicable. This technical memorandum summarizes the peer agency review and resulting key takeaways.

**Introduction**

Between 2019 and 2020, WRCOG converted over 50,000 streetlights across 11 local jurisdictions to LED bulbs. The Regional Streetlight Program included purchasing nearly all of the streetlights from the local utility, Edison. The LED bulbs use substantially less power, resulting in a 70% reduction in energy consumption. The upgrade also substantially reduced light pollution, benefiting the community as well as the Palomar Observatory in San Diego County. The cost savings and reduced power draw present an opportunity to add smart city architecture to the streetlights. The Smart Streetlight Implementation Strategy will assess which technologies would provide the most value to the WRCOG communities. The first step of this evaluation was to learn from the successes and problems experienced by other agencies implementing smart streetlights.

**Approach**

Michael Baker conducted a review of peer agencies that have established programs or partnered with vendors resulting in smart streetlight implementation. The reviews first consisted of literature reviews and online research. The research covered the type of communications equipment installed on existing or new streetlight poles, additional in-ground infrastructure required for implementation (i.e., fiber or communications), agreements or contracting arrangements with service providers, types of data collected or reported, and what successes or problems have been reported.

After performing online research, Michael Baker conducted one-on-one interviews with key staff from each of the peer agencies to get further insight into program implementation. Questions were developed to identify lessons learned, business models, contract solicitation approaches, and technology prioritization for each peer agency's program. The selected peer agencies and interview questions were developed in consultation with WRCOG staff.

## Peer Agency Reviews

### Los Angeles, CA

Los Angeles had the widest variety of Smart Streetlight uses of the peer agencies reviewed, including solar streetlights, smart gas meters, electric vehicle charging stations, smart poles (poles with built-in small cell technology), 5G co-location, air quality sensors, safety cameras (at select locations), pedestrian counters, motion sensors, seismic sensors, USB charging, and digital banners. While Wi-Fi was a community priority, the tested technology did not meet the requirements. The city has implemented Smart Nodes (RMU) technology and uses third-party vendor-proprietary platforms such that each technology has a different control platform. Most technology is being applied at small scale as a beta-test. The systems that generate revenue have not been found to cover the cost of the program. While 5G co-location is the most lucrative, it requires substantial coordination effort between the vendors and service providers. Finally, the community has expressed concerns about invasion of privacy related to the pedestrian counters and cameras.

#### Lessons Learned

- Business model is uncertain. How can the program be implemented so the system pays for itself?
- Identify program parameters ahead of time. What problem are you trying to solve? What is your existing inventory? What new skills will your maintenance workforce need for these systems?

### San Diego, CA

San Diego has implemented smart sensors that collect data such as available parking spaces, vehicle counts, pedestrian counts, bicycle counts, temperature, humidity, and atmospheric pressure. The city uses the CityIQ online database, which allows the public to download the information collected by the sensors. In implementation, the city has not realized the cost savings that were anticipated prior to deployment. Finally, the community has expressed concerns related to privacy.

#### Lessons Learned

- Beta test ahead of large-scale installation
- Get public buy-in if features might be controversial

### Las Vegas, NV

Las Vegas has implemented separate pilot programs with Ubiqquia and with Philips. The systems include remote control, power usage reporting, and light scheduling. Rather than fiber, the Las Vegas systems use AT&T's LTE cellular network. The city has reported that it intends to continue to work with AT&T and Ubiqquia to install more sensors to collect temperature, ozone and particulate levels, traffic and construction, air quality, etc. The city also reported that it plans to expand the 5G WiFi network especially around the new NFL stadium. The streetlight upgrades have resulted in cost savings for the city.

#### Lessons Learned

- Streetlights are only on at night, meaning all associated technologies can only function at night
- A user-needs assessment would identify the most important systems to prioritize

## Chicago, IL

Chicago is converting streetlights to LED fixtures that allow for remote monitoring and notifications of light failures. The city has reported cost savings in operations, and it also benefitted from ComEd energy-efficiency incentive rebates. Chicago city staff were not available for an interview, and therefore the review was limited to information that was available online.

### *Lessons Learned*

- Successful public engagement program. Regular community meetings to gauge feedback, and no concerns have been reported. Upgrades are mapped on a publicly available website to allow the community to track installations.

## Kansas City, MO

Kansas City has implemented Sensity technology for streetlights along the streetcar line and has implemented separate pilot programs with Ubiqquia and with Philips. The systems include alerts of streetcar track blockages, cameras, smart lighting, Wi-Fi, electric vehicle charging stations, and sensors that record data pertaining to traffic, parking, noise, crowds, air quality, and weather. The data collected by the streetlights are accessible to the public via an online portal. The city has reported reduced energy and maintenance costs from the streetlight upgrades.

### *Lessons Learned*

- Incorporated smart technologies on a larger infrastructure project (streetcars), which made the perceived cost smaller in comparison to the overall higher-dollar construction project
- A city-needs analysis would have improved project usefulness and outcomes.

### *Key Takeaways*

Although these agencies differ from WRCOG, their experiences will help inform how WRCOG can successfully implement its Smart Streetlights program. Key takeaways that WRCOG staff should address in its Smart Streetlight Implementation Strategy are as follows:

- Identify program parameters ahead of time. Agencies need to know what problem they are trying to solve as well as their system capabilities.
- Consider the agencies' current traffic signal and IT staff capabilities as well as the responsibilities for the systems. Agencies should consider what new skills maintenance workforce will need for these systems.
- Start with a pilot for testing the technology and data quality. As part of the pilot program consider different vendors and technologies to understand the limits and capabilities of different systems.
- Understand that the current business model is uncertain. For most cities, the smart applications have been an expense with little or no return revenue for the City. Agencies should consider how programs can be implemented so they pay for themselves or recognize the expense to solve an identified need.
- Understand who owns the data for the implemented systems. When developing contracting documents, specify who owns the data and what data will be sent and maintained by the agency.

It is also beneficial to determine if the agency can handle the raw data for analysis or if dashboards are the preferred method of monitoring system performance.

- Public transparency in the process is essential. Agencies should understand there is a potential for community concerns about privacy. Outreach should clearly outline what technology is being implemented, what data are being collected and what data will be maintained. Decision maker and community buy-in is highly recommended if features may be controversial.

### **Supplemental Agency Review**

Columbus, OH

The City of Columbus recently solicited proposals for the implementation of a Columbus Smart Street Lighting System (CSSLS). This system will include features such as centralized remote monitoring and control (two-way communication) of individual streetlights for outages, remote changes in time of operation, and dimming of fixtures by time of day or sensors. The CSSLS will leverage the existing fiber optic communication network for the backhaul system. The City intends to operate the CSSLS in an existing management center and the system may accommodate the incorporation of other applications, such as traffic counters, gunshot detection, environmental sensors, etc. This procurement will convert about 58,000 luminaires to LED and follows a pilot project that will convert 2,559 luminaries.

Detroit, MI

[Matt/Jeff to provide]

### **Summary & Conclusions**

The review of peer agencies identified several lessons learned that will benefit WRCOG's Smart Streetlight program implementation. WRCOG staff will need to first identify the priorities of the program to select the best technology to implement. A pilot program will ensure that the technology will meet staff needs and will validate the cost estimates provided by technology vendors to inform the actual cost of full roll-out. WRCOG should also consult with its members to determine if deployed systems will be managed by individual members or centrally through WRCOG, as a central management approach with a dedicated staff could provide the attention and monitoring needed to fully realize the benefits from the program. Finally, WRCOG should also prepare a public outreach plan to help the affected communities understand what technology is being implemented and how their privacy will be protected. These measures will ensure a successful Smart Streetlight Implementation Strategy.

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If you have any questions pertaining to the findings summarized in this memo, please call Dawn at (760) 603-6266.

Sincerely,

Dawn Wilson,  
Department Manager  
Transportation Planning

Cecily Taylor,  
Senior Transportation Planner  
Transportation Planning

DRAFT

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*Attachment A*  
*Title*

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DRAFT



# Western Riverside Council of Governments Public Works Committee

## Staff Report

**Subject:** Public & Partner Map-based Surveys for Upcoming Caltrans District 8 Active Transportation Plan

**Contact:** Thanya Espericueta, Project Co-Lead, Caltrans, [Thanya.Espericueta@dot.ca.gov](mailto:Thanya.Espericueta@dot.ca.gov), (909) 806-3926

**Date:** August 12, 2021

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**Requested Action(s):**

1. Receive and file.
- 

**Purpose:**

The purpose of this items is for Caltrans' staff to present on its Public Map-based Survey on State Highway System Active Transportation needs.

**Background:**

This item is reserved for a presentation from Caltrans' staff on its Public Map-based Survey on State Highway System Bicycle / Pedestrian Needs. Survey responses will be incorporated into the District 8 Active Transportation Plan for location-based needs.

**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 Public Works Committee

## Staff Report

**Subject:** TUMF CCI Implementation  
**Contact:** Cameron Brown, Program Manager, [cbrown@wrcog.us](mailto: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](mailto:cgray@wrcog.us) should you require any WRCOG staff to attend any meetings on this issue.

**Prior Action(s):**

**July 7, 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 XXXXXXX.

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

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### 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.