

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

881  
A



**FROM:** Transportation and Land Management Agency (TLMA)

**SUBMITTAL DATE:**  
August 31, 2011

**SUBJECT:** Highgrove Chevron Gas Station Appeal of the Western Riverside County Transportation and Uniform Mitigation Fee (TUMF)

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Deny Highgrove Chevron's appeal concerning its protested payment of TUMF; and
2. Authorize the Chairman to execute the attached proposed written decision; and
3. Direct the Clerk of the Board to forward the Board's decision letter to the Appellant and referral to the Western Riverside Council of Governments for review and final action.

**BACKGROUND:** The County of Riverside (County) is a member agency of the Western Riverside Council of Governments (WRCOG), a joint powers agency comprised of the County of Riverside and sixteen (16) cities located in Western Riverside County. In 2002, the Riverside County Board of Supervisors (Board of Supervisors) adopted Riverside County Ordinance No. 824, which authorizes the County's participation in the TUMF fee program.

(Continued on Attached Page)

George A. Johnson  
Director, Transportation and Land Management Agency

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A

**SOURCE OF FUNDS:** N/A

<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
Tina Grande

**County Executive Office Signature**

Department Recommendation: ☒ Policy ☐ Consent  
Per Executive Office: ☒ Policy ☐ Consent

Prev. Agn. Ref.: None

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WITH THE CLERK OF THE BOARD

District: 5

Agenda Number:

3.83

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

**FORM 11:** Highgrove Chevron Gas Station Appeal of the Western Riverside County  
Transportation and Uniform Mitigation Fee (TUMF)

**DATE:** August 31, 2011

**PAGE 2 of 2**

The County collects the TUMF and forwards these fees to WRCOG in conformance with Ordinance No. 824, the WRCOG TUMF Fee Calculation Handbook and WRCOG adopted TUMF Administrative Plan.

Section 11.b.1 of Ordinance No. 824.11 provides that fees shall be paid prior to the issuance of a certificate of occupancy or final inspection. The fee payment shall be calculated based on the fee in effect at that time and fees shall not be waived. Section 11.4.d, indicates that fee appeals shall be filed with WRCOG in accordance with the provisions of the TUMF Administrative Plan. The TUMF Administrative Plan requires the Appellant to file a written request to the Board of Supervisors. The Board of Supervisors shall then forward its written decision to the WRCOG Executive Committee who shall determine a proper course of action and notify TLMA of its findings.

On July 13, 2011 and August 9, 2011, Highgrove Chevron submitted letters of protest for the TUMF fee calculated for the gas station project approved under CUP03577 and building permit number BNR090076 (Attachment 1 and 2). The applicant's protest centers around the amount of the TUMF allegedly quoted when the project began and the amount that was subsequently calculated by TLMA staff for the project. After meeting with WRCOG staff and reviewing the records and ordinance, TLMA responded to Highgrove Chevron in a letter dated August 11, 2011 (Attachment 3), indicating that TLMA, in consultation with WRCOG, could not find a basis in Ordinance No. 824 to waive or reduce the TUMF for this project. On August 22, 2011 Mr. Abugherir (Highgrove Chevron owner), filed an appeal with the Board of Supervisors (Attachment 4).

The denial by the Board today, due to the fact that Ordinance No. 824 does not contain an exemption or waiver directly applicable to this project, will allow this fee appeal to proceed to the WRCOG Executive Committee. The WRCOG Executive Committee has the discretion to review the record and award any fee adjustment or waiver to the applicant, Mr. Abugherir, if deemed appropriate.

In an effort to assist Mr. Abugherir and expedite the opening of his business, the Director of Building and Safety agreed to the following plan of action. The TUMF is required to be paid prior occupancy and was the last condition of approval to be satisfied for this project, the Building and Safety Director agreed to a partial payment of the TUMF, in addition to obtaining a Certificate of Deposit to serve as a guarantee of the remaining payment until such time as the appeal process is complete. This agreement allowed Mr. Abugherir to move into his facility on August 11, 2011.

# Attachment

1

BNR090076

CUP03577

## High Grove Plaza Partners, LLC

1349 Center Street, Riverside, California  
(951) 660-4545

5867 Dora Ct  
Riv, CA 92506

July 13, 2011

Ms. Dianna Ross  
County of Riverside  
4080 Lemon Street  
Riverside, CA 92501

/w R Cog.

Subject Site: CUP 03577, approved by Planning Commission on May 13, 2009  
Board of Supervisors on June 16, 2009

Subject: TUMF fees Reduction Request

Dear Ms. Dianna Ross:

During the initial process of CUP 03577 and the Construction Documents, my Consultant had obtained the TUMF fees of \$25,859.00, and then last week we went to the County Planning Department to obtain the amount of fees needed in order to obtain the Occupancy Permit and they gave us a fee of \$38,157.68. Currently we barely can pay the original budgeted fee amount; therefore, we went back to the Planning and Transportation Departments to seek their assistance in a reduction of the TUMF fee, to our surprise, the two previous amounts were very wrong and a new fee of \$118,560.24 given to us.

Prior to the redevelopment, this site was a Chevron Service Station with four Gasoline Dispensers; Eight Fuelling Positions existed in addition to two buildings one as a C-Store and the other was as a Tire Repair Shop.

Part of Conditions of Approval of CUP 03577 is to redevelop portions of Center Street and Highgrove Place to improve existing traffic conditions, by removing a planter island, relocating curb & gutter, installation of new street light, relocating storm drain catch basin, grind and overlay of existing pavement, installation of new raised median along Center Street and landscape improvement. In addition to the modification of existing Traffic Signal Loops and Timing.

About five years ago, the County installed a raised median along Iowa Avenue at the intersection of Center Street to mitigate existing traffic conditions, by doing so, our existing retail plaza suffered great deal of business loss. Now we are redeveloping the service station and the same condition was imposed on this lot as well to install a raised median along Center Street at the intersection of Iowa Avenue, which we believe it will prohibit any left turn into the site. Therefore, I believe that all of the raised median will not help my business to grow. On the other hand I understand that these mitigations are done for our safety and at the same time good traffic mitigations, but they cause traffic trips reduction to my facility and that's why I am appealing to you for waving the imposed fees.

My development contributed enough fees to mitigate existing and future traffic impact and it should be spared by waving the Imposed TUMF fee. The amount of fees and construction cost were as follows:

- |   |             |
|---|-------------|
| 1. Street Improvements per Bond Documents   | \$91,500.00 |
| 2. Landscape Improvement per Bond Documents | \$40,000.00 |

Additionally, I believe that my project improvement being completed within the Economic Development Agency's guidelines in improving Highgrove Community in providing quality building structures, quality and convenient services to the community and adding jobs to the local citizens and providing additional taxes to Highgrove Community and we are proud of being part of this community for so many years.

We are seeking your assistance us in waving the TUMF fee as part of the support to our project to succeed as we did our portion of the contribution to the Community at large. We are confident to have earned your approval and support to redevelop the site as it will bring new employment and tax dollar to the Highgrove Community and we are looking forward again to uphold all existing approvals in our client's favor, as we are ready to submit the Construction Documents to the County for construction permits.

Respectfully submitted;

*High Grove Plaza Partners, LLC*

  
\_\_\_\_\_  
Attallah Abughrir  
Partner

951-660-4545 (cell)

# Attachment

2

Project: Highgrove Chevron Gas Station Crisis

To whom it may concern:

I am writing to you today because my business partner and I are facing a serious problem with the Highgrove Chevron Gas Station project. There has been a considerable increase of permit fees from our original amount of \$25,859 to \$118,000. This new amount has been completely unexpected as well as misleading. Our project has taken an enormous amount of time and energy to get started and has had several delays from the County of Riverside inspection and review plans that made it difficult to complete, and in turn, has cost us financial hardships and a great deal of stress. This site has been a gas station, mini mart and tire shop business since the 1960's and all the way through early 1999. This site was deemed unsuitable because of environmental issues (mainly an underground leak) in which we began cleaning up at the end of 2001. We finally received the closure letter from the Regional Water in 2006 and since then it has taken us 5 years to complete. The cost of this project has been at least 20% more than what was expected. Our loan is \$1,750,000 and our out of pocket expenses have reached just about \$750,000. We feel that we did a great job with the design, layout, landscaping and street improvement. All of our fees are paid, which approximates to about \$185,000 which includes, but is not limited to the County of Riverside, planning, transportation, fire, health and building safety.

Now this new problem we are facing of the incredible increase of permit fees will lead us to completely close down a business we have yet to open because the cost of our overhead, our bills and our bank payment-none of which we are paying because we are not generating any income. We have grocery items that will expire and dairy items that have already expired. Our

employees continue to show up for work, however, we do not know how much longer they will continue to show up as we do not know how much longer they can wait. Our first fuel delivery was on 7/14/2011 to test and calibrate. We then had another delivery on 7/27/2011. Although fuel prices are going down, we purchased fuel at a higher price so that we could sell our fuel at cost to consumers and be in direct competition with the market. We currently have \$120,000 in fuel and store inventory that cannot be sold because we have no permit. Fees that were submitted to us as stated above, were \$25,859 which is what we submitted to the bank and paid by us on 8/4/2011. We have run out of money and if we do not open our doors, we will lose everything that took 30 years of hard work to build. Both my business partner and I each have a family of seven that we support. If we walk away from this project we will be out on the street because my credit and money are completely maxed out. In this tough economy, no one can afford to walk away from this; however, we are being left with little choice. We know that the Board of Supervisors and County do not want this to happen. We need the help of our County Supervisor by allowing us to open our doors for business. We are asking for the help of our County Supervisor to help us open our doors for business by granting us our permit so that this business can be a success and provide jobs and tax dollars to our community, state and country. Thank you for your time and consideration in this urgent matter.

Best Regards,

Attallah Abugherir

August 9, 2011



**COUNTY OF RIVERSIDE**  
**TRANSPORTATION AND LAND MANAGEMENT AGENCY**

*George A. Johnson*  
*Agency Director*



*Carolyn Syms Luna*  
*Director*  
*Planning Department*

*Juan C. Perez*  
*Director*  
*Transportation Department*

*Mike Lara*  
*Director*  
*Building & Safety Department*

*Glenn Baude*  
*Director*  
*Code Enforcement Department*

August 11, 2011

**Attachment**

**3**

Attallah Abugherir  
High Grove Plaza Partners, LLC  
5867 Dora Court  
Riverside, CA 92506

RE: Protest of the Transportation Uniform Mitigation Fee (TUMF) – Riverside County Ordinance No. 824 for High Grove Chevron Gas Station and Convenience Store at 1340 Center Street, Riverside, CUP03577.

Dear Mr. Abugherir,

Regarding the protested payment of the TUMF per Riverside County Ordinance No. 824, we have reviewed your position that the calculated fee is excessive and was not communicated properly to you, however, the Transportation and Land Management Agency (TLMA) cannot find a basis in the Ordinance to waive or reduce this fee for you. The following summarizes our records on this case:

- The Conditional Use Permit (CUP03577) for this case was applied for in 12/18/07 and approved 7/21/09. On the conditions of approval (90.Trans.3), the condition states that fees shall be paid for WRCOG TUMF prior to final of the building permit.
- The building permit (BNR090076) was applied for on 8/27/09 and issued 12/20/10. On the building permit the condition for TUMF payment appeared twice under the prior to final milestone (90.Trans.3 and 90.Trans.999)
- On 6/28/10 the paperwork which calculates the mitigation fee payment for the TUMF payment was initiated and the fee was calculated as \$38,157.68, based on the building square footage.
- Also, on 6/28/10 County staff discovered the error in the fee calculation before payment was made and calculated the fee according to the Fee Calculation Handbook as provided by WRCOG for Defined Use Types, in this case a gas station, Section 5.1. The calculation is based on the number of fuel filling positions, not structure square footage. The gas station as approved under building permit BNR090076 contains six (6) pumps and therefore, twelve (12) fuel filling positions. The TUMF fee per Ordinance 824.11 is currently reduced fifty percent (50%) and the resulting fee due is \$ 118,560.24.
- Building and Safety permit number 418477/807828 from 1997 for a Fuel Dispenser Upgrade, confirms four (4) pumps which equals eight (8) fuel filling positions. A demolition permit (BDE000019, applied 2/7/2000) for Demolition of office and canopy to gas station, further supports that a gas station previously existed on site. Although

evidence shows a previous gas station on site, Section 8 (c), Exemptions, of Ordinance No. 824, states new development shall be exempt if it is a rehabilitation/reconstruction of any habitable structure in use on or after January 1, 2000, provided the same or fewer traffic trips are generated as a result thereof. TLMA could not apply this exemption because available records do not show the previous gas station was in use on or after January 1, 2000.

- On July 13, 2011, TLMA staff received a letter from you further protesting the TUMF payment. Included in your letter and in numerous conversations with County staff, you state that your consultant had obtained a TUMF fee quote of \$25,859 from the County. TLMA has no record nor have you been able to provide any written documentation validating your claim that you were misinformed of the fee when you began funding of the project.

In summary, after reviewing the exemption section in Ordinance No. 824, TLMA staff determined that according to the ordinance language, a waiver, reduction or credit could not be granted. After meeting with TLMA and WRCOG staff it was determined that you would need to continue with the formal appeal process for TUMF payments as outlined in the WRCOG Administrative Plan (2008). Per WRCOG's TUMF Administrative Plan, you may request a further review of this item by the Riverside County Board of Supervisors by submitting a written request to the Riverside County Clerk of the Board within five (5) days of receiving this letter. Action by the Board may then be referred to the WRCOG Executive Committee for final determination of your appeal.

In a subsequent meeting with the Riverside County Building Official (on 8/10/11) and in an effort to expedite the opening of your business the following terms were agreed to. You (property owner) will obtain a Certificate of Deposit (CD), with the County named as a beneficiary in the amount of \$50,000. The CD, in addition to the partial payment of \$25,859 (claimed original quote, paid under MT110355) towards the TUMF, will serve as the guarantee of payment until such time as WRCOG makes its decision on your appeal. In addition, should WRCOG decide that additional funds are required towards the TUMF payment that such payment must be paid in full prior to December 29, 2011.

Please feel free to contact me at (951) 955-6574 if you have any additional questions.

Sincerely,



Dianna Ross  
TLMA Fee Administration

Cc:

George A. Johnson, Director of TLMA  
Juan Perez, Director of Transportation Department  
Mike Lara, Director of Building and Safety Department  
Ed Cooper, Deputy Director of Administrative Services Division  
Ruthanne Taylor-Berger, WRCOG Deputy Executive Director

Attachments:

Protest of Transportation Uniform Mitigation Fee – 1340 Center Street, Riverside Letter Dated July 13, 2011  
Protest of Transportation Uniform Mitigation Fee – 1340 Center Street, Riverside Letter Dated August, 9, 2011

4080 Lemon Street, 14th Floor • Riverside, California 92501 • (951) 955-6838  
P. O. Box 1605 • Riverside, California 92502-1605 • FAX (951) 955-6879



# Attachment

## 4

### High Grove Plaza Partners, LLC

1340 Center Street, Riverside, California 92507

Tel: (951) 682-9000, Cell (951) 660-4545

August 19 2011

#### Honorable Supervisor Marion Ashley

County of Riverside  
Board of Supervisors  
4080 Lemon Street  
Riverside, CA 92501

Subject Site: CUP 03577, BNR 09-0076

Subject: **Appeal Protest of the TUMF fees** for Highgrove Chevron located at 1340 Center Street, Riverside

#### Honorable Supervisor Ashley:

Since the 1960's, this site was a gasoline service station with 24 nozzles in addition to two buildings, one as a Convenient Store and the other as a Tire Repair Shop. Due to an underground contamination this site was shut down in December 1998. In 1999/2000 we demolished the Convenient Store, dispensers, fueling canopy and removed underground storage tanks. In 2001 we started the contamination cleaning process which lasted till late 2006. The old tire shop building was demolished by the County of Riverside (EDA) in 2010.

In January 2007 we started the permitting process for the new gasoline service station with 12 nozzles. During the initial process of CUP 03577 and the Construction Documents, the County has given our consultant the TUMF fee of \$25,859.00, which was used in the budget that was submitted to the bank for construction loan. Since then, the construction loan was approved and all permits were acquired and construction was underway. On late June of 2011; the construction activities were about completed; then the project manager went back to the County to obtain a formal request for the TUMF fee so it will be submitted to the bank to issue a check to the County, to our surprise a new TUMF fee was given to us in the amount of \$38,157.68. I went back to the County to get a reason for the fee hike opposed to what we have been given in the past and a new third fee was handed to us in the amount of \$118,560.24. In good faith we went ahead and deposited the original amount of \$25,859.00. At this time we feel ***if the true numbers would have been told at the start, this may have been a deal breaker on even building or developing this property.***

I believe that my project improvement should be taken in great consideration; since it was completed within the Economic Development Agency's guidelines and vision to improve Highgrove Community in providing a quality building structures, quality and convenient services and improving the existing roadway improvements and existing traffic signal apparatus for better traffic circulation and safety, in addition to adding more than **12 new jobs** in the area to the local citizens and new **tax** revenue to the County and down to our community. We are truly proud of being part of this community.

Additionally, during the process of planning, preparation of the construction documents and permitting and construction activities, this project provided many jobs to the local engineers, and contractors not forgetting the tens of thousands paid to the County various departments for plan check fees and permits.

Part of the new Conditions of Approval of CUP 03577 is to redevelop portions of Center Street and Highgrove Place to improve existing traffic conditions, by removing a planter island, relocating curb & gutter, installation of new street light, relocating storm drain catch basin, grind and overlay of existing pavement, installation of new raised median along Center Street and landscape improvement in Public Right of Way along three streets. In addition, a major modification to the existing Traffic Signal Loops and Timing was done under this redevelopment.

The amount of fees and construction cost were as follows:

- |   |             |
|---|-------------|
| 1. Street Improvements per Bond Documents   | \$91,500.00 |
| 2. Landscape Improvement per Bond Documents | \$40,000.00 |

My development contributed enough fees to mitigate existing and future traffic impact and it should be spared by waiving or reducing the Imposed TUMF fee.

Current economic conditions and rise of operating cost to maintain this project open for business and service without the fear of failure is requiring not imposing any additional fees and/or monthly dues. The following cost is just to keep the doors open:

**OPERATING EXPENSES**

Mortgage Loan Payment	\$11,500
Payroll (w/burden)	\$12,000
Worker's Comp Insurance	\$00,700
Credit Card Fees @ 3.4 c/p/g	\$06,171
Utilities	\$04,000
Store Supplies	\$00,350
Shrinkage @ 0.75%	\$00,338
Repair & Maintenance	\$01,000
Property Insurance	\$00,600
Landscaping	\$00,250
Miscellaneous	\$00,250
Property Taxes @1.07%	\$01,926
Fees and Permits	\$00,600
Extra Mile Royalty Fees	\$02,700
Equipment Lease	\$00,500

**TOTAL OPERATING EXPENSE      \$42,885**

I am seeking your assistance to us in waving or reducing at least to the original given TUMF fee amount as part of the support to our project to succeed as we did our portion of the contribution to the Community at large. Without your help and assistance this project is doomed to failure from the start. We are confident to have earned your support to keep this project alive for improvement of this community and bring new employment and tax dollar.

Respectfully submitted;

**High Grove Plaza Partners, LLC**



Attallah Abughrir  
Partner

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT  
21865 East Copley Drive, Diamond Bar, CA 91765  
**PERMIT TO OPERATE**

page 1  
Permit No.  
N5587  
A/N 334821

This  
If the

Legal Owner  
or Operator:

CALIFORNIA SPEEDWAY, CHEVRON, DBA  
5455 E LA PALMA AVE UNIT C  
ANAHEIM, CA 92807

ID 114285

Equipment Location: 323 IOWA ST, RIVERSIDE, CA 92507

**Equipment Description:**

Fuel Storage and Dispensing Facility Consisting of:

- 1) 24 - GASOLINE DISPENSING NOZZLES, EQUIPPED WITH PHASE II VAPOR RECOVERY SYSTEM, BALANCE RETRACTOR (G-70-52-AM).
- 2) 1 - GASOLINE UNDERGROUND STORAGE TANK, 10,000-GALLON CAPACITY, EQUIPPED WITH PHASE I VAPOR RECOVERY SYSTEM (G-70-97-A), NOT METHANOL COMPATIBLE.
- 3) 1 - GASOLINE UNDERGROUND STORAGE TANK, 8,000-GALLON CAPACITY, EQUIPPED WITH PHASE I VAPOR RECOVERY SYSTEM (G-70-97-A), NOT METHANOL COMPATIBLE.
- 4) 1 - GASOLINE UNDERGROUND STORAGE TANK, 4,000-GALLON CAPACITY, EQUIPPED WITH PHASE I VAPOR RECOVERY SYSTEM (G-70-97-A), NOT METHANOL COMPATIBLE.

**Conditions:**

1. OPERATION OF THIS EQUIPMENT SHALL BE IN COMPLIANCE WITH ALL DATA AND SPECIFICATIONS SUBMITTED WITH THE APPLICATION UNDER WHICH THIS PERMIT WAS ISSUED, UNLESS OTHERWISE NOTED BELOW.
2. THIS EQUIPMENT SHALL BE PROPERLY MAINTAINED AND KEPT IN GOOD OPERATING CONDITION AT ALL TIMES.
3. PHASE I VAPOR RECOVERY SYSTEMS SHALL BE IN FULL OPERATION WHENEVER FUEL IS BEING TRANSFERRED INTO STORAGE TANKS.
4. PHASE II VAPOR RECOVERY SYSTEMS SHALL BE IN FULL OPERATION WHENEVER FUEL IS BEING TRANSFERRED INTO MOTOR VEHICLES, AS DEFINED IN RULE 461.
5. ALL PHASE I AND PHASE II VAPOR RECOVERY EQUIPMENT AT THIS FACILITY SHALL BE INSTALLED, OPERATED AND MAINTAINED TO MEET ALL CALIFORNIA AIR RESOURCES BOARD CERTIFICATION REQUIREMENTS.

**FILE COPY**

**PERMIT TO OPERATE**

6. PHASE II VAPOR RECOVERY SYSTEMS SHALL BE INSTALLED, OPERATED, AND MAINTAINED SUCH THAT THE MAXIMUM ALLOWABLE PRESSURE DROP THROUGH THE SYSTEM INCLUDING NOZZLE, VAPOR HOSE, SWIVELS, AND UNDERGROUND PIPING DOES NOT EXCEED THE DYNAMIC BACK PRESSURE RATES DESCRIBED BY THE CALIFORNIA AIR RESOURCES BOARD EXECUTIVE ORDER BY WHICH THE SYSTEM WAS CERTIFIED:

NITROGEN FLOWRATES (CFH)	DYNAMIC BACK PRESSURE (INCHES OF WATER)
40	0.16
60	0.35
80	0.62

BY JANUARY 1, 1998, AND AT LEAST ONCE EVERY FIVE CALENDAR YEARS FROM THE ISSUANCE DATE OF THIS PERMIT, DYNAMIC BACK PRESSURE TESTS SHALL BE CONDUCTED TO DETERMINE THE PHASE II SYSTEM VAPOR RECOVERY BACK PRESSURE RATES. THE TESTS SHALL BE CONDUCTED IN ACCORDANCE WITH CARB TEST PROCEDURE METHOD TP-201.4. RESULTS SHALL BE SUBMITTED TO THE DISTRICT, OFFICE OF STATIONARY SOURCE COMPLIANCE, WITHIN THIRTY (30) DAYS OF TESTS.

THE AQMD SHALL BE NOTIFIED AT TELEPHONE NUMBER (909) 396-3886 AT LEAST TWENTY-FOUR HOURS PRIOR TO TESTING. SUCH NOTIFICATION SHALL INCLUDE THE NAME OF THE OWNER OR OPERATOR; THE NAME OF THE CONTRACTORS; THE LOCATION OF THE FACILITY; AND THE SCHEDULED START AND COMPLETION DATES OF THE DYNAMIC BACK PRESSURE TEST.

7. BY JANUARY 1, 1998, AND AT LEAST ONCE EVERY FIVE CALENDAR YEARS FROM THE ISSUANCE DATE OF THIS PERMIT, A STATIC PRESSURE LEAK DECAY TEST SHALL BE CONDUCTED TO DETERMINE THE PHASE II SYSTEM VAPOR RECOVERY BACK PRESSURE RATES. THE TEST SHALL BE CONDUCTED IN ACCORDANCE WITH CARB TEST PROCEDURE METHOD TP-201.3. RESULTS SHALL BE SUBMITTED TO THE AQMD, OFFICE OF STATIONARY SOURCE COMPLIANCE, WITHIN THIRTY (30) DAYS OF TEST.

THE AQMD SHALL BE NOTIFIED AT TELEPHONE NUMBER (909) 396-3886 AT LEAST TWENTY-FOUR HOURS PRIOR TO TESTING. SUCH NOTIFICATION SHALL INCLUDE THE NAME OF THE OWNER OR OPERATOR; THE NAME OF THE CONTRACTORS; THE LOCATION OF THE FACILITY; AND THE SCHEDULED START AND COMPLETION DATES OF THE STATIC PRESSURE LEAK DECAY TEST.

**NOTICE**

IN ACCORDANCE WITH RULE 206, THIS PERMIT TO OPERATE OR COPY SHALL BE POSTED ON OR WITHIN 8 METERS OF THE EQUIPMENT.

**FILE COPY**

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT  
21865 East Copley Drive, Diamond Bar, CA 91765  
**PERMIT TO OPERATE**

page 3  
Permit No.  
N5587  
A/N 334821

THIS PERMIT DOES NOT AUTHORIZE THE EMISSION OF AIR CONTAMINANTS IN EXCESS OF THOSE ALLOWED BY DIVISION 26 OF THE HEALTH AND SAFETY CODE OF THE STATE OF CALIFORNIA OR THE RULES OF THE AIR QUALITY MANAGEMENT DISTRICT. THIS PERMIT CANNOT BE CONSIDERED AS PERMISSION TO VIOLATE EXISTING LAWS, ORDINANCES, REGULATIONS OR STATUTES OF OTHER GOVERNMENT AGENCIES.

EXECUTIVE OFFICER

*Dorris M. Bailey*

By Dorris M. Bailey/cdw  
1/30/1998

**FILE COPY**



July 25, 2011

Attallah Abugherir, General Partner  
HIGH GROVE PLAZA PARTNERSHIP  
1340 Center Ave  
Riverside, CA 92507

RE: SBA Loan Financing for Ground-up Construction of Chevron Gas Station

Dear Mr. Abugherir:

Your SBA loan with Commerce National Bank in the amount of \$1,750,000.00 was approved on July 26, 2010. The SBA financing approval was in part based on the bank's review and analysis of the project budget submitted at time of loan application.

A portion of your project budget included estimated costs for Open Space Fee-\$3,430.00, DIFF Fee-\$5,421.00 and TUMF Fee-\$25,859.00. The costs of these fees as presented at the time of loan application (see Exhibit A - attached) were taken into consideration in determining the SBA loan amount.

Thank you,  
Commerce National Bank

A handwritten signature in dark ink, appearing to read "Gordon Glariada".

Gordon Glariada  
SBA Lending

Tel: 949.870.4433  
Fax: 949.428.2461  
Email: [gglariada@commercenatbank.com](mailto:gglariada@commercenatbank.com)

Highgrove Plaza Detailed Expenses  
1340 Center Ave  
Riverside, CA 92507

Exhibit N SBA App. #13

Bank  
Exhibit

County of Riverside Planning Fees		Total	Paid to Date	Due
CUP03577, EA41677/CFG		\$ 37,556.71	\$ 37,556.71	\$ -
County of Riverside Construction				
Plancheck & Permit Fees	CUP03577S1	\$ 2,158.30	\$ 2,158.30	\$ -
	Lot Line Adjustment	\$ 2,044.40	\$ 2,044.40	\$ -
	Dedication/Vacation	\$ 5,698.10	\$ 5,698.10	\$ -
	Grading Plan	\$ 4,714.00	\$ 4,714.00	\$ -
	Building Construction	\$ 11,995.20	\$ 11,995.20	\$ -
	Transportation	\$ 10,304.30	\$ 10,304.30	\$ -
	Landscape	\$ 3,330.00	\$ 1,530.00	\$ 1,800.00
	Annexation Fees	\$ 4,238.00	\$ 4,238.00	\$ -
	Flood Department	\$ 5,000.00	\$ 5,000.00	\$ -
	Fire Department	\$ 836.00	\$ 519.00	\$ 317.00
	Health Department	\$ 3,269.00	\$ 3,269.00	\$ -
	SKR Fee	\$ 250.00	\$ 250.00	\$ -
	Open Space	\$ 3,430.00		\$ 3,430.00
	Developer Fee	\$ 1,853.00		\$ 1,853.00
	DIFF	\$ 5,421.00		\$ 5,421.00
	TUMF Fees	\$ 25,859.00		\$ 25,859.00
	Bonds	\$ 4,410.00		\$ 4,410.00
City Counsel	\$ 568.50	\$ 568.50	\$ -	
Regional Water Control Board		\$ 872.00	\$ 872.00	\$ -
South Coast Air Quality		\$ 1,337.22	\$ 1,287.22	\$ 50.00
City of Riverside				\$ -
	Sewer Department	\$ 3,604.50	\$ 3,604.50	\$ -
	Water Department	\$ 20,942.00		\$ 20,942.00
Southern California Edison				
	Relocate Facilities	\$ 8,135.54		\$ 8,135.54
	Street Light Installation	\$ 2,073.88		\$ 2,073.88
Telephone				
Southern Cal Gas				\$ -
RAMCAM Engineering Design				
	Planning Design w/ Reimbursable	\$ 47,432.21	\$ 47,432.21	\$ -
	Rk Engineering Traffic Impact	\$ 7,200.00	\$ 7,200.00	\$ -
	RK Engineering Shared parking	\$ 7,430.00	\$ 7,430.00	\$ -
	Geotechnical and Soils	\$ 3,650.00	\$ 3,650.00	\$ -
	Printing and Reprographics	\$ 1,900.23	\$ 1,900.23	\$ -
	Construction Documents	\$ 60,150.00	\$ 50,000.00	\$ 10,150.00
	Dedication/Vacation/Survey Design	\$ 4,160.00		\$ 4,160.00
	Paleo Report	\$ 980.00	\$ 980.00	\$ -
	Title Report	\$ 500.00	\$ 500.00	\$ -
	Archaeological Associates	\$ 2,500.00		\$ 2,500.00
	Revised Landscape	\$ 1,500.00		\$ 500.00
	Printing and Reprographics	\$ 4,200.02	\$ 4,200.02	\$ -
	Bonds			
	Faithful Performance Landscape	\$ 1,200.00		\$ 1,500.00
	Grading Agreements	\$ 30.00		\$ 1,500.00
	Transportation Faithful Performance	\$ 2,940.00		\$ 1,500.00
	Transportation Material and Labor	\$ 1,470.00		\$ 1,500.00
		\$ 317,143.11	\$ 218,901.69	\$ 97,601.42

# Expense Budget

Hig/Check Date \$ 36,191.86 CUP03577 Planning Fees

Planning	Budget
Lot Line Adjustment	
Street Vacation/Dedication	
PP Landscape	
CC&Rs	
Construction	Budget
Street Improvement	
Street Lighting	-
Grading Plan	-
landscape	-
Signining & Striping	-
Street Light Annex	
Traffic Signal Annex	-
Landscape Mainteance	-
Street Sweeping	
WQMP and Grading	
Fire Building	
Fire Water Line	307
Fire UST	
Fire Healy	
Health UST	
Health Food Services	
Health Advantex	
Building	
Canopy	
Trash Enclosure	
Aerial Lights	
Grading Plan	
Paleo	
Archeo	
Open Space fee	3,430
SKR Fee	
Developer fee (school)	1,853
County Service Area	
Water Company	20,942
DIFF	5,421
TUMF fee	25,859
Transporation Inspection	2,799
Misc Fees	1,000
Landscape Secutrtrites	1,800
Total Expenses	Budget

5794 11/24/09

5807 12/3/09

5810 12/3/09

5796 11/24/09

5808 12/3/09

5839 12/28/09

5840 12/29/09

\$45,000.0

X (\$1,500.0) CUP additional supplemental fees

X (\$1,020.0) Transporation Department

X (\$3,485.3) Additional Transporation Fee

X (\$1,789.0) County Environmental Health UST

X (\$1,480.0) County Environmental Health Food Facilities

X (\$5,000.0) County of Riverside Flood Department

X (\$1,000.0) Dedication

X (\$1,638.1) Street Vacation

X (\$1,138.3) Substantial Conformance

X (\$683.4) Lot Line Adjustment

X (\$722.9) Aerial Lights

X (\$672.7) Trash Enclosure

X (\$742.0) Wall Permit

X (\$9,857.6) Commerical building

X (\$4,714.0) Commerica Grading

X (\$1,020.0) Additional Funds for Survey

X (\$418.5) City of Riverside Water Installation review *Counsel fee*

X (\$800.00) LLA additional funds

X (\$500.0) Preliminary Title report

X (\$510.0) Landscape Plan review

X (\$519.0) County Fire Department

X (\$980.00) CRM Tech Paloe Report

(\$2,261.3) Printing and Reprographics

X (\$357.0) additional lot line adjustment fees

X (\$1,020.0) additional funds CUP03577S1

X (\$204.0) additiional fund for LLA05352

X (\$2,500.0) Annexation fee

X (\$1,020.0) vacation

X (\$105.0) cc&Rs recordation fee

X (\$1,020.0) adiditiional funds for dedication

\$12,000.0 check no. 614 additional plancheck fees

(\$1,738.0) EDA Engineers Report

X (\$23.0) *Recording fees*

(\$36.0) *Recording fees*

X (\$1,020.0) Plot Plan additional fees

X (\$3,604.5) Sewer Capacity Fee X

(\$1,938.9) Printing and Reprographics

\$5,799.0

X (\$3,000.0) County Plancheck fee Transporation

X (\$250.0) SKR fee

\$2,510.5

*+50 Recording fees.*  
*23.*  
*30*

This is without sewer connections fees



Highgrove Plaza Detailed Expenses  
1340 Center Ave  
Riverside, CA 92507

County of Riverside Planning Fees			Total	Paid to Date	Due
	CUP03577, EA41677/CFG		\$ 37,556.71	\$ 37,556.71	\$ -
County of Riverside Construction					
<b>Plancheck &amp; Permit Fees</b>	CUP03577S1		\$ 2,158.30	\$ 2,158.30	\$ -
	Lot Line Adjustment		\$ 2,044.40	\$ 2,044.40	\$ -
	Dedication/vacation		\$ 5,698.10	\$ 5,698.10	\$ -
	Grading Plan		\$ 4,714.00	\$ 4,714.00	\$ -
	Building Construction		\$ 11,995.20	\$ 11,995.20	\$ -
	Transportation		\$ 10,304.30	\$ 10,304.30	\$ -
	Landscape		\$ 3,330.00	\$ 1,530.00	\$ 1,800.00
	Annexation Fees		\$ 4,238.00	\$ 4,238.00	\$ -
	Flood Department		\$ 5,000.00	\$ 5,000.00	\$ -
	Fire Department		\$ 836.00	\$ 519.00	\$ 317.00
	Health Department		\$ 3,269.00	\$ 3,269.00	\$ -
	SKR Fee		\$ 250.00	\$ 250.00	\$ -
	Open Space		\$ 3,430.00		\$ 3,430.00
	Developer Fee		\$ 1,853.00		\$ 1,853.00
	DIFF		\$ 5,421.00		\$ 5,421.00
	TUMF Fees		\$ 25,859.00		\$ 25,859.00
	Bonds		\$ 4,410.00		\$ 4,410.00
	City Counsel		\$ 568.50	\$ 568.50	\$ -
Regional Water Control Board			\$ 872.00	\$ 872.00	\$ -
South Coast Air Quality			\$ 1,337.22	\$ 1,287.22	\$ 50.00
City of Riverside					\$ -
	Sewer Department		\$ 3,604.50	\$ 3,604.50	\$ -
	Water Department		\$ 20,942.00		\$ 20,942.00
Southern California Edison					
	Relocate Facilities		\$ 8,135.54		\$ 8,135.54
	Street Light Installation		\$ 2,073.88		\$ 2,073.88
Telephone					
Southern Cal Gas					\$ -
RAMCAM Engineering Design					
	Planning Design w/ Reimbursable		\$ 47,432.21	\$ 47,432.21	\$ -
	Rk Engineering Traffic Impact		\$ 7,200.00	\$ 7,200.00	\$ -
	RK Engineering Shared parking		\$ 7,430.00	\$ 7,430.00	\$ -
	Geotechnical and Soils		\$ 3,650.00	\$ 3,650.00	\$ -
	Printing and Reprographics		\$ 1,900.23	\$ 1,900.23	\$ -
	Construction Documents.		\$ 60,150.00	\$ 50,000.00	\$ 10,150.00
	Dedication/Vacation/Survey Design		\$ 4,160.00		\$ 4,160.00
	Paleo Report		\$ 980.00	\$ 980.00	\$ -
	Title Report		\$ 500.00	\$ 500.00	\$ -
	Archaeological Associates		\$ 2,500.00		\$ 2,500.00
	Revised Landscape		\$ 1,500.00		\$ 500.00
	Printing and Reprographics		\$ 4,200.02	\$ 4,200.02	\$ -
	Bonds				



Off Site Street Improvement Construction Items	\$ 103,123.00		\$ 103,123.00
On-Site Construction Items	\$ 181,007.80		\$ 181,007.80
On-Site Fire Services	\$ 13,615.00		\$ 13,615.00
Off-Site Fire Services	\$ 13,816.00		\$ 13,816.00
On-Site Water Services	\$ 4,020.00		\$ 4,020.00
Building Construction	\$ 404,203.00		\$ 404,203.00
Fuel Area Canopy and Chevron canopy lighting	\$ 62,065.00		\$ 62,065.00
Fueling System	\$ 201,713.00		\$ 201,713.00
Subtotal	\$ 983,562.80		\$ 983,562.80
Contractor's General Conditions	\$ 59,845.00		\$ 59,845.00
Contractor's Overhead and Profit 7%	\$ 78,225.59		\$ 78,225.59
Total Construction	\$ 1,121,633.39		\$ 1,121,633.39
Fuel System Equipment	\$ 277,847.00		\$ 277,847.00
<b>Total Construction &amp; Fuel Equipment</b>	<b>\$ 1,399,480.39</b>		<b>\$ 1,399,480.39</b>
<b>Additional Construction Items</b>			
Sign Package	\$ 70,000.00		\$ 70,000.00
Surveying	\$ 8,400.00		\$ 8,400.00
Soil Compaction testing onsite and offsite	\$ 5,435.00		\$ 5,435.00
Special Inspections	\$ 2,500.00		\$ 2,500.00
Chevron Extramile C-Store Interior Equipment/EX ext Signs	\$ 98,500.00		\$ 98,500.00
Chevron Refresh Equipment/Signage	\$ 23,100.00		\$ 23,100.00
3000 gal, grease interceptor/sanitary sewer	\$ 14,592.30		\$ 14,592.30
Security Camera System	\$ 12,000.00		\$ 12,000.00
	<b>\$ 234,527.30</b>		

Construction Items	\$	<b>1,399,480.39</b>
Engineering Design & Permit Items	\$	317,143.11
Construction Management @3.5% of the total of 1,399,480.39	\$	48,981.81
Total Additional Construction Items	\$	234,527.30
Loan Amount	\$	<b>2,000,132.61</b>
Contingency		

[illegible]



## PERMIT ASSISTANCE CENTER CASE INFORMATION



Case #: MT 110355      A   P   D

Amount: \$ 38,157.68

Case #:                                      A   P   D

Amount:

Case #:                                      A   P   D

Amount:

Case #:                                      A   P   D

Amount:

DATE: \_\_\_\_\_

TOTAL **▶** \$ 38,157.68

***Please take this sheet to the Cashier at time of payment.***

***Thank You***



# Non-Residential Western TUMF Fee Worksheet

Building Permit Number

908090076

Determining Department

Plan Check

\* Square Footage of Building

3942

store only

Defined Use Type (Fuel Filling Stations, Group Quarters, Congregate Care Facilities and Nursing Homes, Mini Warehouses and Rental Storage, Golf Courses, Wholesale Nurseries, Retail Nurseries/Garden Centers, Warehouse/Distribution Centers)

Planning

Fee Payment Square Footage

362,646

from N.R.D. worksheet

Planning

Fee Category

retail

(Industrial, Retail Commercial) Service Commercial, Class A or Class B)

Planning

RBBBD (Road & Bridge Benefit District) Total Credit Amount

\$ 0

Rate Used per Sq. Ft.

Transportation

RBBBD MT Reference No.

WTUMF MT Number

Plan Checkers Name

B. Lewis

Transportation Permit Name

Planners Name

Diana Ross

Trans. Planner Employees Name  
(for RBBBD Credit)

retail 3,29 x 22,646 = 74,560.24

\* The gross floor area of non-residential developments is defined as the sum, measured in square feet, of the area at each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices, that are included within the principal outside faces of the exterior wall of the building or structure, not including architectural setbacks or projections. Included are all stories or areas that have floor surfaces with clear standing head room (at least 6 feet, 6 inches) regardless of their use. Where a ground level area, or part thereof, within the principal outside faces of the exterior walls of the building or structure is left un-roofed (such as a garden center at a home improvement store), the gross floor area of the un-roofed portion will be added to the overall square footage of the building for the purpose of the non-residential fee calculation unless the unroofed area is solely provided for architectural or aesthetic purposes. (WRCOG TUMF Calculation Handbook - Revised 08/09/06, Adopted 05/01/06)

**Worksheet A.2.2 Fuel Filling Station TUMF Calculation Worksheet**

1.	<div><div>12</div><div>Enter Total Number of Fuel Filling Positions</div></div>	X	1,885.5	=	<div><div>23,626</div><div>Total A</div></div>
2.					<div><div>3940</div><div>Total B</div></div> <div><div>Enter Total Gross Floor Area of Buildings (In square feet)</div></div>
3.	<div><div>23,626</div><div>Enter the greater of Total A and Total B</div></div>				<div><div>Enter this value as (part of) the <u>Total Gross Floor Area of Retail Buildings</u> in Worksheet A.2.1</div></div>



## Board of Supervisors

<b>District 1</b>	<b>Bob Buster</b>
<i>Chairman</i>	951-955-1010
<b>District 2</b>	<b>John F. Tavgliione</b>
	951-955-1020
<b>District 3</b>	<b>Jeff Stone</b>
	951-955-1030
<b>District 4</b>	<b>John Benoit</b>
	951-955-1040
<b>District 5</b>	<b>Marion Ashley</b>
	951-955-1050

September 13, 2011

Attallah Abugherir  
High Grove Plaza Partners, LLC  
Highgrove Chevron Gas Station  
5867 Dora Court  
Riverside, CA 92506

RE: Request for Review by the Board of Supervisors of the Transportation Uniform Mitigation Fee Program Ordinance No. 824 (TUMF) Appeal from High Grove Plaza Partners, LLC for the Highgrove Chevron Gas Station and Convenience Store approved under CUP03577, located at 1340 Center Street, Riverside.

Dear Mr. Abugherir:

This correspondence is in response to your request for our review of the appeal you have submitted regarding your protest that the payment required for TUMF for your project should be waived or reduced. In accordance with Ordinance No. 824 and the TUMF Administrative Plan, the Board of Supervisors for the County of Riverside (Board) shall consider the appeal and a written decision shall be forwarded to the Western Riverside Council of Governments (WRCOG). The following decision made regarding this appeal is based on the information provided by Transportation and Land Management Agency staff (TLMA) and correspondence exchanged between your organization and TLMA.

We have reviewed the matter including your protest letters submitted and TLMA's response thereto. Based on our review, we find the actions and determinations previously made by TLMA on August 11, 2011 were in accordance and consistent with the Riverside County ordinances and policies adopted by this Board as well as the TUMF Administration Plan. Copies are attached for your reference. Development mitigation fees such as the Western Riverside County TUMF are applied to all new development within the program boundaries as provided in the ordinance. The Building and Safety Department is authorized to levy and calculate the fees as provided in the TUMF Fee Calculation Handbook and collect in accordance with Ordinance No. 824, and in your case, staff could not find a basis in the ordinance language to grant a waiver, reduction or credit.

Page 2 of 2

September 13, 2011 to Attallah Abugherir of Highgrove Chevron Gas Station

In accordance with the TUMF Administrative Plan, we shall forward this written decision to the WRCOG for review. If WRCOG Executive Committee disagrees with this decision, the WRCOG Executive Committee shall determine a proper course of action and notify the County of its findings.

Sincerely,

Bob Buster, Chairman  
Riverside County Board of Supervisors

Attachments: Ordinance No. 824.11  
WRCOG TUMF Administrative Plan revised 8/4/08



**ORDINANCE NO. 824  
(AS AMENDED THROUGH 824.11)  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
AUTHORIZING PARTICIPATION IN THE WESTERN RIVERSIDE COUNTY  
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM**

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. TITLE. This ordinance shall be known as the "Western Riverside County Transportation Uniform Mitigation Fee Program Ordinance of 2010" ("Ordinance").

Section 2. FINDINGS. The Board of Supervisors finds that:

- a. The County, as a member agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and sixteen (16) cities located in Western Riverside County, must act in concert with the WRCOG Member Agencies to develop and update a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System of Highways and Arterials in Western Riverside County ("Regional System"), depicted in Exhibit "A", attached hereto and by this reference incorporated herein, could be made up in part by a Transportation Uniform Mitigation Fee ("TUMF") on future residential, commercial and industrial development.
- b. WRCOG prepared a certain "Western Riverside County Transportation Uniform Fee Nexus Study," dated October 18, 2002 ("2002 Nexus Study") in compliance with the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*); whereby the County adopted and implemented an ordinance, based on the 2002 Nexus Study, authorizing the County's participation in the TUMF Program.
- c. As a TUMF Participating Jurisdiction, the County must follow the recommendation made by the WRCOG Executive Committee and amend its TUMF ordinance, based on the new nexus study entitled "Transportation Uniform Mitigation Fee Nexus Study: 2009 Update" ("2009 Nexus Study") to reflect changes in the TUMF network and the cost of construction in order to update, among other things, the TUMF Program Fee schedules.
- d. It has considered the 2009 Nexus Study, including its Addendum regarding temporary fee reduction, and its findings in adopting this ordinance.
- e. Continuation of a TUMF Program is essential because 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.
- f. 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.

- g. 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.
- h. The cost estimates set forth in the new 2009 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.
- i. The impact of an economic recession on development and the construction sector in Western Riverside County, as indicated in the Addendum to the 2009 Nexus Study, has been substantial and a temporary fifty percent (50%) reduction in TUMF through December 31, 2010 will encourage economic development by reducing the overall cost of development. An adjustment of the entire TUMF Program will also assure that each development continues to contribute a fair share of the total Program costs.
- j. A minor decrease in TUMF revenues will not have a material effect on the ability to fulfill the purposes of the TUMF Program or the ability to make the findings recited herein pursuant to the Mitigation Fee Act.
- k. The Fees collected pursuant to this ordinance shall be used to help pay for the design, planning, construction of and real acquisition for the Regional System improvements and its facilities as identified in the 2009 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.

Section 3. PURPOSE. The purpose of this ordinance is to authorize the County's participation in the TUMF Program which establishes and sets forth policies, regulations, and authorized uses of fees collected relating to the funding for the construction of improvements and facilities to enlarge the capacity of the Regional System of Highways and Arterials in Western Riverside County necessary to address the direct and cumulative environmental effects generated by new development projects described and defined in this ordinance.

Section 4. AUTHORITY. This ordinance is established under the authority of Article 11, Section 7 of the California Constitution and Title 7, Division 1, Chapter 5 of the Government Code, beginning with Section 66000 et seq., which provides that a local agency may establish fees for the purpose of defraying all or a portion of the cost of public facilities related to development projects.

Section 5. DEFINITIONS. As used in this ordinance, the following terms shall have the following meanings:

- a. Area Plan. The area plan as it is depicted in Exhibit "B" and noted as the unincorporated areas of Riverside County as referenced and attached to this ordinance.

- b. Board of Supervisors or Board. The Board of Supervisors of the County of Riverside.
- c. Class "A" Office. An office building that is typically characterized by high quality design, use of high end building materials, state of the art technology for voice and data, on-site support services/maintenance, and often includes full service ancillary uses such as, but not limited to a bank, restaurant/office coffee shop, health club, printing shop, and reserved parking. The minimum requirements of an office building classified as Class 'A' Office shall be as follows: (1) minimum of three stories (exception will be made for March JPA, where height requirements exist); (2) minimum of 10,000 square feet per floor; (3) steel frame construction; (4) central, interior lobby; and (5) access to suites shall be from inside the building unless the building is located in a central business district with major foot traffic, in which case the first floor may be accessed from the street to provide entrances/exits for commercial uses within the building.
- d. Class "B" Office. An office building that is typically characterized by high quality design, use of high end building materials, state of the art technology for voice and data, on-site support services/maintenance, and often includes full service ancillary uses such as, but not limited to a bank, restaurant/office coffee shop, health club, printing shop, and reserved parking. The minimum requirements of an office building classified as Class 'B' Office shall be as follows: (1) minimum of two stories; (2) minimum of 15,000 square feet per floor; (3) steel frame, concrete or masonry shell construction; (4) central, interior lobby; and (5) access to suites shall be from inside the building unless the building is located in a central business district with major foot traffic, in which case the first floor may be accessed from the street to provide entrances/exits for commercial uses within the building.
- e. County. The County of Riverside.
- f. Development Project or Project. Any project undertaking for the purposes of development including the issuance of a permit for construction.
- g. Gross Acreage. The total property area as shown on a land division of a map of record, or described through a recorded legal description of the property. This area shall be bounded by road rights of way and property lines.
- h. Habitable Structure. Any structure or part thereof where persons reside, congregate or work and which is legally occupied in whole or part in accordance with applicable building codes, and state and local laws.
- i. Industrial Project. Any development project that proposes any industrial or manufacturing use allowed in the following ordinance No. 348 zoning classifications: I-P, M-S-C, M-M, M-H, M-R, M-R-A, A-1, A-P, A-2, A-D, W-E, or SP with one of the aforementioned zones used as the base zone.
- j. Lower Income Residential Housing. Residential units in publicly subsidized projects constructed as housing for lower income households as such households are defined pursuant to section 50079.5 of the Health and Safety Code. "Publicly subsidized projects," as the term is used herein, shall not include any project or project applicant receiving a tax credit provided by the State of California Franchise Tax Board.
- k. Multi Family Residential Unit. A development project that has a density of greater than eight (8) residential dwelling units per gross acre.
- l. Non-Residential Unit. A retail commercial, service commercial and industrial

development which is designed primarily for non-dwelling use, but shall include hotels and motels.

- m. Recognized Financing District. A Financing District as defined in the TUMF Administrative Plan as may be amended from time to time.
- n. Residential Dwelling Unit. A building or portion thereof used by one (1) family and containing but one (1) kitchen, which is designed primarily for residential occupancy including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.
- o. Retail Commercial Project. Any development project that proposes any commercial use which does not fall within the definition of a service commercial project as it is defined within this ordinance that are allowed in the following Ordinance No. 348 classifications: R-1, R-R, R-R-O, R-1-A, R-A, R-2, R-2-A, R-3, R-3-A, R-T, R-T-R, R-4, R-5, R-6, C-1/C-P, C-T, C-P-S, C-R, C-O, R-V-C, C-V, W-2, R-D, N-A, W-2-M, W-1, or SP with one of the aforementioned zones used as the base zone.
- p. Service Commercial Project. Any development project that is predominately dedicated to business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, except any development project which falls under the definitions of a Class "A" or Class "B" Office defined above.
- q. Single Family Residential Unit. Each residential dwelling unit in a development that has a density of eight (8) units to the gross acre or less.
- r. Transportation Uniform Mitigation Fees or TUMF or Fees. The Fees imposed pursuant to the provisions of Ordinance No. 824.
- s. TUMF Participating Jurisdiction. A jurisdiction in Western Riverside County which has adopted and implemented an ordinance authorizing participation in the TUMF Program and complies with all regulations established in the TUMF Administrative Plan, as adopted and amended from time to time by the WRCOG.
- t. TUMF Program. The Process of collecting and expending Transportation Uniform Mitigation Fees.

**Section 6.** TRANSPORTATION UNIFORM MITIGATION FEE. The following fees collected pursuant to this ordinance shall provide revenue to pay for the design, planning, construction of and real property acquisition for the Regional System improvements and its facilities as identified in the 2009 Nexus Study. The Transportation Uniform Mitigation Fees shall be paid for each residential unit, development project or a portion thereof to be constructed, in the amounts specified for each category as defined herein and shown below commencing on the effective date of this ordinance:

- a. Adoption of TUMF Schedule. The following TUMF schedule is hereby adopted:
  - 1) \$8,873.00 per single family residential unit
  - 2) \$6,231.00 per multi-family residential unit
  - 3) \$ 1.73 per square foot of an industrial project
  - 4) \$ 10.49 per square foot of a retail commercial project
  - 5) \$ 4.19 per square foot of a service commercial project
  - 6) \$ 2.19 per square foot of a service Class A and B Office
- b. Fee Calculation. The fees shall be calculated according to the calculation methodology fee set forth in the Fee Calculation Handbook adopted July 14, 2003,

as amended from time to time. The following shall be observed for purposes of calculating the fee:

- 1) For non-residential projects, the fee rate utilized shall be based upon the predominant use of the building or structure identified in the building permit and as further specified in the TUMF Administrative Plan.
- 2) For non residential projects, the fee shall be calculated on the total square footage of the building or structure identified in the building permit and as further specified in the TUMF Administrative Plan.
- c. Fee Adjustment. The fee schedule may be periodically reviewed and the amounts adjusted by the WRCOG Executive Committee. By amendment to the ordinance, the fees may be increased or decreased to reflect the changes in actual and estimated costs of the Regional System including, but not limited to, debt service, lease payments and construction costs. The adjustment of the fees may also reflect changes in the facilities required to be constructed, in estimated revenues received pursuant to this ordinance, as well as the availability or lack thereof of other funds with which to construct the Regional System. WRCOG shall review the TUMF Program no less than every four (4) years after the effective date of this ordinance.
- d. Applicability. The TUMF, including during the temporary reduction period, shall apply to all new development within the WRCOG Boundary of County, as identified by Exhibit "B", attached hereto and by this reference incorporated herein, unless otherwise exempt hereunder.

Section 7. TEMPORARY FEE REDUCTION PERIOD. Pursuant to the fee adjustment authority set forth in Section 6.c. and notwithstanding Section 6.a., or any other provision of this ordinance, the following TUMF fee schedule shall apply for the period commencing on February 12, 2011 and ending on March 11, 2011, unless otherwise amended or repealed by the Board:

- a. Temporary Fee Schedule.
  - 1) \$4,437.00 per single-family residential unit
  - 2) \$3,115.00 per multi-family residential unit
  - 3) \$ 0.86 per square foot of an industrial project
  - 4) \$ 5.24 per square foot of a retail commercial project
  - 5) \$ 2.10 per square foot of a service commercial project
  - 6) \$ 1.10 per square foot of a service Class A and B Office
- b. Application. The temporary fee reduction described in this section shall not apply to or affect fees owed under any development agreement or other contractual arrangement in effect on or before the effective date of Ordinance No. 824.10. If reduced fees are paid pursuant to this section at the issuance of a building permit and either the building permit or the application there for expires, subsequent building permit applications on the same parcel shall be subject to the full TUMF amount, unless the temporary fee reduction is still in effect at the time of the subsequent application.
- c. Effect. No provision of this section shall entitle any person who has already paid the Transportation Uniform Mitigation Fees to receive a refund, credit or reimbursement of such payment. This section only effects a temporary change in the County's Transportation Uniform Mitigation Fees.

- d. Expiration. As of December 31, 2011, this section is repealed without further action by the Board of Supervisors, unless the Board of Supervisors repeals or modifies this section prior to that date. The repeal of this section shall not affect the validity of actions taken or Transportation Uniform Mitigation Fees paid under the authority of this section.”

Section 8. EXEMPTIONS. The following types of new development shall be exempt from the provisions of this ordinance:

- a. Lower income residential housing.
- b. Government/public buildings, public schools and public facilities.
- c. The rehabilitation and/or reconstruction of any habitable structure in use on or after January 1, 2000, provided that the same or fewer traffic trips are generated as a result thereof.
- d. Development Projects which are the subject of a Public Facilities Development Agreement (“Development Agreement”) entered into pursuant to Government Code section 65864 *et seq*, prior to the effective date of Ordinance No. 824, wherein the imposition of new fees are expressly prohibited provided that if the term of such a Development Agreement is extended by amendment or by any other manner after the effective date of Ordinance No. 824, the TUMF shall be imposed.
- e. Guest Dwellings, as defined in Section 21.31 of Ordinance No. 348.
- f. Additional single family residential units located on the same parcel pursuant to the provisions of any agricultural zoning classifications set forth in Ordinance No. 348.
- g. Kennels and Catteries established in connection with an existing single family residential unit and as defined in Sections 21.40a and 21.20 of Ordinance No. 348.
- h. Detached Second Units pursuant to Section 18.28a of Ordinance No. 348.
- i. The sanctuary building of a church or other house of worship, eligible for a property tax exemption.
- j. Any nonprofit corporation or nonprofit organization offering and conducting full-time day school at the elementary, middle school or high school level for students between the ages of five and eighteen years.

Section 9. CREDIT. Regional System improvements may be credited toward the TUMF in accordance with the TUMF Administrative Plan and the following:

- a. Regional Tier.
  - 1) Arterial Credits. If a developer constructs arterial improvements identified in the Regional System, the developer shall receive credit for all costs associated with the arterial component based on approved the Nexus Study for the Regional System effective at the time the parties enter the credit agreement. WRCOG staff must pre-approve any credit agreements that deviate from the standard WRCOG approved format.
  - 2) Other Credits. In special circumstances, when a developer constructs off-site improvements such as an interchange, bridge, or railroad grade separation, credits shall be determined by WRCOG and the County in consultation with the developer. All such credits must have prior written approval by WRCOG.

- 3) The amount of the Fee credit shall not exceed the maximum amount determined by the 2009 Nexus Study for the Regional System at the time the credit agreement is entered into or actual costs, whichever is less.
- b. Local Tier.
  - 1) The local jurisdictions shall compare facilities in local fee programs against the Regional System and eliminate any overlap in its local fee program except where there is a Recognized Financing District has been established.
  - 2) If there is a Recognized Financing District established, the local agency may credit that portion of the facility identified in both programs against the TUMF in accordance with the TUMF Administrative Plan.

Section 10. REIMBURSEMENTS. Should the developer construct Regional System improvements in excess of the TUMF obligation, the developer may be reimbursed based on actual costs or the approved Nexus Study, including Addendum 1, effective at the time the agreement was entered into, whichever is less. Reimbursements shall be enacted through an agreement between the developer and the County, contingent on funds being available and approved by WRCOG. In all cases, however, reimbursements under such special agreements must coincide with construction of the transportation improvements as scheduled in the five-year Capital Improvements Program adopted annually by WRCOG.

Section 11. PROCEDURES FOR THE LEVY, COLLECTION AND DISPOSITION OF FEES.

- a. Authority of the Building Department. The Director of Building & Safety, or his/her designee, is hereby authorized to levy and collect the TUMF and make all determinations required by this ordinance.
- b. Payment. Payment of the fees shall be as follows:
  - 1) The fees shall be paid at the time a certificate of occupancy is issued for the Development Project or upon final inspection, whichever comes first ("Payment Date"). However, this section should not be construed to prevent payment of the fees prior to issuance of an occupancy permit or final inspection. Fees may be paid at the issuance of a building permit and the fee payment shall be calculated based on the fee in effect at that time, provided the developer tenders the full amount of his/her TUMF obligation. If the developer makes only a partial payment pursuant to a WRCOG-Developer Deferral Agreement prior to the Payment Date, the amount of the fee due shall be based on the TUMF schedule in place on the Payment Date. The fees shall be calculated according to fee schedule set forth in the ordinance and the calculation methodology set forth in the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time.
  - 2) The fees required to be paid shall be the fee amounts in effect at the time of payment is due under this ordinance, not the date the ordinance is initially adopted. The County shall not enter into a development agreement which freezes future adjustments of the TUMF.
  - 3) If all or part of any development project is sold prior to payment of the fee, the property shall continue to be subject to the requirement for payment of the fee. The obligation to pay the fee shall run with the land and be binding on all the successors in interest to the property.

- 4) Fees shall not be waived.
- c. Disposition of Fees. All fees collected hereunder shall be transmitted to the Executive Director of WRCOG within thirty (30) days for deposit, investment, accounting and expenditure in accordance with the provisions of this ordinance and the Mitigation Fee Act.
- d. Appeals. Appeals shall be filed with WRCOG in accordance with the provisions of the TUMF Administrative Plan. Appealable issues shall be the application of the fee, application of credits, application of reimbursement, application of the legal action stay and application of exemption.
- e. Reports to WRCOG. The Director of Building and Safety, or his/her designee, shall prepare and deliver to the Executive Director of WRCOG, periodic reports as will be established under Section 12. of this ordinance.

Section 12. APPOINTMENT OF THE TUMF ADMINISTRATOR. WRCOG is hereby appointed as the Administrator of the Transportation Uniform Mitigation Fee Program. WRCOG is hereby authorized to receive all fees generated from the TUMF within the County, and to invest, account for and expend such fees in accordance with the provisions of this ordinance and the Mitigation Fee Act. The detailed administrative procedures concerning the implementation of this ordinance shall be contained in the TUMF Administrative Plan adopted May 5, 2003 and as may be amended from time to time. Furthermore, the TUMF Administrator shall use the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time, for the purpose of calculating a developer's TUMF obligation. In addition to detailing the methodology for calculating all TUMF obligations of different categories of new development, the purpose of the Fee Calculation Handbook is to clarify for the TUMF Administrator, where necessary, the definition and calculation methodology for uses not otherwise clearly defined in the ordinance. WRCOG shall expend only that amount of the funds generated from the TUMF for staff support, audit, administrative expenses, and contract services that are necessary and reasonable to carry out its responsibilities and in no case shall the funds expended for salaries and benefits exceed one percent (1%) of the revenue raised by the TUMF Program. The TUMF Administrative Plan further outlines the fiscal responsibilities and limitations of the Administrator.

Section 13. VIOLATIONS AND PENALTIES. A violation of any provision of this ordinance is an infraction as hereinafter specified. A person is guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed or continued. Any violation of this ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action. Every violation determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation within one year. The penalties herein are in addition to any other remedies provided by law and the payment of any penalty herein shall not relieve a person of the obligation to correct the violation.



Section 14. SEVERABILITY. If any of the terms, provisions or sections of this ordinance or the application thereof to any person or circumstances shall to any extent be judged invalid, unenforceable and/or voidable for any reason whatsoever by a court of competent jurisdiction, such invalidity or determination shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 15. JUDICIAL REVIEW. In accordance with State law, any judicial action or proceeding to attack, review, set aside, void or annul this ordinance shall be commenced within ninety (90) days of the date of adoption of this ordinance.

Section 16. SUPERSESSION OF OTHER FEES. The Fees established by this ordinance shall supersede and replace those fees previously established and applicable under Riverside County Ordinance No. 824 and shall apply to the issuance of any development permit or entitlement made on and after the date that this ordinance takes effect.

Section 17. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

**Adopted:**

824 Item 3.55 of 12/10/2002 (Eff: 02/08/2003)

**Amended:**

824.1 Item 9.2 of 12/21/2004 (Eff: 03/01/2005)

824.2 Item 16.3 of 05/02/2006 (Eff: 07/03/2006)

824.3 Item 15.7 of 05/01/2007 (Eff: 07/02/2007)

824.4 Item 15.2 of 05/20/2008 (Eff: 07/19/2008)

824.5 Item 3.79 of 07/01/2008 (Eff: 07/01/2008)

824.6 Item 16.3 of 04/28/2009 (Eff: 06/27/2009)

824.7 Item 3.33 of 12/1/09 (Eff: 12/31/2009) (Except that Section 6. subsection a.(4) shall take effect sixty (60) days after its adoption.) (Eff: 01/31/2010)

824.8 Item 3.70 of 12/14/2010 (Eff: immediately)

824.9 Item 3.81 of 01/11/2011 (Eff: immediately)

824.10 Item 3.27 of 01/25/2011 (Eff: 02/24/2011)

824.11 Item 3.42 of 02/08/2011 (Eff: immediately)

**EXHIBIT "A"**

**MAP OF WESTERN RIVERSIDE COUNTY & REGIONAL SYSTEM**

**EXHIBIT "B"**

WRCOG BOUNDARY OF COUNTY

# **Transportation Uniform Mitigation Fee**

## **ADMINISTRATIVE PLAN**

**Revised August 4, 2008**



**PREPARED BY THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
RIVERSIDE COUNTY ADMINISTRATIVE CENTER ANNEX  
4080 LEMON STREET, 3<sup>RD</sup> FLOOR, MS 1032  
RIVERSIDE, CALIFORNIA, 92501-3609  
PHONE (951) 955-7985  
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***Western Riverside Council of Governments (WRCOG)***

***Administrative Plan for the***

***Western Riverside County Transportation Uniform Mitigation Fee  
(TUMF) Program***

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***Administrative Plan for the  
Western Riverside County Transportation Uniform Mitigation Fee  
(TUMF) Program***

**Preamble**

Future development within Western Riverside County will result in traffic volumes exceeding the capacity of the Regional System of Highways and Arterials (RSHA or Regional System) as it presently exists. The Regional System needs to be expanded to accommodate anticipated future growth; current funds are inadequate to construct the Regional System needed to avoid the unacceptable levels of traffic congestion and related adverse impacts.

The TUMF Program will provide significant additional funds from new development to make improvements to the Regional System, complementing funds generated by Measure A and the Reauthorized Measure A, local transportation fee programs, and other potential funding sources. By establishing a fee on new development in the sub-region, local agencies can establish a mechanism by which developers will effectively contribute their "fair share" toward sustaining the regional transportation system. This is a twenty-year program and will be influenced by a variety of market factors that could cause a shortfall or surplus in the revenue projections. The TUMF Program shall be reviewed at fewer than five-year intervals to ensure the integrity of the program with the first review occurring in June of 2005. The program is not designed to be the only source of revenue to construct the identified facilities, and it will be necessary for matching funds from a variety of available sources to be provided.

It is the intent that TUMF requirements may be met by paying cash, building eligible facilities or through public financing, such as Community Facility Districts and Assessment Districts, or private financing vehicles consistent with local jurisdiction policies.

General TUMF Program parameters, definitions and procedures are described in the TUMF Program Ordinance adopted by participating Western Riverside County jurisdictions. The Western Riverside Council of Governments (WRCOG) is designated as the TUMF Program Administrator, and as such will work closely with member jurisdictions, the Riverside County Transportation Commission, and the Riverside Transit Agency to coordinate transportation expenditure programs to maximize the effectiveness of future transportation investments. The Program Administrator, WRCOG, agrees to indemnify, defend and hold harmless any TUMF Program participant, and its respective agents, officers, members, officials, employees, and attorneys, whose TUMF Ordinance is challenged in court, from and against all claims, liabilities, damages, or costs of any kind whatsoever, including attorneys' fees and court costs; provided, however, that such indemnity and defense shall not extend or apply to challenges alleging procedural defects in the adoption of the TUMF Ordinance.

"TUMF Administrative Plan" means the Administrative Plan for the Western Riverside County TUMF Program prepared by WRCOG dated March 24, 2003, in substantially the form approved by the WRCOG Executive Committee on April 7, 2003, as may be amended from time to time, provided that, any material amendments to the TUMF Administrative Plan shall be approved by WRCOG Executive Committee."

This Administrative Plan serves as the guideline to implement the TUMF Program and will be amended as needed to address changing conditions over the life of the program.

- I. **Purpose** - The Purpose of this Administrative Plan is to provide those jurisdictions and agencies that are participants in TUMF Program with guidelines and policies for implementation of the TUMF Program. This Administrative Plan specifies implementation and responsibilities for the TUMF Program.

TUMF Program funds may only be used for capital expenditures associated with the Regional System of Highways and Arterials and for capital expenditures for transit system improvements consistent with the TUMF Nexus Study. These purposes include expenditures for the planning, environmental review, engineering and design costs, right of way acquisition, and administrative costs.

- II. **Authority** - The TUMF Program applies to those jurisdictions in Western Riverside County (County of Riverside and the Cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar and the March JPA) that have adopted and are implementing the TUMF Program Ordinance. The TUMF Program has been developed pursuant to and consistent with authority provided in the requirements of California Government Code Chapter 5 Section 66000-66008 Fees for Development Projects (also known as California Assembly Bill 1600 (AB 1600 or the Mitigation Fee Act) which governs the assessment of development impact fees in California. The Mitigation Fee Act requires that all local agencies in California, including cities, counties, and special districts follow two basic rules when instituting impact fees as follows:

- A. Establish a nexus or reasonable relationship between the development impact fee's use and the type of project for which the fee is required;
- B. The fee must not exceed the project's proportional "fair share" of the proposed improvement and cannot be used to correct current problems or to make improvements for existing development.

- III. **Imposition of and Participation in the TUMF Program** - Participating jurisdictions in Western Riverside County are responsible for collecting the fees on new development within their jurisdictions. To be considered a participant in the TUMF Program a jurisdiction must have an effective date for the TUMF Ordinance of no later than June 1, 2003 and adopt any amendment of the TUMF Ordinance within ninety (90) days of approval by the WRCOG Executive Committee unless otherwise directed by the WRCOG Executive Committee. The local jurisdictions must adopt the Model TUMF Ordinance and any amendments as prepared by WRCOG staff and approved by the WRCOG Executive Committee. Participating jurisdictions shall not modify the Model TUMF Ordinance, except to meet local municipal codes and references. Further, in order to be considered a participating jurisdiction, local jurisdictions shall collect the full TUMF and transmit the fee to WRCOG as provided herein.

Those jurisdictions that have ordinances with an effective date after June 1, 2003 or opt out of the TUMF Program and decide to participate at a later date must remit to WRCOG the amount of TUMF Program fees for new development that were not collected by the jurisdiction. In order to verify the amount of revenue that would have been collected during the period in which a jurisdiction did not participate, said jurisdiction shall provide WRCOG with an annual report of building permit activity by the land uses identified in the Nexus Study. The remittance of the fee can be accomplished either in a lump sum or through a separate MOU with WRCOG with a repayment schedule. Those jurisdictions that are not considered participants in the TUMF Program



shall not be eligible to participate in the TUMF Program or the decision-making processes as more fully described in this document.

Non-participating jurisdictions will be ineligible to vote on any TUMF Program item and to receive their share of an estimated \$970 million in local streets and roads funds that will be allocated from the Reauthorized Measure A.

- A. Expiration Of Building Permits** - If a building permit should expire, is revoked, or is voluntarily surrendered and is, therefore voided and no construction or improvement of land or construction has commenced, then the applicant is entitled to a refund of the TUMF (Fee) collected which was paid as a condition of approval, less administration. The fee payer shall submit an application for a refund to the local jurisdiction who will forward it to WRCOG for processing.

The applicant must pay the appropriate TUMF in full if he reapplies for the permit.

If a development project is partially under construction at the time of the effective date of the TUMF Ordinance, the TUMF shall be paid only on that portion of the development for which a building permit is next issued.

- B. Calculation of the TUMF** - Each participating jurisdiction shall calculate and collect the TUMF for projects as outlined in the Fee Calculation Handbook. For residential, the fee is based on the number of units and for non-residential the fee is based on the square footage. This method of calculation may be different from how the local development impact fee is determined.

The TUMF shall be calculated using the most current fee schedule in effect at the time the fee is due. Participating jurisdictions are prohibited from freezing TUMF by such means as "locking" a fee rate by paying a deposit or a portion of the fee prior to the date the fee is due or by entering into a Development Agreement or other agreement with a developer that freezes the fee at a certain level.

**Partial Payments or Deposits:** WRCOG discourages the use of deposits and partial payments as it will create additional reporting requirements for the jurisdictions and may give the developer the impression that the fees are not subject to change. However, if a jurisdiction allows for deposits or partial payments, it will transmit the partial payment/deposit to WRCOG in accordance with the TUMF ordinance along with a remittance report. In the variance column of the Remittance report, the jurisdiction shall indicate that the fee collected is a portion of the total due. When the balance is paid, the jurisdiction will calculate the total fee for the project based on the TUMF fee schedule in place at the time the balance is paid and deduct the partial payment against the total. The balance will be transmitted in accordance with the TUMF ordinance and this Administrative Plan. The variance column of the Remittance report shall indicate that the balance is paid. If there is a fee adjustment between the deposit/partial payment and the payment of the balance, the fee which is required to be paid will be based on the most current TUMF fee schedule.

- C. March Joint Powers Authority** - The March Joint Powers Authority (JPA) has land use authority and will need to adopt the TUMF Program in the same manner as the cities and county. The March JPA will not have a separate vote at the WRCOG Executive Committee as it has representation by elected officials from the County of Riverside and cities of Riverside, Moreno Valley and Perris. The

Executive Director of the March JPA shall be a voting member of the WRCOG TAC for TUMF Program items only.

**IV. Allocation of Funds** – After administrative costs are allocated as specified in Section IX herein, TUMF funds shall be distributed in accordance with WRCOG Executive Committee actions, the Nexus Study, this Administrative Plan and any future amendments thereto

**A. Allocation to Regional Transit Improvements** - Of the TUMF funds received by WRCOG, 2.6% shall be allocated to the Riverside Transit Agency for making regional transit improvements.

**B. Allocation to Regionally Significant Transportation Improvements** - Of the TUMF funds received by WRCOG, 48.7% shall be allocated to the Riverside County Transportation Commission (RCTC) for programming improvements to the arterials of regional significance on the Regional System of Highways and Arterials.

**C. Allocation to Zones** - Of the TUMF funds received by WRCOG, 48.7% shall be allocated to the five Zones for programming improvements to the Regional System of Highways and Arterials as determined by the respective Zone Committees. The amount of TUMF funds allocated to each Zone shall be proportionate to the amount of TUMF revenue generated from the zone.

**V. Administration of the Plan** - WRCOG shall administer the TUMF Program as described in the enabling Ordinance adopted by participating jurisdictions and further defined in this Administrative Plan.

**VI. Administration of Credits** - Each jurisdiction shall be responsible for the administration of TUMF credit agreements. Each jurisdiction shall transmit all TUMF credit agreements to WRCOG within 60 days of execution by that jurisdiction. WRCOG may administer credit agreements upon written request from that jurisdiction. The credit agreements shall be in accordance with the following:

**A. Developer Credits** - If a developer constructs improvements identified on the RSHA, the developer shall receive credit for all costs associated with the improvements based on approved unit cost assumptions for the RSHA. Typically, major infrastructure, such as rail grade separations, interchanges, transit projects, etc., is constructed by the local jurisdiction rather than the developer, and involves multiple parties, as such; this section makes the distinction between credit agreements for major infrastructure and the standard arterial improvements.

The amount of the development fee credit shall not exceed the maximum amount determined by the most current unit cost assumptions for the RSHA, or actual costs, whichever is less. This shall be known as the maximum TUMF credit. The maximum TUMF credit shall be determined based on approved Improvement Plans and after Conditions of Approval have been determined. The maximum TUMF credit shall identify, at a minimum, the facility, the dimensions of the facility, the number of lanes, and applicable unit costs components as identified in Appendix F in the adopted Nexus Study. The credit /reimbursement eligibility process is outlined in Exhibit "B" of this document.

Any improvement made to the RSHA that is obligated through an existing fee district (prior to June 1, 2003) shall not be eligible for TUMF credit.

Should it be determined that a jurisdiction granted credits exceeding the maximum TUMF credit, that jurisdiction shall provide WRCOG payment in the amount equal to the excess credit amount.

1. **Credits** - Prior to receiving any credit, a written credit agreement shall be executed between the jurisdiction or and the developer.
2. **Credit for Right of Way (ROW) Dedication** – A developer may receive credit for dedication of ROW for RSHA improvements. This section addresses the crediting of ROW dedications which are not part of construction projects. The ROW component in the current Nexus Study determines the maximum share of credit available. An appraisal is required to determine the value of the ROW being dedicated. The appraisal of the ROW is determined by one of the following methods:
  - a. The developer provides to the jurisdiction a current appraisal (no more than two years old), of the ROW to be dedicated. The jurisdiction reviews it and determines if the appraisal is valid and acceptable. or
  - b. The developer accepts the appraisal of the jurisdiction.

**B. Local Development Impact Fees and other funding programs** - The local jurisdiction shall compare facilities in local fee programs against the RSHA and eliminate any overlap in its local fee program.

**1. New Financing Districts and Bond Issues:**

For a financing district created or bonds or other evidence of indebtedness issued on or after June 1, 2003, the local jurisdiction may allow a property owner, in lieu of the payment of the TUMF, to participate in such a financing district for the following facilities: (i) a Regionally Significant Transportation Improvement, as defined as those facilities that typically are proposed to have six lanes at build out and extend between multiple jurisdictions, or discrete useable segment thereof, as determined by WRCOG, (ii) any interchange on an interstate or state highway with an estimated construction cost of fifteen million dollars (\$15,000,000) or more, (iii) any railroad crossing with an estimated construction cost of more than ten million dollars (\$10,000,000), and (iv) any bridge located on a regionally significant arterial as defined in (i) of this section.

1. Prior to excusing payment under this Section VI.B. the local jurisdiction must do both of the following:
  - (a) Sell bonds in an amount sufficient to construct the improvement for which the financing district is created; and
  - (b) Receive written approval from the WRCOG Executive Director, or designee.
  - (c) In the event that a local jurisdiction is unable to satisfy the

requirements of section I (a), above, the local jurisdiction may still excuse the payment of bonds if the local jurisdiction enters into an agreement with WRCOG in which it commits to pay the full amount of any excused Fee, plus interest at the average rate earned by WRCOG over the past twelve months, in the event that the bonds maybe extended up to an additional 5 years with the approval of the WRCOG Executive Committee.

2. If a local jurisdiction proposes to excuse payment of the TUMF as provided in this Section VI.B, then the jurisdiction shall provide WRCOG reasonable information to account for the credit.
3. If payment is excused as provided in this Section VI.B, then the jurisdiction shall be responsible for construction of the improvements and those improvements shall not be eligible for TUMF Program prioritization or funding.
4. As used in this section, a financing district means a community facilities district, a local road and bridge district, or an assessment district.
5. Where there is an existing financing district or an existing fee program established prior to June 1, 2003, with bonded indebtedness, then the local jurisdiction may excuse payment of the TUMF for that portion of the facility identified in both programs. Notwithstanding the previous sentence, a local jurisdiction shall not excuse fee payment for any facilities for which bonds have been issued after February 4, 2008, regardless of when the financing district was first created.
6. Any dispute regarding this implementation of this Section VI.B. may be appealed by the local jurisdiction to the WRCOG Executive Committee for a final determination.
7. This Section VI.B is not intended to impact the administration of credits under Section VI.A. of the Administrative Plan.

**C. Use of Credit by Developer** – Any TUMF credit shall be used first by the developer to offset any obligation of the developer to pay TUMF impact fees of the same development project.

- Credits may not be transferred or sold to other development projects.
- Developers must exhaust all credits before they are eligible for reimbursements.
- Credits shall run with the sale of the land.

**VII. Administration of Reimbursements** – Local jurisdictions/agencies and developers are eligible for reimbursement for construction of TUMF facilities. The processes for both are different and are described below.

1. **Developer Reimbursements:** Each jurisdiction shall be responsible for the administration of reimbursement agreements. WRCOG may administer reimbursement agreements upon written request from the jurisdiction.

Should the developer construct RSHA improvements in excess of the TUMF obligation the developer may be reimbursed based on actual costs or the approved unit cost assumptions, whichever is less at the time of the agreement. A development that is exempt from paying the TUMF is not eligible for a reimbursement. Reimbursements shall be made through an agreement between the developer, and the local jurisdiction, and contingent upon funds being available. In all cases reimbursements under such agreements must coincide with construction of the transportation improvements as scheduled in the five year Transportation Improvement Program (TIP) adopted annually by WRCOG.

The developer may enter into a reimbursement agreement with the jurisdiction to reimburse the developer/owner for the direct and verifiable costs of constructing improvements to the RSHA when all of the following conditions are met:

- a. All available credits are exhausted;
- b. The improvements received prior approval from the jurisdiction and WRCOG based on the review of the TUMF project priority list;
- c. The jurisdiction and WRCOG have reviewed and approved the scope of the project to be constructed.

In no event shall the developer be reimbursed for improvements to the RSHA in excess of the most current approved unit cost assumptions for the TUMF at the time of the agreement.

2. **Local Jurisdictions/Agencies:** Local jurisdictions are exempt from paying TUMF as such there are no credits given for projects constructed by a local jurisdiction, however the contribution to the RSHA maybe considerable. In such cases where a local jurisdiction constructs TUMF facilities it is eligible for reimbursement up to the maximum share identified in the Nexus Study or actual cost whichever is less, in accordance with the prioritization schedule in the adopted Transportation Improvement Plan.

Local jurisdictions are required to enter into a reimbursement agreement with WRCOG in order to be eligible to receive TUMF revenue.

## **VIII. Administrative Responsibilities**

- A. **Program Administration** - As set forth in Section II above, WRCOG is designated as the TUMF Program Administrator. As Administrator, WRCOG will receive all fees generated from the TUMF as collected by local jurisdictions. WRCOG shall invest, account for and expend such fees in accordance with the TUMF Ordinance and applicable state laws.

For jurisdictions that are not participating in the TUMF Program, the representative for that jurisdiction shall not be eligible to vote on any matter related to the TUMF Program that goes before the WRCOG TAC and WRCOG Executive Committee.

1. **The WRCOG Executive Director** - Reporting to the WRCOG Executive Committee, the Executive Director shall be responsible for the following TUMF Program activities:

- a. Administration of the TUMF Program, including development of credit and reimbursement agreements, fee collection process and processing Program appeals;
- b. An independent fiscal audit conducted to report on the evidence that the expenditure of funds collected is in accordance with the Mitigation Fee Act. The audit shall be presented to the WRCOG Executive Committee and made available to the public. .
- c. Establishment and management of the "TUMF Program Trust Fund" for the purposes of depositing TUMF revenues and income interest earned on Trust Fund deposits;
- d. Preparation of an Annual Report for consideration by the WRCOG Executive Committee detailing the status of the TUMF Program including but not limited to fees collected and disseminated, capital projects planned for, prioritized, and built, reimbursement and credit agreements, appeals, and recommendations for TUMF Program adjustments;
- e. Preparation of periodic comprehensive TUMF program review reports that provide, in concert with requirements of the California Mitigation Fee Act, an analysis of the TUMF Program, including review of the various Nexus Study inputs and assumptions, and preparation of recommendations on potential TUMF Program revisions for consideration by the WRCOG Executive Committee. Such reports may include, but are not limited to recommended fee adjustments based on changes in the facilities required to be constructed, and revenues received pursuant to the Ordinance;
- f. Preparation of technical studies/analysis required to select and prioritize Regionally Significant Arterial projects;
- g. Development of a 10-year Strategic Plan that identifies long term planning goals and objectives for implementation of the TUMF Program;
- h. Development of a five year TIP that identifies projects that are scheduled and funded for construction over a specified period of time and is reviewed on an annual basis;
- i. Staff support to and coordination with each of the TUMF Zone Committees as necessary;
- j. Other related activities as directed by the WRCOG Executive Committee.
- k. Approve Zone and RTA TIP Administrative Amendments;
- l. Execute all Amendments to TUMF reimbursement agreements.

- 2. The WRCOG Executive Committee** - The WRCOG Executive Committee shall be responsible for reviewing and acting on recommendations for project selection and prioritization of the Regionally Significant Arterials, 10-year Strategic Plan, and the TIP. The WRCOG Executive Committee shall review and consider recommendations on projects from the Public Works Committee and WRCOG TAC. The WRCOG Executive Committee shall also be responsible for approval of the TUMF Program Administrative Plan and any subsequent amendments thereto. From time to time, the WRCOG Executive Committee shall recommend changes to the Ordinance for consideration by participating jurisdictions.

In developing recommendations on Regionally Significant Arterials for consideration by the WRCOG Executive Committee, WRCOG staff and the Committee structure shall work with RCTC to coordinate compatibility with Measure A project priorities and schedules of area transportation improvements. WRCOG staff and the WRCOG Executive Committee shall also work with WRCOG jurisdictions and each Zone Committee for the same purposes.

For jurisdictions that are not participating in the TUMF Program, the WRCOG Executive Committee representative for that jurisdiction shall not be eligible to vote on any matter related to the TUMF that goes before the WRCOG Executive Committee.

3. **The WRCOG Technical Advisory Committee (TAC)** - The WRCOG TAC shall review the technical documents and recommendations for Regionally Significant Arterials developed by the Public Works Committee and other committees that may be convened by the WRCOG Executive Committee. The WRCOG TAC shall forward any recommendations to the WRCOG Executive Committee for its consideration. The WRCOG TAC shall also provide additional assistance to the TUMF Program as requested by the WRCOG Executive Committee. For jurisdictions that are not participating in the TUMF Program, the WRCOG TAC representative for that jurisdiction shall not be eligible to vote on any matter related to the TUMF Program that goes before the WRCOG Executive Committee.
4. **The Public Works Committee/TUMF PWC (PWC)** - The PWC shall be comprised of the Public Works Director or designee from each participating jurisdiction of WRCOG, RCTC, RTA and WRCOG and shall be responsible for the following:
  - a. Developing objective criteria for project selection and prioritization including but not limited to the following factors: traffic safety issues potentially created by growth, regional significance, availability of matching funds, mitigation of congestion created by new development, system continuity, geographic balance, project readiness, and completed projects with reimbursement agreements;
  - b. Providing additional assistance to the TUMF Program as requested by the WRCOG Executive Committee, RCTC and/or the WRCOG TAC;
  - c. Preparing the 10 year Strategic Plan;
  - d. Preparing the five year TIP which will be reviewed annually and amended every two years;
  - e. Review and recommend the RCTC Regional Arterial TUMF Program of Projects; to the WRCOG TAC, WRCOG Executive Committee and RCTC;
  - f. Select a lead agency for each of the projects in the TIP;
  - g. Review Annual Report prepared by WRCOG;
  - h. Review and revise the RSHA as may be necessary (at a minimum every 5 years);
  - i. Review and revise Unit Cost Assumptions to the RSHA as may be necessary (at a minimum every 5 years);

**B. Regional Arterial Administration** - RCTC, through an MOU with WRCOG (effective October 1, 2008) is the responsible agency for programming and delivering the Regionally Significant Arterials as defined in the Nexus Study. WRCOG and RCTC have established a committee structure that incorporates the Public Works Directors, City Manager and WRCOG Executive Committee and the RCTC Board for the development, review and approval of the Regional Arterial TUMF Program of projects.

1. **The RCTC Executive Director-** Reporting to the RCTC, the Executive Director shall be responsible for the following TUMF Program activities:
  - a. Establishment and management of the "TUMF Program Trust Fund" for the purposes of depositing TUMF revenues and income interest earned on Trust Fund deposits;
  - b. Development of the RCTC Regional Arterial TUMF Program that identifies projects that are scheduled and funded for construction over a specified period of time and is reviewed on an annual basis;
  - c. Staff support to and coordination with the TUMF Committees as necessary;
  - d. Other related activities as directed by the RCTC Board.
2. **The RCTC Board** - The RCTC Board shall be responsible for reviewing and acting on recommendations for project selection and prioritization of the RCTC Regional Arterial TUMF Program. The RCTC Board shall review and consider recommendations on projects from the TUMF Public Works Committee, WRCOG TAC and WRCOG Executive Committee.

**C. Zone Administration** - Each Zone shall establish a committee structure, similar to the one outlined in Exhibit A, for the purpose of developing a Transportation Improvement Plan (TIP) consistent with the Strategic Plan for the project prioritization scheduling, and construction of zonal RSHA projects using TUMF funds returned to each zone. Each zone shall also be responsible for selecting a lead agency for each project listed in the TIP. All zones shall approve their TIP by consensus and forward their recommendations to WRCOG for review and approval to ensure compatibility with the intent of the 10 year Strategic Plan. Zone dollars are to be allocated by the Zone Committee only and can not be utilized or borrowed for projects located outside the zone unless such projects are: 1) proposed and approved by the Zone Committee and 2) it is consistent with the Nexus Study. In furtherance of this Section VIII.B, each Zone shall abide by the Guidelines set forth in Exhibit "C".

The Riverside County Transportation Improvement Plan approved by Riverside County voters on November 5, 2002 states "Funding which is not allocated to a city or county because it is not a participant in the TUMF Program in the Coachella Valley area and the TUMF and MSHCP in the Western County area shall be allocated to the Regional Arterial Program in the geographic area in which the city or portion of the county is located".

Each City and a portion of the unincorporated area of Riverside County are assigned to each of the zones. The five Zones are as follows:



1. Northwest Zone – The Cities of Riverside, Corona, Norco and the County of Riverside, March JPA;
2. Southwest Zone – The Cities of Temecula, Lake Elsinore, Murrieta, Canyon Lake, Wildomar and the County of Riverside;
3. Central Zone – The Cities of Moreno Valley and Perris, and the County of Riverside, March JPA;
4. Pass Zone – The Cities of Banning, Beaumont, Calimesa, and the County of Riverside;
5. Hemet/San Jacinto Zone – The Cities of Hemet and San Jacinto and the County of Riverside.

**D. Local Administration** - As described in the TUMF Ordinance, participating jurisdictions are responsible for collecting the TUMF. Fees collected and a corresponding Remittance Report are required to be transmitted to the Executive Director of WRCOG. In accordance with the TUMF Ordinance and the Mitigation Fee Act, WRCOG will deposit, investment, account and expend the transmitted fees. Participating jurisdictions are required to transmit reports as set forth below to WRCOG which shall include, but not be limited to the following information regarding the TUMF Program status.

1. **Monthly Remittance Reports** – Participating jurisdictions are required to submit the standard Remittance Report to WRCOG by the close of the month for the previous month's activity, for example; June's Remittance report is due August 1. The report will contain information necessary for WRCOG to determine the total amount of fees collected within each fee category as it relates to the number of building permits, certificates of occupancy, or final inspections issued during the same period of time. Remittance reports are required even when no fees have been collected, provided building permits or certificates of occupancy have been issued. In addition the participating jurisdiction shall provide WRCOG the following information: the name of the developer or payee, project address, APN, total square feet, credits issued, and such other information as requested by WRCOG. This information will assist WRCOG in tracking new development, total revenue received and revenue projections for purposes of program audits and program updates.
2. **Remittance Delays** - If a participating jurisdiction does not transmit the fees along with a corresponding Remittance Report by the close of the month for the previous month in which fees were collected, the following fiscal policy shall be applied:

On the first working day after the close of the month WRCOG staff will notify, in writing, the delinquent jurisdiction of the delinquency and request that said jurisdiction remit by the fifteenth (15<sup>th</sup>), the fees and the required Remittance Report;

If fees and Remittance Report have not been received, by the forty-fifth (45<sup>th</sup>) day, WRCOG staff will invoice the jurisdiction for the approximate

amount owed plus interest and penalties from the first day of the month following the closing of the month being reported;

WRCOG staff will continue this notification until sixty (60) days after the close of the month. At which time, WRCOG will determine if an audit is necessary of the jurisdiction's TUMF account, general ledger and any other financial data. If an audit is conducted, WRCOG will investigate the amount owed and the cause of delay. Upon completion of the audit, WRCOG staff shall make any recommendations to resolve any outstanding issues;

If an audit is required due to reporting and remittance irregularities, the jurisdiction could incur the cost of the audit.

- E. **Riverside Transit Agency (RTA)** – In accordance with the Nexus Study 2.6% of funds received will be made available to the RTA to make capital facilities improvements for transit purposes as identified in the Nexus Study. The RTA shall provide a report to the WRCOG Executive Committee each year, which has been reviewed by the City Managers/County Executives and the technical committees, detailing its expenditures of TUMF Program funds received, as well as future commitments for transit facilities using TUMF Program revenues as determined by the RTA Board of Directors.

- IX. **Administrative Costs.** The TUMF Ordinance authorizes WRCOG to expend funds generated from TUMF that are necessary and reasonable to carry out its responsibilities. The WRCOG Executive Committee adopted a series of policies that clarify the expenditure and retention of program funds for the Administration of the Program and they are as follows:

1. WRCOG will budget no more than one percent (1%) of the TUMF Program revenue for administration salaries and benefits;
2. Administration costs will be budgeted at whatever is reasonable and necessary, but not to exceed four percent (4%) of the TUMF revenues (inclusive of the one percent administrative salaries and benefit cap).
3. Beginning July 1, 2006, WRCOG shall take the administrative component from the revenue collected based on the total fee obligation inclusive of executed credit agreements.
4. Beginning July 1, 2006, all CFD's, SCIP and other financing mechanisms will pay the maximum (4%) administrative component in cash to WRCOG. When the administrative component is less than 4% then the surplus revenue will be allocated in accordance to their adopted percentages to the Multi-species Habitat Conservation Plan, RCTC, RTA and the Zones.
5. For refunds, whether it is because the project is no longer going forward or expiration of building permits (where no construction has commenced), the applicant is entitled to a refund less the administrative component.

- X. **Appeals.** Appeals shall only be made in accordance with the provisions of this Section X.

- A. **Persons or Entities Who Having Standing to Appeal.** No person or entity shall have standing to avail themselves of this Section X, except those persons or individuals who are responsible for paying the TUMF and have an unresolved appealable issue or matter.

**B. Appealable Issues and Matters.** No issue or matter shall be heard or reviewed under this Section X unless the issue or matter is appealable. An issue or matter is appealable, if a qualified person or entity ("Appellant") has a good-faith dispute directly related to Appellant's Property ("TUMF Dispute") regarding (i) the amount of Appellant's TUMF obligation; (ii) the administration of TUMF Credits; (iii) exemption of Appellant's property from the TUMF Program; (iv) administration of TUMF reimbursements; or (v) TUMF refunds.

**C. Appeal Process.**

1. If a qualified person or entity has a TUMF Dispute, he or she shall first attempt to resolve the dispute informally with the staff of the local jurisdiction. If the TUMF Dispute remains unresolved after a reasonable attempt to address it at the local level, the qualified person or entity may submit a written appeal to the appropriate department of the local jurisdiction. The written appeal shall thoroughly identify the TUMF Dispute. If the staff of the local jurisdiction determines the issue or matter is not a TUMF Dispute, the written appeal shall be rejected. Staff's decision shall be provided in writing to the Appellant. In such cases, if the Appellant desires further review from the Board of Supervisors/City Council of the affected local jurisdiction, the Appellant must submit a written request for review to the Clerk of the Board/City Council within five (5) days of receiving staff's written decision. The decision of the Board/City Council shall be forwarded to the WRCOG Executive Committee in the same manner set forth in Paragraph 3 of this Section.
2. If the written appeal identifies a TUMF Dispute, the Appellant and staff from the local jurisdiction shall attempt to resolve the issue within thirty (30) days of the local jurisdiction's receipt of the appeal. At the request of the local jurisdiction, or on its own accord, WRCOG staff may also participate in such discussions. At the conclusion of the thirty (30) day period, staff of the local jurisdiction shall render a written decision on the appeal.
3. The issue or matter shall be heard by the Board of Supervisors/City Council of the affected local jurisdiction; provided, the Appellant submits a written request for further review to the Clerk of the Board/City Council within five (5) days of Appellant's receipt of the local jurisdiction's written decision regarding the Appellant's appeal. The Board/City Council shall forward its written decision to WRCOG for review and concurrence. If the WRCOG Executive Committee disagrees with the decision of the City Council/Board of Supervisors the WRCOG Executive Committee shall determine a proper course of action and notify the jurisdiction of its findings.

**XI. Arbitration.** When there is a dispute among the Zone members that can not be resolved and prevents the adoption of a project prioritization schedule, the matter shall be forwarded to the WRCOG TAC and WRCOG Executive Committee for a determination. Once the WRCOG Executive Committee takes action on the issue the decision is final.

If there is a dispute at the WRCOG Executive Committee level regarding project prioritization of a specific project(s) and a consensus cannot be reached, that project

shall be tabled until such time as new information is presented and the matter can be resolved.

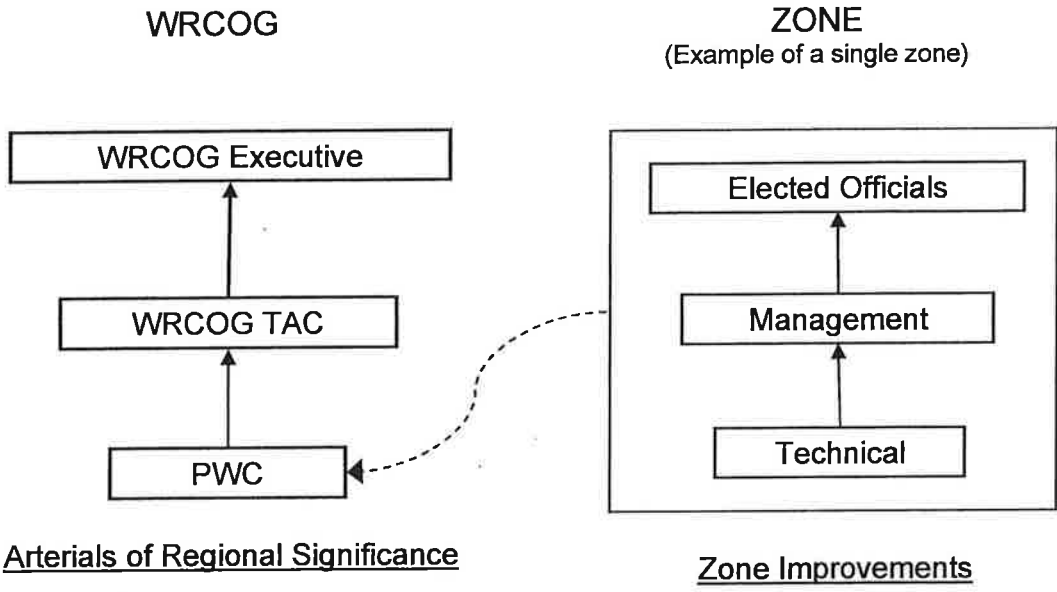
**XII. TUMF Program Amendments.** WRCOG shall undertake a review of all components of the TUMF Program in accordance with AB 1600 and other applicable laws, and, if necessary, recommend Program amendments and/or adjustments. Amendments to the Administrative Plan will be subject to the approval of the WRCOG Executive Committee. Amendments required to the TUMF Program Ordinance shall be approved by each participating jurisdiction, acting on recommendations provided by the WRCOG Executive Committee. The review shall consider whether future administration costs to participating jurisdictions are needed.

**XIII. CEQA.** The TUMF Program currently is a financing mechanism dependent on future actions of the WRCOG Executive Committee for improvements to the RSHA. WRCOG and its associated committees will be prioritizing and scheduling improvements on the RSHA, as such, the appropriate environmental documentation, shall be completed before a project can commence construction.

The TUMF Program was developed to mitigate the cumulative impacts of future growth on the RSHA. It was not developed to mitigate project-specific traffic impacts. Accordingly the program does not relieve any development project of the responsibility to mitigate project-specific impacts identified in the environmental analysis prepared for the project. When a development project is required to construct RSHA facilities as project-specific mitigation, it shall be eligible for credit and or reimbursement.

EXHIBIT "A"

*TUMF Decision Making*



## **EXHIBIT "B"**

### **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 City/County.
  - 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 City's/County'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 City/County and Developer ("Agreement"), Developer shall provide the City/County 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 City/County and WRCOG, guaranteeing the construction of all applicable TUMF Improvements.
3. Prior to the City's/County'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, 14.3 and 14.4 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 City's/County's inspection punch list.
  - c. After final inspection and approval of the completed TUMF Improvements, the City/County shall have provided the Developer a final inspection release letter.
  - d. City/County 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 City/County a copy of the As-Built plans for the TUMF Improvements.
  - f. Developer shall have provided City/County 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 City/County 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. Contracts/agreements, insurance certificates and change orders with each vendor or contractor.
  - iii. Invoices from all vendors and service providers.
  - iv. Copies of cancelled checks, front and back, for payments made to contractors, vendors and service providers.
  - v. Final lien releases from each contractor and vendor (unconditional waiver and release).
  - vi. Certified contract workers payroll for City/County verification of compliance with prevailing wages.
  - vii. 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.
4. The amount of the development credit shall not exceed the maximum amount determined by the most current unit cost assumptions for the RSHA in the adopted Nexus Study, or actual costs whichever is less. This shall be known as the maximum credit. The maximum TUMF credit shall be determined based on an approved Improvement Plan and after the Conditions of Approval have been determined.

## **Exhibit "C"**

### **Guidelines for Administration of Programmed Projects in Zone's Adopted 5-Year TIP**

Once each Zone's 5-Year Transportation Improvement Program (TIP) is adopted by the WRCOG Executive Committee, said TIPs shall be incorporated into and governed by these guidelines, the Administrative Plan, and 10-Year Strategic Plan in accordance with AB 1600. Annually, WRCOG staff meets with the Zone Technical Advisory Committees to review the status of all programmed projects on the 5-Year TIPs and bring the subsequent project adjustment requests to the Zone Committees for approval. The goals of the annual review process are as follows: (i) to update project cost estimates; (ii) to review project status; (iii) to determine the continued viability of projects; (iv) review the backlog of reimbursement projects; (v) to address local jurisdiction issues; and (vi) address compliance with AB 1600.

#### **Adjustments:**

In accordance with the 10-Year Strategic Plan and the original reimbursement agreement entered into with the lead jurisdiction, all approved projects' funding and schedules are directly tied to critical milestones. As such, requests to change a project's funding or schedule shall necessitate an amendment to the original agreement and the adopted TIP. Annual 5-Year TIP adjustments could include, but are not limited to:

- Scope of work reductions or additions,
- project or phase delays,
- project or phase cancellations,
- new shelf-ready network projects being added as replacement projects,
- project or phase advances, and
- request to transfer funding beyond a programmed project's limits within a Zone

#### **Levels of Approval:**

##### **A. Zone Committee/WRCOG Executive Committee**

The following shall be approved by the Zone Committee and adopted by the WRCOG Executive Committee as required in the Administrative Plan:

- 1) Annual updates to the Zone TIP.
- 2) Requests to increase total TUMF funding allocations to projects in the Zone TIP. These requests may be made by the local jurisdiction administratively outside of the annual TIP update cycles if deemed necessary by one of the Zone participating jurisdictions and WRCOG management due to unforeseen circumstances that necessitate immediate action. Such unforeseen circumstances shall include, but not be limited to, higher than expected bid prices, Might want to give more examples] WRCOG staff will obtain action from the Zone Committee in these cases either by calling for a Special Zone Committee meeting or through individual consultation.



- 3) Administrative requests to advance funds or adjust project schedules on TIP approved projects, upon the recommendation of the Public Works Committee. Such advancements are subject to:

- Jurisdiction's proof of readiness to move forward with project,
- Zone's current cash flow can support the advancement or change.

B. WRCOG Executive Director

The WRCOG Executive Director shall be responsible for the review and approval of the following changes to an approved Zone TIP, including the review and approval of any agreements, for:

- 1) Change in Lead Jurisdiction, with the written consent of the transferring and accepting Lead Jurisdiction.
- 2) Cancellation of project upon request of the local jurisdiction. In the event of cancellation, all funds shall revert to the Zone TIP Trust account.
- 3) Approval of final completion of the project. Upon notification from the Jurisdiction that the Project has been completed, all unused funds programmed for that Project shall revert to the Zone TIP Trust account.
- 4) All other administrative requests, upon consultation with the Public Works Committee.

C. Public Works Committee

The Public Works Committee shall be responsible for the review and approval of the following:

- 1) Requests to move funds within project categories (environmental, design, etc.) administratively, contingent upon participating jurisdiction's certification of viability of all phases.
- 2) Provide recommendations to the WRCOG Executive Director on any other requests that are deemed administrative in nature by the Director.

All administrative adjustments will be submitted to the WRCOG Executive Committee as part of the next Annual Review Report for final adoption.

D. Obligating Programmed Funds

The TUMF Program has established the policy that construction projects take priority and therefore WRCOG limits the obligation of TUMF dollars. WRCOG has two options by which to obligate TUMF. In both options, steps 1, 2 and 3 (Option A) or 6 (Option B) must be completed by the local jurisdiction to ensure TUMF funding can be made available for use on an eligible project. Since TUMF project funds are generally obligated on a first come first served basis, failure to follow the prescribed steps for either option may preclude a project sponsor from receiving TUMF payments for completed work until sufficient funds are available to be obligated.

**Option A:**

Funding for a project programmed on Zone 5-Year TIPs is not considered obligated by WRCOG until certain steps outlined below have been accomplished by the local jurisdiction.

1. Ensure that funding for the project phase is **programmed in the current year** of an adopted 5-Year TIP.
2. Ensure that there is a **signed (executed) reimbursement agreement** that matches the funding amount with the funding amount of the project phase in the adopted TIP.
3. Submit **an invoice for TUMF eligible work** prior to the end of the fiscal year to obligate the project phase funding. At the time of submitting the first invoice, the project sponsor will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.
4. WRCOG will obligate the entire phase of the project if there is available revenue at the time the invoice is submitted.

**Option B:**

Funding for a project programmed on Zone 5-Year TIPs is not considered obligated by WRCOG until the steps outlined below have been accomplished by the local jurisdiction.

1. Ensure that funding for the project phase is **programmed in the current year** of an adopted 5-Year TIP.
2. Ensure that there is a **signed (executed) reimbursement agreement** that matches the funding amount with the funding amount of the project phase in the adopted TIP.
3. Send WRCOG a letter of **notice of intent** to issue RFP, solicit bids, make offer to purchase ROW or other similar action to verify that sufficient funding is available and that funds are obligated and reserved exclusively for the particular project phase.
4. Receive a **notice of obligation** from WRCOG within fourteen working days of receipt of the notice of intent confirming the amount of funding that is obligated and reserved exclusively for the particular project phase. Alternatively, the project sponsor will receive a notice of deferred obligation if WRCOG determines that insufficient funds are currently available for the project phase to be obligated.
5. Award the project and execute a contract within four months of receipt of the notice of obligation from WRCOG and send a letter of **confirmation of award** to WRCOG including evidence of a Board/Council action relating to the project award and contract execution.
6. Commence project work and submit the **first invoice** for payment within nine months of receipt of letter of obligation by WRCOG to preserve fund obligation. At the time of submitting the first invoice, the project sponsor will be required to submit all necessary supporting documentation (not previously submitted) in accordance with the provisions of the reimbursement agreement.

If a contract has not been executed within four months of receipt of the notice of obligation from WRCOG (step 5), there will be a review of the project status. Based on the review of project status, WRCOG will either:

- i) extend the fund obligation for up to a total of nine months from the notice of obligation if the project sponsor can demonstrate a realistic expectation that the project will be awarded and a confirmation of award can be provided to WRCOG within that time frame; or
- ii) de-obligate the funds.

Similarly, if the first invoice has not been submitted to WRCOG within nine months of receipt of the letter of obligation (step 6), there will be a review of the project status. Based on the review of project status, WRCOG will either:

- i) extend the fund obligation for up to an additional nine months if the project sponsor can demonstrate a realistic expectation that the project work will commence and a first invoice is submitted within that time frame; or
- ii) de-obligate the funds.