

EXHIBIT “A”

Chapter 16.68 TRANSPORTATION UNIFORM MITIGATION FEE

Section 16.68.010 Title.

This chapter shall be known as the "Western Riverside County Transportation Uniform Mitigation Fee Program Ordinance of 2024" ("Ordinance").

Section 16.68.020 Findings.

- A. The City is a member agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and 18 cities located in Western Riverside County. Acting in concert, the WRCOG Member Agencies developed 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") could be made up in part by a Transportation Uniform Mitigation Fee ("TUMF") on future residential, commercial and industrial development. As a Member Agency of WRCOG and as a TUMF Participating Jurisdiction, the City participated in the preparation of a certain "Western Riverside County Transportation Uniform Fee Nexus Study," dated October 18, 2002 (the "2002 Nexus Study") prepared in compliance with the Mitigation Fee Act (Gov. Code §§ 66000 et seq.) and adopted by the WRCOG Executive Committee. Based on the 2002 Nexus Study, the City adopted and implemented an ordinance authorizing the City's participation in a TUMF Program.
- B. In 2016, the TUMF Nexus Study was updated ("2016 Nexus Study") for the purpose of updating the fees. On July 10, 2017, the WRCOG Executive Committee reviewed the 2016 Nexus Study and TUMF Program and recommended TUMF Participating Jurisdictions amend their applicable TUMF ordinances to reflect changes in the TUMF network and the cost of construction in order to update the TUMF Program.
- C. In 2018, the TUMF Program was altered to adopt a process in which WRCOG calculates and collects TUMF on behalf of member agencies under the Western Riverside County Transportation Uniform Mitigation Fee Program Ordinance of 2018.
- D. WRCOG, with the assistance of TUMF Participating Jurisdictions, has prepared an updated nexus study entitled "Transportation Uniform Mitigation Fee Nexus Study: 2024 Update" ("2024 Nexus Study") pursuant to California Government Code sections 66000 *et seq.* (the Mitigation Fee Act), for the purpose of updating the fees. The WRCOG Executive Committee reviewed the 2024 Nexus Study and TUMF Program and recommended TUMF Participating Jurisdictions amend their applicable TUMF ordinances to reflect changes in the TUMF network and the cost of construction in order to update the TUMF Program.
- E. Consistent with its previous findings made in the adoption of Ordinance No. 6658 as amended and superseded by Ordinances Nos. 6869, 7067 and 7393, the City Council has been informed and advised, and hereby finds, that 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. Therefore, continuation of a TUMF Program is essential.

- F. The City Council finds and determines that 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 nonresidential users of the development in which the TUMF will be levied.
- G. The City Council finds and determines that 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 nonresidential 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 City Council finds and determines that the cost estimates set forth in the 2024 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 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 2024 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.
- J. The City Council finds that the 2024 Nexus Study proposes a fair and equitable method for distributing a portion of the unfunded costs of improvements and facilities to the regional system.
- K. The City Council hereby adopts the 2024 Nexus Study and its findings, a copy of which is on file in the City Clerk's Office and incorporated herein by reference.
- L. In September 2024, the WRCOG Executive Committee reviewed the 2024 Nexus Study and TUMF Program and recommended TUMF Participating Jurisdictions amend their applicable TUMF ordinances to reflect changes in the TUMF network and the cost of construction in order to update the TUMF Program; and
- M. On March 11, 2025, the City Council adopted Ordinance No. 7706, which adopted the 2024 Nexus Study and its findings; and
- N. The TUMF Administrative Plan calls for a Construction Cost Index (“CCI”) adjustment to be brought forth to the WRCOG Executive Committee on an annual basis; and
- O. On December 1, 2025, the WRCOG Executive Committee approved the implementation of an automatic CCI adjustment for all TUMF land uses tied to the September indices of the

National Association of Realtors and Engineering News Record with a cap at 5% of any annual adjustments; and

- P. An automatic CCI adjustment ensures that fee levels keep pace with increases in cost of constructing transportation projects and avoids large increases at comprehensive TUMF Nexus Study updates; and
- Q. This approach also allows for consistency and predictability for the TUMF Program, while ensuring that the fair share principles under AB 1600 are satisfied; and
- R. The City Council desires to provide for automatic inflationary adjustments to the TUMF to reflect changes in construction costs over time, without modifying the underlying fee nexus, land use assumptions, or fee methodology; and
- S. The City Council hereby adopts this ordinance to amend and supersede the provisions of Ordinance No. 7706.

Section 16.68.030 Definitions.

For the purpose of this chapter, the following words, terms and phrases shall have the following meanings:

- A. *Class 'A' Office* means 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: (i) minimum of three stories (exception will be made for March JPA, where height requirements exist); (ii) minimum of 10,000 square feet per floor; (iii) steel frame construction; (iv) central, interior lobby; and (v) 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.
- B. *Class 'B' Office* means 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: (i) minimum of two stories; (ii) minimum of 15,000 square feet per floor; (iii) steel frame, concrete or masonry shell construction; (iv) central, interior lobby; and (v) 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.
- C. *Development Project* or *Project* means any project undertaken for the purposes of development, including the issuance of a permit for construction.
- D. *Disabled Veteran* means any veteran who is retired or is in process of medical retirement from military service who is or was severely injured in a theatre of combat operations and has

or received a letter of eligibility for the Veterans Administration Specially Adapted Housing (SAH) Grant Program.

- E. *Government/public buildings, public schools, and public facilities* means any owned and operated facilities by a government entity in accordance with Section G. Exemptions, Subsection 2 of this chapter. A new development that is subject to a long-term lease with a government agency for government/public buildings, public schools, and public facilities shall apply only if all of the following conditions are met:
- (a) The new development being constructed is subject to a long-term lease with a government agency.
 - (b) The project shall have a deed restriction placed on the property that limits the use to government/public facility for the term of the lease, including all extension options, for a period of not less than 20 years. Any change in the use of the facility from government shall trigger the payment of the TUMF in effect at the time of the change is made.
 - (c) No less than ninety (90) percent of the total square footage of the building is leased to the government agency during the term of deed restriction the long term and any extensions thereof.
 - (d) The new development is constructed at prevailing wage rates.
 - (e) A copy of the lease is provided to the applicable jurisdiction and to WRCOG.
 - (f) Based on the facts and circumstances WRCOG determines that the intent of the lease is to provide for a long-term government use, and not to evade payment of TUMF.
- F. *Gross Acreage* means 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.
- G. *Guest Dwellings and Detached Second Units* according to the State of California legal definition as following: 1) Complies with the State of California Department of Housing and Community Development *Accessory Dwelling Unit Handbook* and 2) Are ministerially approved by each jurisdiction's local codes.
- H. *Habitable Structure* means 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* means any development project that proposes any industrial or manufacturing use permitted by Title 19 of this Code.
- J. *Long-Term Lease* as used in the TUMF Program, a "long-term lease" shall mean a lease with a term of no less than 20 years.
- K. *Low income residential housing* means "Residential Affordable Units": (A) for rental housing, the units shall be made available, rented and restricted to "lower income households" (as defined in Health and Safety Code Section 50079.5) at an "affordable rent" (as defined in Health and Safety Code Section 50053). Affordable units that are rental housing shall be made available, rented, and restricted to lower income households at an affordable rent for a period of at least fifty-five (55) years after the issuance of a certificate of occupancy for new residential development. and (B) for for-sale housing, the units shall be sold to "persons or

families of low or moderate income" (as defined in Health and Safety Code Section 50093) at a purchase price that will not cause the purchaser's monthly housing cost to exceed "affordable housing cost" (as defined in Health and Safety Code Section 50052.5). Affordable units that are for-sale housing units shall be restricted to ownership by persons and families of low or moderate income for at least forty-five (45) years after the issuance of a certificate of occupancy for the new residential development.

- L. *Mixed-Use Development* as used in the TUMF Program, means Developments with the following criteria: (1) three or more significant revenue-producing uses, and (2) significant physical and functional integration of project components.

- M. *Multi-Family Residential Unit* means a residential dwelling unit that is physically attached to one or more other dwelling units by a shared wall, floor, ceiling, roof, or structural foundation, regardless of the lot or parcel configuration, ownership structure, or type of subdivision (including condominium subdivisions). Multi-family residential units include, but are not limited to, duplexes, townhomes, apartments, and condominiums with attached units. As outlined in the Ordinance, accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), as defined by state law, are exempt from TUMF and shall not be counted in determining residential land use classification.

- N. *Non-profit Organization* means an organization operated exclusively for exempt purposes set forth in section 501(c)(3) of the Internal Revenue Code, and none of its earnings may inure to any private shareholder or individual. In addition, it may not be an action organization, i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates. For the purposes of the TUMF Program, the non-profit may be a 501(c) (3) charitable organization as defined by the Internal Revenue Service.

- O. *Non-residential Unit* means retail commercial, service commercial and industrial development which is designed primarily for non-dwelling use, but shall include hotels and motels.

- P. *Recognized Financing District* means a Financing District as defined in the TUMF Administrative Plan as may be amended from time to time.

- Q. *Residential Dwelling Unit* means 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.

- R. *Retail Commercial Project* means any development project that proposes any retail commercial activity use not defined as a service commercial project permitted by Title 19 of this Code.

- S. *Service Commercial Project* means 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 eating/dining facilities, and other uses related to personal or professional services.

- T. *Single Family Residential Unit* means a residential dwelling unit that is physically detached from any other dwelling unit, sharing no common wall, floor, ceiling, roof, or structural foundation with another dwelling unit, regardless of the lot or parcel configuration, ownership structure, or type of subdivision (including condominium subdivisions). As outlined in the Ordinance, accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), as defined by state law, are exempt from TUMF and shall not be counted in determining residential land use classification.
- U. *TUMF Administrative Plan* means that the TUMF Administration Plan adopted by the WRCOG Execution Committee May 5, 2003, as amended, setting forth detailed administration procedures and requirements for the TUMF program.
- V. *TUMF Participating Jurisdiction* means 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.

Section 16.68.040 Establishment of the Transportation Uniform Mitigation Fee.

- A. *Adoption of TUMF Schedule.* The City Council shall adopt an applicable TUMF schedule through a separate resolution, which may be amended from time to time.
- B. *Fee Calculation.* The fees shall be calculated by WRCOG according to the calculation methodology fee set forth in the WRCOG TUMF Fee Calculation Handbook adopted July 14, 2003, as amended from time to time. In addition to data in the Fee Calculation Handbook, WRCOG Staff may consider the following items when establishing the appropriate fee calculation methodology:
- Underlying zoning of the site
 - Land-use classifications in the latest Nexus Study
 - Project specific traffic studies
 - Latest Standardized reference manuals such as the Institute of Traffic Engineers Trip Generation Manual
 - Previous TUMF calculations for similar uses
 - WRCOG staff shall approve final draft credit/reimbursement agreement prior to execution.

WRCOG shall have final determination regarding the appropriate methodology to calculate the fee based on the information provided by the local agency. In case of a conflict between the applicant, WRCOG, and/or the local agency regarding the fee calculation methodology, the dispute resolution process in the TUMF Administrative Plan will apply.

- C. *Fee adjustment.* The fee schedule may be periodically reviewed and the amounts adjusted by the WRCOG Executive Committee. By amendment to the resolution reference is subsection A, above, 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 years after the effective date of this chapter.

1. Beginning July 1, 2026, and annually thereafter, the Transportation Uniform Mitigation Fee (TUMF) shall be automatically adjusted to reflect changes in construction costs.

The annual adjustment shall be calculated by WRCOG based on a blended Construction Cost Index derived from: (1) the National Association of Realtors – Median Sales Price of Existing Single-Family Homes, and (2) the Engineering News-Record (ENR) Construction Cost Index, using the September values of each index from the prior calendar year.

The percentage adjustment applied to the TUMF shall equal the annual percentage change in the blended index; provided, however, that in no event shall the annual adjustment exceed five percent (5%), whether positive or negative.

The calculated adjustment shall be implemented on July 1 of the year following index calculation.

If either referenced index is discontinued or materially altered, WRCOG shall apply a comparable, industry-recognized index that most closely reflects regional transportation construction costs.

- D. *Purpose.* The purpose of the TUMF is to fund those certain improvements to the Regional System as identified in the 2024 Nexus Study.
- E. *Applicability.* The TUMF shall apply to all new development within the City, unless otherwise exempt hereunder.
- F. *Exemptions.* The following types of new development shall be exempt from the provisions of this ordinance and in TUMF Administrative Plan:
 - 1. Low income residential housing as described in Section 16.68.030 Definitions, subsection K of this chapter and in the TUMF Administrative Plan.
 - 2. Government/public buildings, public schools, and public facilities as described in Section 16.68.030 Definitions, subsection E of this ordinance. Airports that are public use airports and are appropriately permitted by Caltrans or other state agency.
 - 3. Development projects which are the subject of a Public Facilities Development Agreement entered into pursuant to Government Code section 65864 et seq., prior to the effective date of Ordinance No. 6658, 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. 6658, the TUMF shall be imposed.
 - 4. 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.

5. Guest dwellings and Detached Second Units as . described in this chapter in Section 3. Definitions, Subsection G. and in the Administrative Plan.
 6. Kennels and Catteries established in connection with an existing single family residential unit, as permitted by Title 19 of this Code.
 7. Any sanctuary, or other activity under the same roof of a church or other house of worship that is not revenue generating and is eligible for a property tax exemption (excluding concert venues, coffee/snack shops, book stores, for-profit pre-school day-cares, etc., which would be assessed TUMF.)
 8. 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 (5) and eighteen (18) years.
 9. New single-family homes, constructed by non-profit organizations, specially adapted and designed for maximum freedom of movement and independent living for qualified Disabled Veterans.
 10. Other uses may be exempt as determined by the WRCOG Executive Committee as further defined in the TUMF Administrative Plan.
- G. *Credit.* Regional System improvements may be credited toward the TUMF in accordance with the TUMF Administrative Plan and the following:

Regional Tier

- i. *Arterial Credits:* If a developer constructs arterial improvements identified on the Regional System, the developer shall receive credit for all costs associated with the arterial component based on approved Nexus Study for the Regional System effective at the time the credit agreement is entered into. WRCOG staff must pre-approve any credit agreements that deviate from the standard WRCOG approved format.
- ii. *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 City in consultation with the developer. All such credits must have prior written approval from WRCOG.
- iii. The amount of the development fee credit shall not exceed the maximum amount determined by the Nexus Study for the Regional System at the time the credit agreement is entered into or actual costs, whichever is less.

Local Tier

- i. 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.
- ii. 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 16.68.050 Reimbursements.

Should the developer construct Regional System improvements in excess of the TUMF fee obligation, the developer may be reimbursed based on actual costs or the approved Nexus Study effective at the time the agreement was entered into, whichever is less. Reimbursements shall be enacted through an agreement between the developer and the City, 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 Zone Transportation Improvement Program's adopted annually by WRCOG.

Section 16.68.060 Procedures for the Levy, Collection and Disposition of Fees.

- A. *Authority of the Building Department.* The Director of Community and Economic Development, or his/her designee, is hereby authorized provide WRCOG with development project specifics for the calculation of TUMF in a manner consistent with the TUMF Administrative Plan.
- B. *Payment and collection.* Payment of the fees shall be as follows:
- i. All fees collected hereunder shall be collected by WRCOG for deposit, investment, accounting and expenditure in accordance with the provisions of this chapter, TUMF Administrative Plan, and the Mitigation Fee Act.
 - ii. 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 (the "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 prior to the Payment Date, the amount of the fee due shall be based on the TUMF fee schedule in place on the Payment Date. The fees shall be calculated according to fee schedule set forth in this chapter and the calculation methodology set forth in the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time.
 - iii. The fees required to be paid shall be the fee amounts in effect at the time of payment is due under this chapter, not the date the Ordinance [from which this chapter derives] is initially adopted. The City shall not enter into a development agreement which freezes future adjustments of the TUMF.
 - iv. 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.
 - v. Fees shall not be waived.
- C. *Issuance of Certificate of Occupancy.* The City shall not issue a certificate of occupancy for any Development Project until WRCOG has provided written evidence that it has collected the fee.

- 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 Community and Economic Development, or his/her designee, shall prepare and deliver to the Executive Director of WRCOG, periodic reports as will be established under this chapter.

Section 16.68.070 Appointment of TUMF Administrator.

WRCOG is hereby appointed as the Administrator of the Transportation Uniform Mitigation Fee Program. WRCOG is hereby authorized to collect all fees generated from the TUMF within the City, and to invest, account for and expend such fees in accordance with the provisions of this chapter and the Mitigation Fee Act. The detailed administrative procedures concerning the implementation of this chapter shall be contained in the TUMF Administrative Plan. 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 clearly defined in the respective TUMF ordinances.

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 two (2) percent of the revenue raised by the TUMF Program. The TUMF Administrative Plan further outlines the fiscal responsibilities and limitations of the Administrator.

Section 16.68.080 Effect.

No provisions of this chapter shall entitle any person who has already paid the TUMF to receive a refund, credit or reimbursement of such payment. This chapter does not create any new TUMF.

Section 16.68.090 Severability.

If any one or more of the terms, provisions or sections of this chapter shall to any extent be judged invalid, unenforceable and/or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions and sections of this chapter shall not be affected thereby and shall be valid and enforceable.

Section 16.68.100 No Procedural Defenses.

Prohibition of Jurisdictions from raising procedural defenses, including without limitation a statute of limitations, laches, the California Government Tort Claims Act, and necessary parties in a dispute with WRCOG regarding the matters set forth herein.

Section 16.68.100 Judicial review.

In accordance with State law, any judicial action or proceeding to attack, review, set aside, void or annul this chapter shall be commenced within 90 days of the date of adoption of this chapter.