

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



**ITEM: 3.43
(ID # 16710)**

MEETING DATE:
Tuesday, July 27, 2021

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Approval and execution of the Transportation Uniform Mitigation Fee Program Reimbursement Agreement between Tri Pointe Homes IE-SD, Inc., former name Pardee Homes and the County of Riverside associated Tract No. 36536, District 3. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Transportation Uniform Mitigation Fee Program Reimbursement Agreement between Tri Pointe Homes IE-SD, Inc., former name Pardee Homes and the County of Riverside associated Tract No. 36536; and
2. Authorize the Chair of the Board of Supervisors to execute the same.


ACTION:Policy

Mark Lancaster, Director of Transportation 6/30/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez, and Hewitt
Nays: None
Absent: None
Date: July 27, 2021
xc: Transp.

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: TUMF 100%. No General Funds will be used on this project.			Budget Adjustment: No	
			For Fiscal Year: 21/22	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Tri Pointe Homes IE-SD, Inc., former name Pardee Homes (Developer) developed a community commonly known as Avena, located on Benton Road just east of Leon Road near State Route 79 (Winchester Road).

Developer was conditioned to construct improvements on Benton Road, which includes construction of approximately 1,810 linear feet of one (1) additional westbound lane and approximately 589 linear feet of one (1) additional eastbound lane including sidewalk improvements along the frontage of Tract No. 36536. This segment of Benton Road is identified in the Transportation Uniform Mitigation Fee (TUMF) Regional System of Highways and Arterials (RSA) and is among those facilities whose improvements are to be financed partly by the collection of TUMF.

On May 23, 2017 (Agenda Item 3-46), County Board of Supervisors approved a TUMF Improvement and Credit/Reimbursement Agreement (TUMF Agreement) between Tri Pointe Homes IE-SD, Inc, former name Pardee Homes and the County of Riverside (County), which allowed the Developer to receive TUMF credits for the improvements of Benton Road.

This TUMF Reimbursement Agreement (Reimbursement Agreement) is a supplemental document to the TUMF Agreement, which entitled the Developer to receive TUMF reimbursement when TUMF credit amount exceeds the TUMF obligation amount. The Transportation Department has determined that the Developer would be eligible for a reimbursement amount set forth in this Reimbursement Agreement 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.

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Impact on Residents and Businesses

The roadway improvements along Benton Road in conjunction with the Avena Development helped improve traffic flow and is a regional facility identified in the County General Plan.

Additional Fiscal Information

N/A

ATTACHMENTS:

Vicinity Map

Reimbursement Agreement



Jason Farin, Principal Management Analyst

7/21/2021



Gregory V. Priamos, Director County Counsel

7/6/2021



Shellie Clack

7/6/2021

REIMBURSEMENT AGREEMENT

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

THIS REIMBURSEMENT AGREEMENT ("Agreement") is executed this 27 day of July, 2021, by and among the County of Riverside, a California municipal corporation ("County"), and Tri Pointe Homes IE-SD, Inc., former name Pardee Homes, a California corporation ("Developer"). County and Developer are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, County and Developer are parties to an agreement dated May 23, 2017, 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 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 Cost or Unit Cost Assumptions (whichever is less) 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 Reimbursement shall be in an amount of approximately FIVE HUNDRED TWO THOUSAND NINE HUNDRED ONE DOLLARS (\$502,901) ("Reimbursement Amount"). WRCOG shall pay the Reimbursement Amount to County, and the County shall be responsible for transmitting the Reimbursement Amount 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 Sections 14.2, 14.3, and 14.4 of the Credit Agreement, and one hundred percent (100%) of the approved unit cost assumptions for the Improvements in effect at the time of the contract for the Improvements was 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 Amount unless and until (i) the Improvements are completed and accepted by County in accordance with the Credit Agreement, (ii) the Improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, and (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: _____
Mark Lancaster
Director of Transportation


APPROVED AS TO FORM:
County Counsel

By:  _____
Michelle Clark
Deputy County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:

By:  _____
KAREN SPIEGEL
Chair, County Board of Supervisors
JUL 27 2021

ATTEST:
Kecia Harper
Clerk of the board

By:  _____
Deputy

DEVELOPER

Tri Pointe Homes IE-SD, Inc., a California corporation

By:  _____

Michael C. Taylor
Printed Name


President
Title

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside)

On June 22, 2021 before me, Sonal Shah, Notary Public
(insert name and title of the officer)

personally appeared Michael C. Taylor ,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) 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 Sonal Shah (Seal)