

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



452A

**FROM:** TLMA - Transportation Department

**SUBMITTAL DATE:**  
August 8, 2013

**SUBJECT:** Transportation Uniform Mitigation Fee (TUMF) Program Reimbursement Agreement between the County and Lennar Homes of California, Inc., for road improvements associated with Tract 36376-1 and Tract 36376.

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

- 1) Approve the subject Agreement between the County and Lennar Homes California, Inc., (Developer); and
- 2) Authorize the Chairman of the Board of Supervisors to execute the same.

**BACKGROUND:** The attached Reimbursement Agreement is a supplemental document to the TUMF Improvement and Credit Agreement for the same tract. The improvements include the construction of two (2) lanes of roadway and four (4) lanes of bridge over Tualota Creek on

Juan C. Perez  
Director of Transportation and Land Management

(Continued On Attached Page)

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

|   |   |                          |
|---|---|--------------------------|
| <b>SOURCE OF FUNDS:</b> TUMF - 100%             | <b>Positions To Be Deleted Per A-30</b> | <input type="checkbox"/> |
| There are no General Fund 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: 8/16/13  
Departmental Concurrence

Dep't Recomm.:  Policy  Consent  
Per Exec. Ofc.:  Policy  Consent

Prev. Agn. Ref.

District: 3/3

Agenda Number:

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

3-102

The Honorable Board of Supervisors

RE: Transportation Uniform Mitigation Fee (TUMF) Program Reimbursement Agreement between the County and Lennar Homes of California, Inc., for road improvements associated with Tract 36376-1 and Tract 36376.

August 8, 2013

Page 2 of 2

Butterfield Stage Road along frontages of Tract 36376-1 and Tract 36376. These road improvements are identified under the TUMF Program and are required by conditions of approval for the tract, which are owned by the Developer.

The Transportation Department has determined that the Developer would be eligible for a reimbursement amount of approximately \$4,444,092 from the TUMF Program. Upon completion of the improvements, acceptance by the County, and verification of actual costs the Transportation Department will determine the actual reimbursement amount due to the Developer.

The payment of the reimbursement amount is subject to the improvements being scheduled for funding pursuant to the Western Riverside Council of Governments (WRCOG) Transportation Improvement Program (TIP), and WRCOG having funds available and appropriated for payment of the reimbursement amount.

A companion item appears on the County's agenda this same date.

**REIMBURSEMENT AGREEMENT  
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM**

**THIS REIMBURSEMENT AGREEMENT** (“Agreement”) is executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the County of Riverside, a subdivision of the State of California (“County”), and Lennar Homes of California, Inc., a California Corporation, with its principal place of business at 980 Montecito Avenue, Suite 302, Corona, CA 92879 (“Developer”). County and Developer are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

**RECITALS**

WHEREAS, County and Developer are parties to an agreement dated \_\_\_\_\_, 20\_\_, entitled “Improvement and Credit Agreement - Transportation Uniform Mitigation Fee Program” (hereinafter “Credit Agreement”);

WHEREAS, Sections 14.1 through 14.4 of the Credit Agreement provide that Developer is obligated to pay County the TUMF Obligation, as defined therein, but shall receive credit to offset the TUMF Obligation if Developer constructs and County accepts the TUMF Improvements in accordance with the Credit Agreement;

WHEREAS, Section 14.5 of the Credit Agreement provides that if the dollar amount of the credit to which Developer is entitled under the Credit Agreement exceeds the dollar amount of the TUMF Obligation, Developer may apply to County and WRCOG for a reimbursement agreement for the amount by which the credit exceeds the TUMF Obligation;

WHEREAS, Section 14.5 additionally provides that a reimbursement agreement executed pursuant to the Credit Agreement (i) shall be executed on the form attached to the Credit Agreement, (ii) shall contain the terms and conditions set forth therein, (iii) shall be subject to all terms and conditions of the Credit Agreement, and (iv) shall be attached upon execution to the Credit Agreement and incorporated therein as a material part of the Credit Agreement as though fully set forth therein; and

WHEREAS, County has consented to execute a reimbursement agreement with Developer pursuant to the Credit Agreement, County Ordinance No. 824, and the TUMF Administrative Plan adopted by WRCOG.

**NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:**

## TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Effectiveness. This Agreement shall not be effective unless and until the Credit Agreement is effective and in full force in accordance with its terms.

3.0 Definitions. Terms not otherwise expressly defined in this Agreement, shall have the meaning and intent set forth in the Credit Agreement.

4.0 Amount of Reimbursement. Subject to the terms, conditions, and limitations set forth in this Agreement, the Parties hereby agree that Developer is entitled to receive the dollar amount by which the Actual Credit exceeds the dollar amount of the TUMF Obligation as determined pursuant to the Credit Agreement, County Ordinance No. 824, and the TUMF Administrative Plan adopted by WRCOG ("Reimbursement"). The Reimbursement shall be subject to verification by WRCOG. County and Developer shall provide any and all documentation reasonably necessary for WRCOG to verify the amount of the Reimbursement. The estimated Reimbursement shall be \$4,444,092 ("Reimbursement Amount"). WRCOG shall pay the Reimbursement Amount to County and the County shall be responsible for transmitting the Reimbursement Agreement to the Developer. In no event shall the dollar amount of the Reimbursement exceed the difference between the dollar amount of all credit applied to offset the TUMF Obligation pursuant to Section 14.2, 14.3, and 14.4 of the Credit Agreement, and one hundred (100%) of the approved unit awarded, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG.

5.0 Payment of Reimbursement; Funding Contingency. The payment of the Reimbursement Amount shall be subject to the following conditions:

5.1 Developer shall have no right to receive payment of the Reimbursement unless and until (i) the TUMF Improvements are completed and accepted by County in accordance with the Credit Agreement, (ii) the TUMF Improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, (iii) WRCOG has funds available and appropriated for payment of the Reimbursement amount.

5.2 Developer shall not be entitled to any interest or other cost adjustment for any delay between the time when the dollar amount of the Reimbursement is determined and the time when payment of the Reimbursement Amount is made to Developer by WRCOG through County.

6.0 Affirmation of Credit Agreement. County and Developer represent and warrant to each other that there have been no written or oral modifications or amendments of the Credit Agreement, except by this Agreement. County and Developer

ratify and reaffirm each and every one of their respective rights and obligations arising under the Credit Agreement. County and Developer represent and warrant that the Credit Agreement is currently an effective, valid, and binding obligation.

7.0 Incorporation into Credit Agreement. Upon execution of this Agreement, an executed original of this Agreement shall be attached as Exhibit “D” to the Credit Agreement and shall be incorporated therein as a material part of the Credit Agreement as though fully set forth therein.


8.0 Terms of Credit Agreement Controlling. Each Party hereby affirms that all provisions of the Credit Agreement are in full force and effect and shall govern the actions of the Parties under this Agreement as though fully set forth herein and made specifically applicable hereto, including without limitation, the following sections of the Credit Agreement: Sections 10.0 through 10.3, Section 12.0, Sections 13.0 through 13.7, Sections 14.0 through 14.5, and Sections 15.0 through 15.16.

**[SIGNATURES OF PARTIES ON NEXT PAGE]**

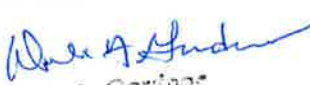
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

**COUNTY OF RIVERSIDE**

RECOMMENDED FOR APPROVAL:

By:   
\_\_\_\_\_  
Juan C. Perez  
Director of Transportation and Land  
Management

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Dora A. Gardner  
County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:


By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chairman, County Board of Supervisors

ATTEST:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Kecia Harper-Ihem  
Clerk of the Board

**DEVELOPER**

Lennar Homes of California, Inc.

By:   
\_\_\_\_\_  
Jeffrey T. Clemens  
Printed Name

\_\_\_\_\_  
Vice President  
Title

By: \_\_\_\_\_  
\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Title

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF RIVERSIDE         )

On July 2, 2013, before me, Sherry Alworth, a Notary Public for the State of California, personally appeared Jeffrey T. Clemens, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

**I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.**

WITNESS my hand and official seal.

Signature Sherry Alworth (Seal)

My Commission expires October 23, 2015



FOR REFERENCE ONLY

EXHIBIT "H"

Estimated TUMF Credit / Reimbursement Summary

Lennar Homes of California, Inc  
 Tract 36376-1 & TR 36376 (MS4273)  
 IP120047

List of Eligible Streets/Facilities under the TUMF Network:

Butterfield Stage Road (SW TUMF Zone) - 2 Lanes of Roadway and 4 Lanes of Bridge

TUMF Credit Cost Factors:

|   |    |           |
|---|----|-----------|
| Paid TUMF (see next page for details)                           | \$ | -         |
| Estimated TUMF Obligation (see next page for details)           | \$ | 3,921,866 |
| TUMF Unit Cost Assumptions (see next page for details)          | \$ | 8,365,958 |
| Improvement Costs (Engineer's Estimate) (see below for details) | \$ | 8,489,760 |

Improvement Costs Breakdown

|   |    |           |
|---|----|-----------|
| Street Improvement Construction Costs (Engineer's Estimate) | \$ | 800,000   |
| Right of Way Costs  | \$ | 92,000    |
| Bridge Construction Costs (Engineer's Estimate)             | \$ | 6,502,400 |
| Planning, Engineering, Geotechnical Services                | \$ | 1,095,360 |
| Improvement Costs Total                                     | \$ | 8,489,760 |

Estimated TUMF Credit:

|   |    |                    |
|---|----|--------------------|
| Estimated Credit (Lesser of Obligation, Bid Amount, or Unit Cost Assumptions) | \$ | 3,921,866          |
| Estimated number of remaining units   |    | 442                |
| Prorated Credit per each remaining unit (up to max TUMF fee per unit)         | \$ | 8,873              |
| Estimated Credit to be applied to remaining units                             |    | <b>\$3,921,866</b> |

TUMF Overpayment / Refund:

|   |    |            |
|---|----|------------|
| Estimated TUMF Obligation   | \$ | 3,921,866  |
| Estimated Credit amount + Paid TUMF amount                                  | \$ | 3,921,866  |
| Estimated Refund (Credit + Paid TUMF amount that exceeds Obligation amount) |    | <b>\$0</b> |

TUMF Reimbursement:

|   |    |                      |
|---|----|----------------------|
| Estimated TUMF Obligation                                       | \$ | 3,921,866            |
| Estimated Cost (Lesser of Bid Amount or Unit Cost Assumptions)  | \$ | 8,365,958            |
| Estimated TUMF Reimbursement (Cost exceeding Obligation amount) |    | <b>(\$4,444,092)</b> |

Note: The amounts shown in this Exhibit are subject to cost validation and reconciliation.



Lennar Homes of California, Inc  
 Tract 36376-1 & TR 36376 (MS4273)  
 IP120047

**ESTIMATED TUMF OBLIGATION CALCULATION**

| Paid TUMF                 | Fee per Unit  | Units | Amount |
|---------------------------|---------------|-------|--------|
| Single Family Residential | \$ 8,873      | 0     | \$ -   |
|                           | Paid Subtotal | 0     | \$ -   |

| Unpaid TUMF - Estimated Remaining Units | Fee per Unit            | Units      | Amount              |
|---|-------------------------|------------|---------------------|
| Single Family Residential (TR 36376-1)  | \$ 8,873                | 339        | \$ 3,007,947        |
| Single Family Residential (TR 36376)    | \$ 8,873                | 103        | \$ 913,919          |
|   | Estimated Subtotal      | 442        | \$ 3,921,866        |
|   | <b>Obligation Total</b> | <b>442</b> | <b>\$ 3,921,866</b> |

**TUMF UNIT COST ASSUMPTION CALCULATION (2009 Unit Cost Assumption)**

| TUMF Network Road Segment applicable to Proposed Improvements | Cost Item                       | Amount        |
|---|---------------------------------|---------------|
| <b>Butterfiled Stage Rd, Murrietta Hot Springs to Auld Rd</b> |                                 |               |
| Network Distance: 2.23 miles                                  | Road Const                      | \$ 6,788,000  |
| Existing Lanes: 0   | ROW/Utilities                   | \$ 2,114,000  |
| Increase in Lanes: 4  | Planning (10%)                  | \$ 678,800    |
|   | Engring (25%)                   | \$ 1,697,000  |
|   | Conting (10%)                   | \$ 890,200    |
|   | Network Road Segment Cost Est   | \$ 12,168,000 |
|   | Network Unit Cost per Lane mile | \$ 1,364,126  |
|   | Network Unit Cost per Lane foot | \$ 258        |

| Road Improvement Cost Estimate (based on Network Unit Cost per Lane foot) |                                    |                 |                   |
|---|------------------------------------|-----------------|-------------------|
| Lane  | Construction Limits (Sta. to Sta.) | Linear Feet     | Amount            |
| 2   | 18+97.79 27+08.06                  | 810.27          | \$ 209,339        |
| 2   | 30+71.94 39+05.05                  | 833.11          | \$ 215,240        |
| 4   | 18+97.79 27+08.06                  | 810.27          | \$ 209,339        |
| 4   | 30+71.94 39+05.05                  | 833.11          | \$ 215,240        |
|   | <b>Road Subtotal</b>               | <b>3,286.76</b> | <b>\$ 849,158</b> |

| TUMF Network Bridge                             | Cost Item                    | Amount       |
|---|------------------------------|--------------|
| <b>Bridge Name: Butterfield Stage Rd Bridge</b> |                              |              |
| Network Distance: 450 feet                      | Bridge Const                 | \$ 5,184,000 |
| Existing Lanes: 0                               | Planning (10%)               | \$ 518,400   |
| Increase in Lanes: 4                            | Engring (25%)                | \$ 1,296,000 |
|   | Conting (10%)                | \$ 518,400   |
|   | Network Bridge Cost Est      | \$ 7,516,800 |
|   | Network Bridge Cost per Lane | \$ 1,879,200 |

| Bridge Improvement Cost Estimate (based on Network Unit Cost per Lane) |   |             |                     |
|--|---|-------------|---------------------|
| Lane   | Construction Limits (Sta. to Sta.)                    | Linear Feet | Amount              |
|  | Construct Four (4) Lane Bridge @ Butterfield Stage Rd |             | \$ 7,516,800        |
|  |   |             | \$ -                |
|  | <b>Bridge Subtotal</b>                                |             | <b>\$ 7,516,800</b> |

**RBBD OVERLAP (If Applicable)**

| Lane | Street                    | Amount      |
|------|---------------------------|-------------|
|      |                           | \$ -        |
|      | <b>RBBD OVERLAP TOTAL</b> | <b>\$ -</b> |

|                           |                     |
|---------------------------|---------------------|
| <b>TUMF TOTAL</b>         | <b>\$ 8,365,958</b> |
| <b>RBBD OVERLAP TOTAL</b> | <b>\$ -</b>         |

|  |                     |
|--|---------------------|
| <b>TOTAL TUMF UNIT COST ASSUMPTION FOR ELIGIBLE IMPROVEMENTS</b> | <b>\$ 8,365,958</b> |
|--|---------------------|