

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**




FROM: TLMA - Transportation Department

SUBMITTAL DATE:
October 6, 2010

SUBJECT: Amendment 1 to Memorandum of Understanding (MOU) with Western Riverside Council of Governments (WRCOG) and the City of Menifee for Community Facilities District (CFD) No. 05-8 (Scott Road)

RECOMMENDED MOTION: That the Board of Supervisors:
Approve the subject Amendment 1 to the MOU with WRCOG and the City of Menifee, and authorize the Chairman to execute the same.

BACKGROUND: In April 2006, the Board approved the establishment of CFD No. 05-8, which is a funding vehicle for the widening of Scott Road between Interstate 215 and State Route 79, and the ultimate expansion of the Scott Road/I-215 Interchange. In May 2007, the Board approved a MOU with WRCOG, which provided a mechanism by which developers could be eligible to receive


Juan C. Perez
Director of Transportation

JCP:gh
(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A


SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: 
DALE A. GARDNER
Department of Concurrence

Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref. 5/8/07, Item 3.34 | District: 3 | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.57

The Honorable Board of Supervisors

RE: Amendment 1 to Memorandum of Understanding (MOU) with Western Riverside Council of Governments (WRCOG) and the City of Menifee for Community Facilities District (CFD) No. 05-8 (Scott Road)

October 6, 2010

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TUMF credits to offset their TUMF fees by participating in CFD No. 05-8.

The original MOU contained a provision, which would require a WRCOG Program Administration cost between 2% and 4% of the TUMF fee to be paid by the developers. However, it is mutually agreed that a WRCOG Program Administration fee does not apply to development projects within the Scott Road CFD. Amendment 1 would delete this provision from the MOU.

Project Number: B30689

AMENDMENT 1 TO MEMORANDUM OF UNDERSTANDING

Between the

**Western Riverside Council of Governments
and the County of Riverside
and the City of Menifee**

**Community Facilities District No. 05-8 (Scott Road)
of the County of Riverside**

THIS AMENDMENT (“Amendment”) is entered into this _____ day of _____, 2010, by and between Western Riverside Council of Governments (“WRCOG”) and County of Riverside (“County”) and City of Menifee (“City”). WRCOG, County and City are sometimes referred to individually as “Party” and collectively as “Parties.”

RECITALS

A. WRCOG and County have entered into an agreement entitled “Memorandum of Understanding” for Community Facilities District No. 05-8 (Scott Road CFD) of the County of Riverside that was approved by the Riverside County Board of Supervisors on May 8, 2007 (“Agreement”). The Agreement establishes the terms by which developers can receive TUMF Credits to offset their TUMF fees by participating in the Scott Road CFD.

B. In April of 2006, the Riverside County Board of Supervisors approved the establishment of the Scott Road CFD that will be a funding vehicle for the widening of Scott Road between I-215 and SR-79, and the ultimate expansion of the Scott Road/I-215 Interchange.

C. The Parties desire to amend the Agreement by deleting Section 9 and all references to Section 9 of the Agreement, which would require a WRCOG Program Administration cost between 2% and 4% of the TUMF fee to be paid by the developers to the

County and transferred to WRCOG.

D. The Parties agree that a WRCOG Program Administration fee does not apply to development projects within the Scott Road CFD.

E. Subsequent to the execution of the Agreement, the City of Menifee (the "City") was duly incorporated. The geographical boundaries of the Scott Road CFD together with the geographical boundaries of the Annexation Territory of the Scott Road CFD overlap the incorporated boundaries of the City. Accordingly, the Parties agree that the City should become a signatory to the Agreement.

AGREEMENT

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

1. Section 9 and all references to Section 9 of the Agreement, which refer to WRCOG Program Administration costs, are hereby deleted.

2. The City shall succeed to the County's rights duties, and obligations under the Agreement within the City's incorporated boundary limits; except that the County shall be responsible for the design, engineering, funding, and construction of the Facilities pursuant to Sections 7 and 13 of the Agreement and the City shall have no such rights, duties, and obligations; and except that the County Board of Supervisors shall continue to act *ex officio* as the legislative body of the Scott Road CFD and the County Executive Office shall continue to serve as the administrator for the Scott Road CFD.

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

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

[Signatures on Following Page]

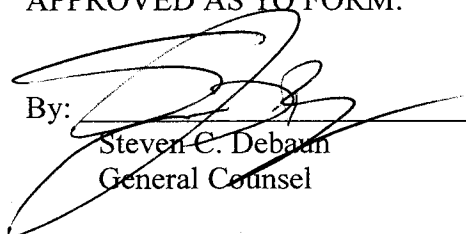
IN WITNESS WHEREOF, the Parties have caused this Amendment to the Agreement to be executed by their duly authorized representatives to be effective on the day and year first written above.

**WESTERN RIVERSIDE COUNCIL
OF GOVERNMENTS**

APPROVAL:


By: 
Rick Bishop
Executive Director

APPROVED AS TO FORM:

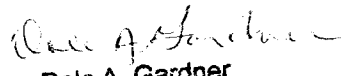
By: 
Steven C. DeBain
General Counsel

**COUNTY OF RIVERSIDE
TRANSPORTATION DEPARTMENT**

RECOMMENDED FOR APPROVAL:

By: 
Juan C. Perez
Director of Transportation

APPROVED AS TO FORM:

By: 
Dale A. Gardner
County Counsel

APPROVAL BY THE BOARD OF
SUPERVISORS:

By: _____ Date: _____
Chairman, County Board of Supervisors

ATTEST:

By: _____ Date: _____
Kecia Harper-Ihem
Clerk of the Board

CITY OF MENIFEE

Passed on this ____ day of _____, 2010

By: Wallace W Edgerton

Wallace W. Edgerton, Mayor

ATTEST:

By: Kathy Bennett

Kathy Bennett, City Clerk

APPROVED AS TO FORM:

By: K Feld

City Attorney