

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

709



**FROM:** TLMA - Transportation Department

**SUBMITTAL DATE:**  
May 3, 2012

**SUBJECT:** Amendment 1 to TUMF Funding Agreement with Western Riverside Council of Governments (WRCOG) for the Magnolia Avenue Grade Separation Project

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

1. Approve the subject TUMF Funding Amendment 1 between WRCOG and the County, and authorize the Chairman to execute the same.
2. Authorize the Director of Transportation to approve future administrative amendments to this Agreement.

**BACKGROUND:** The proposed Magnolia Avenue Grade Separation Project is located in the unincorporated County area of Home Gardens, which is bordered by the City of Riverside and the City of Corona. Magnolia Avenue, a four-lane arterial currently crosses a Burlington

Juan C. Perez  
Director of Transportation

JCP:gh  
(Continued On Attached Page)

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 500,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/2012

<b>SOURCE OF FUNDS:</b> TUMF (100%)	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
There are no General Funds used in this project.	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

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

BY: Tina Grande

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
BY: DALE A. GARDNER  
DATE: 4/25/12  
Departmental Concurrence

Dep't Recomm.:  Consent  Policy

Per Exec. Ofc.:  Consent  Policy

**Prev. Agn. Ref.** 5/4/10, Item 3.73 | **District:** 2/2 | **Agenda Number:**

**3.19**

The Honorable Board of Supervisors

RE: Amendment 1 to TUMF Funding Agreement with Western Riverside Council of Governments (WRCOG) for the Magnolia Avenue Grade Separation Project

May 3, 2012

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Northern Santa Fe (BNSF) Railroad at-grade between Lincoln Street and Buchanan Street. Currently, vehicle, pedestrian and bicycle traffic along Magnolia Avenue all traverse the crossing at the BNSF Railroad tracks. At this crossing, there are two mainline railroad tracks that service freight trains, as well as Metrolink and Amtrak commuter trains.

The proposed Project will grade separate Magnolia Avenue from where it crosses the railroad tracks, which would improve vehicular traffic circulation and provide uninterrupted and efficient access for motorists, pedestrians, bicycles and emergency vehicles in this area. The grade separation of the railroad tracks at Magnolia has been identified as one of the top locations by the Riverside County Transportation Commission (RCTC) in the comprehensive study that they performed Countywide. This project has been approved to receive \$13.7 million from the State Trade Corridor Improvement Funds (TCIF) towards construction. This project has also received an allocation of \$15 million from the Congestion Mitigation and Air Quality (CMAQ) Improvement Program. We continue to work with RCTC to identify full funding for this project.

The County and WRCOG initially entered into a TUMF Funding Agreement for this Project in the amount of \$648,000, approved by the Board on May 4, 2010 (Agenda Item 3.73). This Amendment 1 would increase the TUMF funding amount for the Agreement by \$500,000 to a revised total of \$1,148,000, which adds partial funding for the Engineering/Design phase of the Project. This amended amount is consistent with the revised budget amount currently programmed in the WRCOG Northwest Zone TIP for this Project. Additional TUMF funding for the Project may be added by future amendments, provided that additional TUMF revenues become available.

Project Number: B70784

**AMENDMENT 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM  
AGREEMENT**

**MAGNOLIA AVENUE GRADE SEPARATION PROJECT  
(LINCOLN STREET TO BUCHANAN STREET)**

THIS AMENDMENT 1 (“Amendment”) is entered into this 5<sup>th</sup> day of March, 2012, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (“WRCOG”) and the COUNTY OF RIVERSIDE, acting through the COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT (“AGENCY”). WRCOG and the AGENCY are sometimes referred to individually as “Party” and collectively as “Parties.”

**RECITALS**

A. WRCOG and Agency have entered into an agreement titled “Transportation Uniform Mitigation Fee Program Agreement” to reimburse TUMF Funds, that was approved by the Riverside County Board of Supervisors on May 4, 2010 (“Agreement”). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the Magnolia Avenue Grade Separation Project (Lincoln Street to Buchanan Street), a Qualifying Project (the “Project”).

B. The Agreement provides funding for the Project Approval & Environmental Document (PA&ED) and the Plans, Specifications & Estimates (PS&E) phases of the Project.

C. The Parties desire to amend the Agreement by modifying the Funding Amount, the Project Schedule, the description of Project Costs Eligible for Advance/Reimbursement, and the description of the Ineligible Project Costs as specified in the Agreement.

D. The Funding Amount specified in the Agreement is being amended to match the funding amounts shown in the current Northwest Zone 5-year Transportation Improvement Plan (TIP) for this Project.

### AGREEMENT

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

1. The Funding Amount contained in Section 2 of the Agreement is hereby increased from Six Hundred Forty Eight Thousand dollars (\$648,000) to a revised not to exceed amount of One Million, One Hundred Forty Eight Thousand dollars (\$1,148,000).

2. The forgoing modification of the Funding Amount is within the Maximum TUMF Share.

3. Exhibit "A-1" Estimate of Cost of the Agreement is hereby deleted in its entirety and replaced with Exhibit "A-1" Estimate of Cost, which is attached to this Amendment and incorporated herein by reference.

4 Exhibit "A-2" Project Schedule of the Agreement is hereby deleted in its entirety and replaced with Exhibit "A-2" Project Schedule, which is attached to this Amendment and incorporated herein by reference.

5. Effective as of the date first set forth above, and applicable to costs incurred following said date, Section 3 of the Agreement, titled "Projects Costs Eligible for Advance/Reimbursement," shall be amended to include the following: "and (10) any AGENCY

administrative cost to deliver the Project.” Said Section 3 is hereby replaced in its entirety to read as follows:

“The total Project costs (“Total Project Cost” may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit “A” (“Scope of Work”): (1) AGENCY and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) all costs associated with right-of-way acquisition, including right-of-way engineering, appraisal, acquisition, legal costs for condemnation procedures if authorized by the AGENCY, and costs of reviewing appraisals and offers for property acquisition; (5) costs reasonably incurred if condemnation proceeds; (6) costs incurred in the preparation of plans, specifications, and estimates by AGENCY or consultants; (7) AGENCY costs associated with bidding, advertising and awarding of the Project contracts; (8) construction costs, including change orders to construction contract approved by the AGENCY; (9) construction management, field inspection and material testing costs; and (10) any AGENCY administrative cost to deliver the Project.”

6. Effective as of the date first set forth above, and applicable to costs incurred following said date, Section 4 of the Agreement, titled "Ineligible Project Costs," shall be amended to remove the following: "(1) AGENCY administrative costs". Said Section 4 is hereby replaced in its entirety to read as follows:

(1) any AGENCY fees attributed to the processing of the Project;  
and (2) expenses for items of work not included within the scope  
of work in Exhibit "A."

7. AGENCY agrees and confirms that AGENCY is acting through and is responsible for all obligations of the COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT, as set forth in the Master Agreement, as amended by this Amendment No. 1.

8. Except to the extent specifically modified or amended hereunder, all of the terms, covenants and conditions of the Agreement shall remain in full force and effect between the Parties hereto, and the Parties hereto agree to be bound by all such terms, covenants and conditions.

**[Signatures on Following Page]**

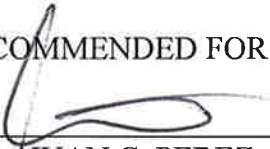
**SIGNATURE PAGE TO  
AMENDMENT 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM  
AGREEMENT  
MAGNOLIA AVENUE GRADE SEPARATION PROJECT  
(LINCOLN STREET TO BUCHANAN STREET - PA&ED AND PS&E Project Phases)**

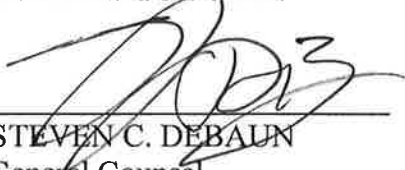
IN WITNESS WHEREOF, the Parties have caused this Amendment to the Agreement to be executed by their duly authorized representatives to be effective on the day and year first written above.


**WESTERN RIVERSIDE COUNCIL  
OF GOVERNMENTS**

**COUNTY OF RIVERSIDE  
ACTING THROUGH THE COUNTY OF  
RIVERSIDE TRANSPORTATION  
DEPARTMENT**

By:   
RICK BISHOP  
Executive Director

RECOMMENDED FOR APPROVAL:  
By:   
JUAN C. PEREZ  
Director of Transportation

APPROVED AS TO FORM:  
By:   
STEVEN C. DEBAUN  
General Counsel

APPROVED AS TO FORM:  
By:   
~~Dale A. Gardner~~  
County Counsel

APPROVAL BY THE BOARD OF  
SUPERVISORS:  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
JOHN F. TAVAGLIONE  
Chairman, Riverside County Board of  
Supervisors

ATTEST:  
KECIA HARPER-IHEM  
Clerk of the Board  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy

**EXHIBIT "A-1"**  
**ESTIMATE OF COST**

<b>PHASE</b>	<b>TUMF</b>	<b>LOCAL</b>	<b>TOTAL</b>
PA&ED	\$648,000	\$0	\$648,000
PS&E	\$500,000	\$0	\$500,000
ROW	NA	NA	NA
CON	NA	NA	NA
<b><i>Total Approved by WRCOG</i></b>	<b>\$1,148,000</b>	<b>\$0</b>	<b>\$1,148,000</b>



**EXHIBIT "A-2"**  
**PROJECT SCHEDULE**

PHASE	START DATE	COMPLETION DATE
PA&ED	FY 07/08	FY 11/12
PS&E	FY 09/10	FY 11/12
ROW	NA	NA
CON	NA	NA