

FORM APPROVED COUNTY COUNSEL 10/8/14
 BY: GREGORY P. PRIAMOS DATE

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

904



FROM: TLMA – Transportation Department

SUBMITTAL DATE:
 October 1, 2014

SUBJECT: Memorandum of Understanding between Western Riverside Council of Governments and the County of Riverside for Community Facilities District No. 03-1 (Newport Road). 3rd/3rd, 3rd/5th Districts; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Memorandum of Understanding between Western Riverside Council of Governments and the County of Riverside for Community Facilities District No. 03-1 (Newport Road); and
2. Authorize the Director of Transportation and Land Management, or his designee, to approve Administrative Amendments to this Memorandum of Understanding and take all necessary actions to implement the terms of this Memorandum of Understanding.

Departmental Concurrence

Patricia Romo
 Assistant Director of Transportation
 for Juan C. Perez
 Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: N/A				Budget Adjustment: N/A	
				For Fiscal Year: N/A	

C.E.O. RECOMMENDATION:

APPROVE

BY:
 Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- Positions Added
- Change Order
- A-30
- 4/5 Vote

Prev. Agn. Ref.: 4/15/03, 9.1(a)

District: 3/3, 3/5

Agenda Number:

3-29

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Memorandum of Understanding between Western Riverside Council of Governments and the County of Riverside for Community Facilities District No. 03-1 (Newport Road). 3rd/3rd, 3rd/5th Districts [\$0]

DATE: October 1, 2014

PAGE: 2 of 2

BACKGROUND:

Summary

After consultation with Western Riverside Council of Governments (WRCOG), the County of Riverside (County), by Resolution No. 2003-173, established Community Facilities District No. 03-1 (Newport Road) of the County of Riverside (CFD No. 03-1) to finance a portion of the construction of the Newport Road/Domenigoni Parkway extension as a six-lane urban arterial from Menifee Road to State Route 79 (the "Project"). CFD No. 03-1 was authorized to levy a special tax against new development within the boundary shown in Exhibit A for the construction of the Newport Road/Domenigoni Parkway Extension Project, in an amount not to exceed \$24 million, to mitigate traffic impacts. Community Facilities District No. 03-1 is generally located in the unincorporated Winchester Valley area with a portion that is now within the City of Menifee. The construction of the Newport Road/Domenigoni Parkway extension was physically complete and open to traffic at the end of 2007.

The County is responsible for the collection of Transportation Uniform Mitigation Fees (TUMF) for property developed within the same boundary of CFD No. 03-1 for regional highways and arterials in western Riverside County. This Memorandum of Understanding (MOU) provides the mechanism by which developers can be eligible to receive TUMF credits to offset their TUMF fees by participating in CFD No. 03-1. The Project is part of the TUMF Regional System of Highways and Arterials and is eligible for funding through the TUMF Program. The County and WRCOG desire to enter into this MOU to establish the terms by which credits against the TUMF can be extended to the property owners within the boundaries of CFD No. 03-1.

The amount of TUMF credit would be as follows:

- \$1,775 for each Single Family Residential unit
- \$2.10 per square foot for Commercial

Impact on Residents and Businesses

This action would have no impact on residents and businesses. Development would still be required to pay fees for the improvement of Newport Road/Domenigoni Parkway.

SUPPLEMENTAL:

Additional Fiscal Information

N/A

Contract History and Price Reasonableness

N/A

ATTACHMENT:

Memorandum of Understanding Agreement

MEMORANDUM OF UNDERSTANDING
Between the
Western Riverside Council of Governments
and the County of Riverside

Community Facilities District No. 03-1 (Newport Road)
Of the County of Riverside

This Memorandum of Understanding (this "MOU") is dated as of _____ and is hereby entered into between Western Riverside Council of Governments, a joint powers agency ("WRCOG"), and the County of Riverside, a political subdivision of the State of California (the "County").

RECITALS

A. The County by the adoption of Ordinance No. 824, as amended from time to time (the "TUMF Ordinance"), established the Transportation Uniform Mitigation Fee Program (the "TUMF Program") which requires a developer to pay a fee (the "TUMF") which is set by said TUMF Ordinance and which is to be paid as a condition of receiving a certification allowing for the occupancy of a residential or commercial structure; the TUMF is intended to represent a new structure's fair share of the estimated costs to construct those transportation improvements needed to mitigate the traffic impacts and burdens placed on the Regional System of Highways and Arterials ("RSHA") generated by a residential or commercial development and determined necessary to protect the safety, health and welfare of persons traveling to and from such residential or commercial development using the RSHA.

B. Under the terms of the TUMF Ordinance, the County is responsible for the collection of the TUMF for property that is developed within its jurisdictional boundaries.

C. After consultation with WRCOG, the County of Riverside by Resolution No. 2003-173 established Community Facilities District No. 03-1 (Newport Road) of the County of Riverside ("CFD No. 03-1") pursuant to the terms of the Mello-Roos Community Facilities Act of 1982, as amended, (Sections 53311 et seq. of the California Government Code) to finance a portion of the construction of Newport Road extension as a six-lane urban arterial from Menifee Road to State Route 79 (the "Project"). The Boundary Map for CFD No. 03-1 is attached hereto marked as Exhibit A.

D. CFD No. 03-1 was authorized, among other things, to levy a special tax to pay for construction of the Project or to incur bonded indebtedness in an aggregate principal amount not to exceed \$24,000,000 to pay the costs of the Project.

E. The Project is part of the RSHA and is eligible for funding through the TUMF Program.

F. WRCOG is responsible for the administration of the TUMF Program and has adopted its "Administrative Plan" (the "Administrative Plan") which has been amended from time to time, the most recent amendment being adopted as of October 1, 2012. Section

VI of the Administrative Plan sets forth the conditions under which a member jurisdiction, such as the County, may issue a credit against all or a portion of the TUMF that would otherwise be charged to a developer for constructing a residential unit or other structure within the boundaries of said jurisdiction.

G. For Fiscal Year 2006-07, WRCOG has identified that TUMF totaling \$22,411,000 is eligible to be applied toward the construction of the Project.

H. This MOU not intended to reduce the overall responsibility to participate in the TUMF Program but is intended to provide a mechanism for the County to provide TUMF credits to the participating property owners (the "Property Owners") within CFD No. 03-1. As such, it is the intent of the Parties that there are no third party beneficiaries of any right or obligation assumed by the Parties herein. The MOU does not modify the WRCOG TUMF Administrative Plan, and shall be construed in a manner consistent with the Administrative Plan. TUMF credits authorized hereunder shall be calculated and administered in accordance with the Administrative Plan.

I. The County and WRCOG desire to enter into this MOU to establish the terms by which credits for the TUMF (the "TUMF Credit") can be extended to the property owners (the "Property Owners") within the boundaries of CFD No. 03-1.

OPERATIVE PROVISIONS

NOW, THEREFORE, County and WRCOG hereby state their mutual understandings as follows:

Section 1. The facts stated in the Recitals are true and correct.

Section 2. The Project has been constructed using bond proceeds from CFD No.03-1, and accepted by the County of Riverside.

Section 3. The total TUMF credit available to the Property Owners for the Project is \$14,458,448. The TUMF Credit will be issued consistent with the provisions of the Administrative Plan and only for properties within CFD No. 03-1.

Section 4. The amount of TUMF Credit to be extended to any residential or non-residential developed parcel within CFD No. 03-1 is set forth in Section 8(c) below.

Section 5. All monies collected by the County above the TUMF Credit are to be paid to WRCOG consistent with the TUMF Program and to be applied by WRCOG consistent with the TUMF Program.

Section 6. No TUMF or any portion thereof is expected to be collected at the time a building permit is issued for the model residential units for a residential subdivision tract. The TUMF Credit for the model units will be determined consistent with Section 8(c) and the TUMF in excess of the TUMF Credit is expected to be collected for the model units at the time the certificate of occupancy is issued for said units and all amounts collected will be paid to WRCOG consistent with the Administrative Plan.

Section 7. Upon two days' written notice to the County, WRCOG staff may review the accounting records of the County and CFD No. 03-1 as to the collection of the TUMF from those properties within the boundaries of CFD No. 03-1.

Section 8. (a) The Project was financed with proceeds of bonds issued by CFD No. 03-1 and the property within the boundaries of CFD No. 03-1 (the "Property") will receive a credit as outlined in sub-sections (b) and (c) towards the TUMF obligation to such property as set forth herein.

(b) Each Property Owner, in order to receive a certificate of occupancy for residential or commercial improvements constructed within CFD No. 03-1, shall be required to pay to the County (i) the amount by which the amount of the TUMF then applicable to such property exceeds the TUMF Credit for such Property (the "Excess Payment"). The County shall, in accordance with the Administrative Plan, remit the Excess Payment to WRCOG, including any such Program Administration Amount received by the County.

(c) The amount of TUMF credit is as follows:

\$1775 for each Single Family Residential unit
\$2.10 per square foot for Commercial


(d) The dollar amounts in subsection (c), above, may be adjusted by written agreement signed by the WRCOG Executive Director and County of Riverside Transportation Land Management Agency.

Section 9. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

(Remainder of page left blank intentionally)

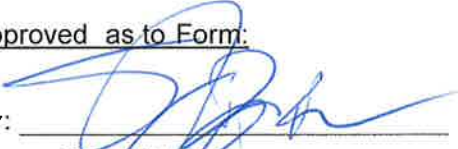
IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the day and year first above written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS


By: _____
Randon Lane, Chairman


By: _____
Rick Bishop, Executive Director

Approved as to Form:


By: _____
Steve DeBaun,
WRCOG Legal Counsel

COUNTY OF RIVERSIDE

By: _____
Jeff Stone, Chairman Board of Supervisors

ATTEST:

Kecia Harper-Ihem,
Clerk of the Board

By: _____
Deputy

Approved as to Form:

Gregory P. Priamos, County Counsel


By: _____
Dale A. Gardner
Deputy County Counsel

EXHIBIT A

**Boundary Map for Community Facilities
District No. 03-1 (Newport Road) of the
County of Riverside**

[See Attached Page]

COMMUNITY FACILITIES DISTRICT NO. 03-1 (NEWPORT RD)

