



City of Temecula

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September 23, 2022

Ms. Kecia Harper
Riverside County Clerk of the Board
4080 Lemon Street, 12th Floor, Suite 127
Riverside, CA 92502-1629

Subject Winchester Community Plan Draft Programmatic Environmental Impact Report
 Comment Letter

Dear Ms. Harper:

On behalf of the City of Temecula (City), we submit the following comments on the County of Riverside's Winchester Community Plan Draft Program EIR (PEIR), dated July 2022. The comments are based on the PEIR, the California Environmental Quality Act (CEQA) (Public Resources Code sections 21000-21189), the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 – 15387), and recent CEQA court decisions.

As outlined in detail below, the City has significant concerns regarding the County's lack of outreach to the City – including as required by law – related to the CEQA process, as well as concerns with the PEIR and its failure as an informational document.

The City is equally concerned with the County's attempt to unilaterally terminate the 2005 "Cooperative Agreement Between the City of Temecula and the County of Riverside to Mitigate Traffic Impacts in Western Riverside County" (Cooperative Agreement) by virtue of proposals in the Winchester Community Plan and PEIR. Specifically, the Cooperative Agreement calls for the County to mitigate the impact of new housing development on City and County arterial roads and highways within the I-215 Policy Area; the proposed General Plan Amendment amends the boundary and therefore purports to change and invalidate the Cooperative Agreement.¹

¹The City separately is requesting a full accounting and status of units and density by acreage in the I-215 Policy Area. The City is also requesting a status on the completion and funding of all infrastructure as identified in Exhibit C of the Cooperative Agreement.

For all of the reasons set forth below, the City strongly urges the County to cease further work on this project until such time as the County can consult with the City on the Cooperative Agreement, and until proper environmental review is conducted.

FAILURE OF THE COUNTY TO FULFILL ITS TRAFFIC ANALYSIS AND TRAFFIC MITIGATION OBLIGATIONS UNDER THE COOPERATIVE AGREEMENT WITH THE CITY OF TEMECULA

On April 12, 2005 the City and County entered into the Cooperative Agreement that imposes upon the County very specific and profound obligations for the mitigation of traffic impacts in the Western Riverside County.

In developing the Winchester Community Plan and the Draft PEIR the County has completely ignored its obligations under the Cooperative Agreement that will directly result in adverse traffic impacts upon the City, the Winchester Community Plan Area and the cities surrounding the Winchester Community Plan Area. There is no plan to finance the remaining Major Arterial Roads described in the Cooperative Agreement that are needed to mitigate the traffic impacts of residential units in the area under the existing General Plan. The County has not conducted a Freeway Study nor come up with a traffic mitigation plan for the additional 33,000 residential units in the new Winchester Community Plan in violation of the Cooperative Agreement.

Amendment No. 1 to the Cooperative Agreement was approved on January 30, 2007. Copies of the Cooperative Agreement and Amendment No. 1 are attached as Exhibits A and B.

The County Failed to Fulfill its Obligation Under the Cooperative Agreement to Work Cooperatively with the City to Improve the Highway Infrastructure and Traffic Impacts of Existing and Future Development in Western Riverside County

On November 5, 2003, the City filed a Petition for Writ of Mandate in Riverside Superior Court challenging the legality and validity of the County's General Plan and the DEIR. The action is entitled "*City of Temecula v. County of Riverside; Board of Supervisors of the County of Riverside*," Riverside County Superior Court Case No. RIC 402766 ("Litigation").

Sections 1.6 and 1.7 of the Cooperative Agreement express in clear and unequivocal terms the obligations of the County and the City to cooperate in the development of infrastructure in Western Riverside County:

"1.6 Despite their differences in the Litigation, the City and County desire to cooperatively work together in an effort to improve the highway infrastructure in Western Riverside County for the benefit of all current and future residents of the County. The City and County acknowledge that providing adequate traffic infrastructure for Western Riverside County involves complex engineering, environmental and financial challenges requiring the full cooperation of all federal, state and local governmental agencies, but will provide substantial public benefits for the City, County and the people living and working in the City and the County."

"1.7 This Agreement sets forth the framework for a major cooperative effort by the City and the County to provide the traffic infrastructure required for new housing development in Western Riverside County before the creation of actual traffic impacts."

Despite its legal commitment to cooperate with the City in the development of traffic infrastructure in Western Riverside County, the County has completely ignored the cities in Western Riverside County in its development of the Winchester Community Plan or the traffic infrastructure necessary to support the Winchester Community Plan.

The County has failed to consult and cooperate with the City in developing the Winchester Community Plan as required by Section 15086 of the CEQA Guidelines and Section 2.3.6 of the Cooperative Agreement. The County failed to provide even the most minimal notice of its proposal in violation Section 15086 of the CEQA Guidelines and Section 2.3.6 of the Cooperative Agreement.

Despite three years of work on the Winchester Community Plan, the County never solicited input or comments from the City on traffic impact or invited the City to participate in the development of the Winchester Community Plan. Section 1.7 of the Cooperative Agreement clearly requires the provision of traffic infrastructure before the traffic impacts are created. This has not been done. The County is now required to start the process over and provide meaningful opportunities in good faith for the City and the other cities to comment on the Winchester Community Plan and develop traffic mitigation for the Winchester Community Plan's proposed 33,000 additional residential units.

The Cooperative Agreement Provides that the County May Not Issue Building Permits Under the Proposed Winchester Community Plan Until Such Time as it has Identified Road and Freeway Improvements to Mitigate the Traffic Impacts Resulting from the Additional 36,000 Residential Units Within the Winchester Community Plan

Sections 2.1, 2.2 and 2.3.3 of the Cooperative Agreement require the County to amend its General Plan to condition all Land Use Applications, including General Plan Amendments, to prohibit the issuance of building permits until such time as there is in place an appropriately formed and fully funded financing mechanism to build the Major Arterial Roads :

“2.1 The County shall use its best efforts to amend the General Plan so that it contains: (1) a policy indicating that the Major Arterial Roads within the 1-215 Policy Area shall be constructed and completed concurrently with the construction of the dwelling units creating the demand for the Major Arterial Roads; and (2) a requirement that all land use applications approved by the County within the 1-215 Policy Area (“County Land Use Applications”) shall contain a condition, in addition to all other appropriate conditions, that building permits shall not be issued until (a) the subject property is part of an appropriately formed and fully funded financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project or (b) the subject property is part of an appropriately formed financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project and the property owner pays its full proportionate share of the required improvements to the County in trust for the construction of the Major Arterial Roads which will mitigate the traffic impacts of the project or (c) the County otherwise funds or constructs

the required improvements using money from other sources. The General Plan Amendments described in this section shall be known as the “County General Plan Amendment.””

“2.2 All County Land Use Applications approved by the County after the effective date of this Agreement shall contain a condition of approval requiring that building permits shall not be issued until (a) the subject property is part of an appropriately formed and fully funded financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project or (b) the subject property is part of an appropriately formed financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project and the property owner pays his/her/its full proportionate share of the required improvements to the County in trust for the construction of the Major Arterial Roads which will mitigate the traffic impacts of the project or (c) the County otherwise funds or constructs the required improvements using money from other sources.

“2.3.3 As used in this Agreement, County Land Use Applications shall mean any applications on which the County Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which would authorize, or conditionally authorize, the construction of dwelling units within the 1-215 Policy Area, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits. County Land Use Applications shall not include any applications for parcel maps that would result in the creation of four or fewer parcels, provided that the parcels created could not be further subdivided without a General Plan amendment. County Land Use Applications shall also not include any applications for minor changes to approved tentative tract maps that would add only one residential unit to the maps.”

The County does not have a fully funded financing mechanism to fund the construction of Major Arterial Roads within the 1-215 Policy Area. In developing the Winchester Community Plan and the Draft PEIR, the County has completely ignored its obligations under the Cooperative Agreement that will directly result in adverse traffic impacts upon the City, the Winchester Community Plan Area and the cities surrounding the Winchester Community Plan Area as the County has not planned for, or financed, the Major Arterial Roads that will need to be constructed and/or widened to move the significant number of new residents that are expected to live in the Winchester Community Plan Area in and out of the Winchester Community Plan Area.

The County Failed to Initiate and Fulfill its Obligation to Develop the Freeway Strategic Study and Action Plan

The County has failed to fulfill its obligation under the Cooperative Agreement to cooperate with the City, other Western Riverside County Cities and private and public stakeholders to request the preparation of a Freeway Strategic Study and develop a Freeway Action Plan. Sections 4.1 to 4.4 of the Cooperative Agreement provide:

“4.1 The City and the County shall jointly request that the Riverside County Transportation Commission (“RCTC”) prepare a Freeway Strategic Study for the Western Riverside County Area which shall examine the freeway capacity, set specific goals for the development of the freeway capacity necessary to accommodate the trips generated by new housing development and establish the framework for the joint efforts of the City, County and other federal, state and local agencies to implement the goals and establish the necessary freeway capacity. The Joint Request for the Freeway Strategic Study shall ask that the Freeway Strategic Study be completed within four (4) months of the date of submittal of the Joint Request. The Joint Request shall be submitted to RCTC within thirty (30) days of the effective date of this Agreement. The parties authorize the Mayor of the City and the Chairperson of the Board of Supervisors to execute the Joint Request on behalf of their respective agencies.”

“4.2 The Freeway Strategic Study shall specifically study and analyze the following issues: (1) the current capacities of the freeways within Western Riverside County Area (“Freeways”); (2) the projected traffic growth projections for the Freeways as of January 1 in the years 2010, 2015, 2020, 2025 and 2030, based upon assumptions concerning the build-out of new housing as described in Exhibit E; (3) the percentage of traffic growth for the Freeways in those years attributable to new housing development in the Western Riverside County Area; (4) the currently proposed improvements for the Freeways; (5) the current funding options for the currently proposed improvements for the Freeways; and (6) the potential funding sources for improvements necessary to meet the projected traffic growth for the Freeways at build-out of the Western Riverside County Area.”

“4.3 The City and the County shall share equally in the costs incurred by RCTC in preparing the Freeway Strategic Study.

4.3.1 The County shall invoice the City for the City’s share of the RCTC costs and the City shall pay such invoice within thirty (30) days of the date the invoice is deemed given under Section 6.7 of this Agreement.

4.3.2 During the course of RCTC's work on the Freeway Strategic Study, the City, the County and RCTC staff shall meet monthly to discuss the progress of the work and to review any additional work which may need to be undertaken by the consultant.”

“4.4 Following completion of the Freeway Strategic Study, the City and County shall meet and negotiate in good faith to develop a Freeway Action Plan for funding the freeway improvements necessary to meet the expected demand as determined by the Freeway Strategic Study. As part of the development of the Freeway Action Plan, the City and the County shall also form a Freeway Task Force composed of private and public stakeholders to build consensus and secure participation of other Western Riverside County Area Cities in the Freeway Action Plan. The Freeway Task Force shall specifically include, but shall not be limited to, a representative from each of the following: the City and the County, RCTC, the Western Riverside Council of Governments (“WRCOG”), the development community and the environmental community.”

In these sections, the County committed itself, with the assistance of the City, to initiate a Freeway Strategic Study to evaluate expected freeway traffic demands through 2030. Significantly, in Section 4.4 the County agreed to:

“ . . . meet and negotiate in good faith to develop a Freeway Action Plan for funding the freeway improvements necessary to meet the expected demand as determined by the Freeway Strategic Study. As part of the development of the Freeway Action Plan, the City and the County shall also form a Freeway Task Force composed of private and public stakeholders to build consensus and secure participation of other Western Riverside County Area Cities in the Freeway Action Plan.”

Once again, the County has failed to fulfill its obligation under the Cooperative Agreement to cooperate with the City, other Western Riverside County Cities and private and public stakeholders for the Freeway Strategic Study and the development of the Freeway Action Plan. Despite having over seventeen years to undertake the Freeway Strategic Study and the Freeway Action Plan, the County failed to undertake any study, let alone cooperate with Temecula and the other cities.

Moreover, the County did not even undertake a study to determine the traffic impacts upon the freeways in Western Riverside County resulting from the Winchester Community Plan's addition of 33,000 residential units. The DEIR simply does not analyze the significant and severe traffic impacts resulting from the addition of 33,000 new residential units in the Winchester Community Plan Area upon the roads and freeways in Western Riverside County.

The County's failure to fulfill these obligations will directly result in adverse traffic impacts upon the City, the Winchester Community Plan Area and the cities surrounding the Winchester Community Plan Area.

CEQA Noticing Failure

- The City of Temecula has only recently been made aware of the Draft PEIR for the Winchester Community Plan, and has not received any of the required CEQA notices (such as Notice of Preparation (NOP) or Notice of Availability (NOA)/Notice of Completion (NOC)), nor any notices for the scoping meetings. Section 15086(c) of the CEQA Guidelines requires that the lead agency consult with local municipalities adjacent to the proposed project area. The Draft PEIR acknowledges the fact that the City is immediately adjacent to the southern boundary of the proposed community plan. Yet, there is no evidence that the County even attempted to comply in any respect with its obligations to include the City in this process.

Executive Summary/Introduction

Project Objectives

- Page 1-3: The PEIR lists a variety of project objectives for the Winchester Community Plan. Most of the objectives are noble, but lack enough specificity to allow the reader to

understand what the actual objectives entail. Much more specificity is needed. The project objectives are repeated again in Section 3.0.

- Page 1-3: The project objectives do not explain why the Winchester Community Plan is being proposed now when there are several existing area plans and specialized policy area overlays covering the entire proposed plan area that would achieve the same planning outcome. There is no mention in the PEIR objectives of consolidating aging planning documents into a comprehensive and cohesive community plan, which should be the primary objective of the Community Plan. Please add a description of this objective.
- Page 1-3: Several of the project objectives are irrelevant, and do not relate to the creation of a Riverside County Area or Community Plan. This is particularly true given that there is no land use plan provided against which the objectives can be reviewed. For example, it is unclear, and there is no explanation, as to how the objective of “providing better access to fresh healthy foods” relates to the formulation of community plan policies and land use designations. Please clarify.

Project Description

- Page 1-3: The project description includes a discussion of existing land uses and land use designations within the proposed Winchester Community Plan, but it does not include any mention of the actual proposed Winchester Community Plan policies, or include the proposed land use and circulation plan. This is the most basic project information that must be included as part of the project description for any meaningful environmental analysis to occur. In the absence of this critical information, there is no way to conduct the required environmental analysis. Please revise the project description and associated environmental analysis to include this critical base information.

Project Alternatives

- Page 1-3: The PEIR proposes four alternatives to the proposed project. CEQA requires a reasonable range of alternatives that meet most of the basic project objectives be proposed to reduce or eliminate identified environmental impacts. No explanation is provided for how the number of residents, dwelling units and non-residential square footages are calculated for each alternative. It is difficult to understand how each alternative’s anticipated number of residents, dwelling units and non-residential square footages were determined since the Winchester Community Plan project description itself does not contain a proposed land use plan or a proposed land use summary table. As a result, it is impossible to determine if an alternative would reduce environmental impacts as compared to the proposed project and/or the other alternatives.

Project Description

- Page 3-1: CEQA Guidelines Section 15124 requires a stable, clear, and concise project description, upon which the environmental impact analysis, required mitigation measures, and project alternatives are based. The project description is neither stable, clear, nor concise, and as a result needs to be revised to accurately reflect the proposed project. There is no way to determine the actual proposed land use distribution based upon the confusing information provided in the PEIR.
- Page 3-1: The Riverside County General Plan is apportioned into land use Foundation designations and individual Area Plans. It is unclear why the proposed plan is referred to as a “Community Plan” instead of matching the exiting county Area Plan nomenclature. Please explain.
- The project description is unclear. There are numerous existing planning documents that are located within the proposed Community Plan area. These include:
 - Southwest Area Plan
 - Harvest Valley/Winchester Area Plan
 - Highway 79 Policy Area
 - Interstate 15 Policy Area
 - Interstate 215 Policy Area
 - Winchester Policy Area
 - Winchester Land Use Study
 - Winchester Policy Area Design Guidelines
 - Riverside County Housing Element (2021-2029)
 - Caltrans Record of Decision – Highway 79 Realignment EIS
 - Cooperative Agreement and Settlement Agreement between the County of Riverside and the City of Temecula

The PEIR makes no effort to synthesize the relationships and overlapping planning policies between the above documents that all apparently factor into the development of the proposed Winchester Community Plan. The project description needs to be rewritten to clarify how the above documents relate to the proposed Community Plan. There appears to be substantial confusion between the Winchester Policy Area and the Winchester Community Plan, which is the actual proposed project.

- Page 3-1: The project description includes a discussion of existing land uses and land use designations within the proposed Winchester Community Plan, but it does not include any mention of the actual proposed Winchester Community Plan policies, or include the proposed land use and circulation plan. This is the most basic project information that must be included as part of the project description for any meaningful environmental analysis to occur. In the absence of this critical information, there is no way to conduct the required environmental analysis. Please revise the project description and associated environmental analysis to include this critical base information.

- Page 3-2: The PEIR uses both “project site”, “project area” and “PA” to describe the area within the boundary of the proposed Winchester Community Plan, which creates confusion. There are several figures with differing planning area boundaries, which need to be consolidated into one understandable proposed land use plan .
- Page 3-2: The PEIR indicates that “most of the Winchester PA” is comprised of agricultural and undeveloped lands, without defining the actual acreage or what is meant by “most”. Please clarify.
- Page 3-4: The project characteristics section indicates that the existing Winchester Policy Area will be expanded from 287 acres to 23,153 acres within the Harvest Valley/Winchester Area Plan, without any reasoning provided for why this massive change is proposed. To implement this change, the boundaries and land uses of the surrounding Area Plans (Sun City/Menifee and Southwest Area Plan) are proposed to be modified, although acreage statistics and graphic depictions of these changes are not provided. The project description does not document the requirements or schedule for amending the surrounding Area Plans required to create the proposed Winchester Community Plan. Please include this information.
- Page 3-4: The PEIR describes 227 parcels (1,480 acres) that are proposed for General Plan Foundation Component amendments from Rural and Rural Community to Community Development without any explanation of why the change is proposed that will result in additional development intensity. The section goes on to state that 921 parcels will require future zone changes as a result of the foundation component changes, and that these future unknown zone changes are somehow evaluated in the PEIR. This analysis is not actually included in the PEIR, nor is there any commitment for future environmental review as would be required if the environmental review is not occurring at this time.
- Page 3-4, #4: The PEIR now inserts a new Area plan (San Jacinto Valley Area Plan) and the Highway 79 Policy Area into the mix, but these were not previously mentioned as requiring amendment to accommodate the proposed Winchester Community Plan. The PEIR goes on to state that the revisions to the Highway 79 Policy Area include removing the “9% density reduction for residential projects”, without any context for why that is proposed or justified, and what that means in terms of the proposed Winchester Community Plan land use plan. Please explain where this 9% reduction came from and why is it required to accommodate the proposed Winchester Area Plan.

In addition, the 9% residential intensity reduction is part of the Cooperative Agreement, which was a settlement agreement between the City and the County to mitigate environmental impacts associated with future residential development within the Highway 79 Policy Area, and it cannot be unilaterally removed from the Highway 79 Policy Area. The County is in violation of the Cooperative Agreement by proposing to remove the 9% residential intensity reduction from the Policy Area document.

The PEIR claims that the removal of the 9% reduction requirement from the Highway 79 Policy Area will be replaced by a new “fee” on newly entitled dwelling units to mitigate Vehicle Miles Traveled (VMT) impacts and fund mobility improvements within the downtown Winchester core area. A proposed fee for improvements within the downtown Winchester area has nothing to do with the basis of the Cooperative Agreement, and was not what either the County or the City agreed to in order to mitigate impacts to the City. The entire discussion regarding the 9% reduction in residential density in the Highway 79 Policy Area needs to be removed from the PEIR and must be factored into the ultimate Winchester Area Plan land use plan densities and unit totals. Without the consideration of the 9% reduction in the formulation of the Winchester Community Plan land use plan, the entire land use plan must be revised. The PEIR goes on to state that the Highway 79 Policy Area is 50,061 acres, without any explanation of how that acreage relates to the other Area Plan and Policy acreages, or its relevance.

- Page 3-5: The PEIR now introduces several new components of General Plan Amendment (GPA) No. 1207, including design guidelines, an amended General Plan Circulation Element, and “administrative and implementation programs” without defining what those programs are or how they fit in with the proposed Winchester Community Plan. Please revise and clarify.
- The County proposes to expand the existing Winchester Policy Area to include 23,143 acres. Page 3-4 indicates that the Policy Area is 23,153 acres. Please provide the correct acreage and make consistent throughout the PEIR. In addition, please confirm which number was used throughout the PEIR’s analysis.
- Page 3-6: The PEIR attempts to explain the required acreage and land use changes to the individual surrounding Area Plans required to create the new Winchester Community Plan, and this information is purportedly summarized in Tables 3-1 and 3-2, and shown in Exhibits 3-1 through 3-11. Table 3-1 lists the General Plan Foundation changes without any reference to where the changes are located or with which of the four Area Plans the acreages are being exchanged. As a result, it is impossible to understand the location of the proposed land use changes. Table 3-2 summarizes the land use acreage changes to the Winchester Policy Area and the Highway 79 Policy area, and totals both, but does not quantify any of the underlying Area Plan land use acreage changes. As a result, it is again impossible to tell what the ultimate proposed Winchester Area Plan land use acreages, density or units (increases or decreases) are and how they will be used to determine environmental impacts and required mitigation measures.
- Page 3-8: The description of the General Plan Circulation Element amendment is lacking a description of what is being proposed, and also contains incorrect information. Revising the Highway 79 Policy Area language (which is incorrect) does not in and of itself result in an amendment to the Circulation Element. The Circulation Element amendment should describe the proposed changes to the existing circulation system and policies as a result of

the proposed Winchester Community Plan, including (for example) the realignment of Highway 79, as approved by Caltrans. The PEIR text states that the 9% residential density reduction requirement contained within the Highway 79 Policy area would be amended to allow for full development within the policy area and the proposed Winchester Community Plan. This statement is incorrect and the 9% reduction in residential density has no relationship to the realignment of Highway 79. The residential reduction included in the Highway 79 policy area was required to ensure that a variety of transportation and circulation facilities were constructed in a timely manner to accommodate the growth associated within the policy area. These facilities have not been constructed to date.

- Page 3-8: The text goes on to state that “No land use designation changes are proposed and the amendment is limited to removing the development restrictions on residential uses.” This is false. There are numerous General Plan Foundation and Area Plan land use changes proposed as part of the Winchester Community Plan, and removal of the 9% reduction in residential development intensity is not applicable to the Circulation Element amendment, as it is part of the Cooperation Agreement.
- Page 3-10: The PEIR lists a variety of project objectives for the Winchester Community Plan, but fails to explain why the Winchester Community Plan is being proposed now. Most of the objectives are noble, but lack enough specificity to allow the reader to understand what the actual objectives entail. Much more specificity is needed. Please revise.
- The objective to promote higher density housing to achieve the County’s 6th Cycle Regional Housing Needs Assessment (RHNA) goal and to eliminate the 9% residential unit intensity reduction is in direct opposition to the Cooperative Agreement which mandates a 9% reduction in residential densities.
- Page 3-11: The Discretionary Approvals section includes the adoption of GPA No. 1207, but fails to mention the Circulation Element amendment. Please include and explain what the required Circulation Element amendment includes.
- Exhibit 3-1 and 3-2: Why does the proposed Community Plan boundary cut through Lake Skinner?
- Exhibit 3-3: The graphic line work/legend is difficult to understand and it is impossible to tell which boundary line applies to which Area Plan or Policy Area. There is nothing in the legend to explain what the red numbers signify. Please revise.
- Exhibit 3-1 through 3-11: None of the figures show the proposed Winchester Community Plan land use plan. The proposed Community Plan land uses are the most basic component of the Community Plan and PEIR project description and they are missing from the PEIR project description.

- The PEIR references a Vehicle Miles Traveled (VMT) Nexus Study and fee. It is unclear if the 33,000 + residential units are included in the RIVTAM model. The Nexus Study includes \$11 million for a transit center and Park & Ride facility with no analysis of the mandated reduced VMT or trips. The VMT Nexus Study should be included in the PEIR Appendix and revised to reflect the actual number of units proposed in the Community Plan.

PEIR Section 4.0 Topical Environmental Issue Areas

- The PEIR includes an evaluation of 20 topical environmental issue areas including: Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise and Vibration, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems and Wildfire. Detailed comments are provided below.
- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in Section 4.0 of the PEIR is flawed due to the inadequacy of the project description.
- Much of the analysis in PEIR Section 4.0 avoids the evaluation of all feasible mitigation measures and jumps to the conclusion that the impacts are either less than significant without mitigation or are significant and unavoidable without the application of feasible mitigation measures. CEQA Guidelines Section 15041(a) requires that a lead agency for a project require feasible changes in the project, or impose feasible mitigation, to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as the “nexus” and “rough proportionality” standards established by case law. The PEIR has not done this.

Aesthetics

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the aesthetics section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of aesthetic impacts cannot be completed without an accurate project description. Please revise the project description.

Air Quality

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon

an adequate project description. As a result, the analysis contained in air quality section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of air quality impacts cannot be completed without an accurate project description. Please revise the project description.

- **Impact Statement AQ-1: The Project Would Conflict With or Obstruct Implementation of the Applicable Air Quality Plan (PEIR pp. 4.3-22 to 4.3-24)**

The PEIR analysis of consistency with the 2016 AQMP is inadequate, and should be revised in the following ways:

- (1) To determine whether proposed project construction would result in increases in the frequency or severity of existing air quality violations or new violations or delays in timely attainment of air quality standards, the County should perform modeling of daily construction emissions based on buildout of the proposed project's development potential and compare those emissions to SCAQMD's construction thresholds (presented in PEIR Table 4.3-4).
- (2) Similarly, the determination of whether proposed project operations would result in increases in the frequency or severity of existing air quality violations or new violations or delays in timely attainment of air quality standards should be based on modeled operational emissions presented under Impact Statement AQ-2 (PEIR Table 4.3-6) compared to SCAQMD operational thresholds.
- (3) The County's contradictory statements that the proposed project would exceed the SCAG population projections used in the 2016 AQMP by 35,139 persons, and yet would be "within SCAG's forecasted population for the County" need to be clarified and corrected. The County's assertion later in this section that the increase in population and housing growth "is not considered substantial in the context of the County overall" (p. 4.3-24) needs to be supported with substantial evidence, and connected to the consistency criterion of the SCAQMD's CEQA Handbook to analyze "(w)hether a project will exceed the assumptions in the AQMP."
- (4) Several assertions need to be revised to be supported with substantial evidence, including claims of proposed project consistency with RTP/SCS goals to reduce VMT and air pollution, and that "implementation of all SCAQMD rules, regulations, and control measures may not be feasible for future developments." (PEIR p. 4.3-24) Which rules, regulations, and control measures may not be feasible, and why?
- (5) CEQA requires that all feasible mitigation measures be identified for significant environmental impacts. The PEIR's conclusion that "(n)o mitigation measures are required" for this "significant and unavoidable" impact violates CEQA because the

County has not even attempted to determine what mitigation is feasible or enforceable for an impact that exists, as discussed above.

- **Impact Statement AQ-2: Project Implementation Result in a Cumulative Considerable Net Increase of Any Criteria Pollutant for Which the Project Region is Non-Attainment Under an Applicable Federal or State Ambient Air Quality Standard**

The PEIR's claim that it is infeasible to estimate construction emissions of the proposed project is not supported by substantial evidence. Modeling of construction air pollutant emissions is routinely included in programmatic CEQA analysis for plans similar to the proposed project, such as general plans, regional plans, area plans, and community plans. The PEIR should be revised to estimate future daily construction emissions under buildout of the proposed project's development potential. This analysis should be based on reasonably foreseeable estimates for the rate of future development and timing of ultimate buildout under the proposed project. This additional information is needed so that the PEIR discloses the potential magnitude of pollutant emissions relative to SCAQMD thresholds under the proposed project and the associated health effects, which in turn will inform the development of mitigation measures and project alternatives to avoid or substantially lessen the impacts.

The PEIR's unsupported assertions about how General Plan policies affect proposed project air emissions need to be supported by substantial evidence explaining the effects of the policies on emissions-generating activities of the proposed project.

The PEIR should be revised to provide an explanation of the assumptions and inputs used to model the proposed project's operational emissions, which are shown in Table 4.3-6. The PEIR should also be revised to provide additional detail correlating the proposed project's emissions, which would greatly exceed SCAQMD thresholds, with potential health effects. For example, the PEIR shows that PM10 emissions would be 85 times higher than the threshold amount; PM2.5 emissions would be over 100 times higher than the threshold. An adequate air quality analysis requires a reasonable effort to substantively connect a project's air quality impacts to likely health consequences, or a meaningful detailed explanation of why it is not feasible to provide such an analysis. (See *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502.)

- **Air Quality Mitigation Measures Do Not Meet CEQA Requirements**

The PEIR air quality mitigation measures violate CEQA requirements by improperly deferring important details until a future time, without providing sufficient benchmark standards. To meet CEQA's requirements for adequate mitigation, the PEIR air quality mitigation measures need to be revised to include:

- A commitment to the mitigation.

- Adopted performance standards for what the mitigation must achieve.
- A menu of potential actions that can feasibly achieve the performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measures.

Biological Resources

The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the biological resources section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of biological resources impacts cannot be completed without an accurate project description. Please revise the project description.

Cultural Resources

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in cultural resources section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of cultural resources impacts cannot be completed without an accurate project description. Please revise the project description.

Energy

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the energy section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of energy impacts cannot be completed without an accurate project description. Please revise the project description.

Geology and Soils

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in geology and soils section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of geology and soils impacts cannot be completed without an accurate project description. Please revise the project description.

Greenhouse Gas Emissions

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in greenhouse gas emissions section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of greenhouse gas impacts cannot be completed without an accurate project description. Please revise the project description.

- **Section 4.8.3 Impact Thresholds and Significance Criteria**

On page 4.8-25, the PEIR references the Environmental Checklist form provided in Appendix G to the CEQA Guidelines, and states that, “a project may create a significant adverse environmental impact if it would: (g)enerate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (refer to Impact Statement GHG-1); and (c)onflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gas (refer to Impact Statement GHG-2)”

- **Impact Statement GHG-1: Greenhouse Gas Emissions Generated by the Project Could Have a Significant Impact on Global Climate Change**

The analysis provided for Impact Statement GHG-1 is inadequate on several fronts. For one, the PEIR fails to clearly explain how it uses the GHG-1 “impact statement” to determine the significance of the proposed project’s GHG emissions impacts. It only offers that “the effects of the proposed project have been categorized as either a ‘less than significant impact’ or ‘potentially significant impact’” based on the language of Impact Statement GHG-1 (PEIR page 4.8-25). At a minimum, the PEIR should be revised to clearly describe the criteria used by the County to measure compliance with this impact statement and determine the significance of the proposed project’s GHG emissions impacts. The PEIR should be revised to provide a clear, internally consistent description of the thresholds of significance for GHG emissions impacts. The PEIR should also explain how compliance with the threshold(s) used means that the proposed project’s impacts would be less than significant. CEQA Guidelines Section 15064(b)(2). As part of this explanation, the PEIR should clarify its statement that, “the impact analysis for this project relies on guidelines, analyses, policy, and plans for reducing GHG emissions established by the California Air Resources Board (CARB).” (PEIR pp. 4.8-1 to 4.8-2). Which guidelines, analyses, policies and plans? Please explain.

Without understanding the County’s criteria for determining significance, it is not possible for the reader to understand the nature or severity of the significant GHG emissions impacts identified for the proposed project, and therefore, also not possible to evaluate the adequacy of the mitigation measures identified in the PEIR for avoiding or substantially lessening the significant impacts.

The analysis presented under Impact Statement GHG-1 is divided into two sections, one addressing construction-related impacts and the other addressing operational impacts. These two components of the GHG-1 impact analysis are addressed separately below.

- **The Inadequate Analysis of Construction-Related GHG Emissions Impacts Needs to be Revised**

The analysis of construction impacts provides a high-level description of generic types of construction activities that generate GHG emissions; there is no attempt to qualitatively analyze the timing or magnitude of construction-related GHG emissions that would result from the substantial amount of development allowed to occur under the proposed project. The PEIR goes on to assert, in back-to-back sentences, that quantifying construction related GHG emissions is both “not possible” and that precise quantification is “impractical.” It concludes by asserting, without evidence or explanation, that although certain “current policies” and mitigation measures recommended for Impact Statement AQ-2 in PEIR Section 4.3, Air Quality, would minimize construction-related GHG emissions, the proposed project could result in future development that exceeds South Coast Air Quality Management District (SCAQMD) thresholds of significance, which are not named or identified.

The PEIR analysis of construction-related GHG emissions impacts must be revised in several ways. First, the County must make a good-faith effort to quantify and disclose estimated construction-related GHG emissions that would result from the proposed project. The PEIR’s assertion that “quantifying precisely” is “impractical” is not a basis to exclude this information from the PEIR. Moreover, the PEIR’s assertion that is “not possible” to quantify the proposed project’s GHG emissions is not supported by substantial evidence. In fact, the County’s own Climate Action Plan, with its modeling of off-road equipment GHG emissions for all of the unincorporated County areas for decades into the future, shows that it is possible, and indeed feasible, to prepare a programmatic estimate of GHG emissions from construction equipment without knowing site- or project-specific information (County CAP). In addition, any discussion of current policies that minimize the construction-related GHG emissions of the proposed project must be supported with substantial evidence showing how such policies would reduce emissions. Also, the impact analysis should first determine the significance of the proposed project’s GHG emissions under the threshold being used, before analyzing the effect of air quality mitigation measures identified elsewhere in the PEIR on the proposed project’s GHG emissions impacts. And finally, if the PEIR is evaluating construction-related GHG emissions against certain “SCAQMD thresholds of significance” as it implies, then the PEIR needs to clearly describe what those thresholds are, explain why they are appropriate to use for the proposed project, and provide an analysis, supported by substantial evidence, that compares the proposed project’s GHG emissions to those thresholds. The PEIR also needs to clearly identify feasible mitigation measures that address the construction-related GHG emissions that would be generated by the proposed project.

- **The Inadequate Analysis of Operational GHG Emissions Impacts Needs to be Revised**

Initially, the PEIR explains that the proposed project's operational GHG emissions are "qualitatively evaluated" based on "compliance with the long-term State reduction targets." (PEIR page 4.8-26) The PEIR does not offer a description of how this qualitative evaluation of target compliance will be performed, and does not identify the State reduction targets used in the analysis. The PEIR also appears to describe an additional method used to evaluate operational GHG emissions, explaining that, "future development that would occur under project buildout (new development) was assessed based on the capacity to effectively reduce GHG emissions sources from project-specific operations within the project area." (PEIR page 4.8-26) The PEIR offers no explanation of what it means for future development to have "capacity to effectively reduces GHG emissions sources from project-specific operations."

The impact analysis for GHG-1 presents a comparative analysis of annual GHG emissions under the proposed project as compared to development under the current County General Plan, which shows that the proposed project would increase annual GHG emissions by 68,588 MTCO_{2e} relative to development allowed under the current General Plan (PEIR Table 4.8-1). The PEIR provides no interpretation or analysis of how the annual GHG emissions increase relates to the proposed project's GHG emissions impact being analyzed. It also does not provide any information about the timing of when such annual rates of GHG emissions would be expected to occur. Moreover, on page 4.8-24, the PEIR explains that "this EIR quantifies total annual GHG emissions for informational purposes," although it does not clearly explain what this means, and it does not explain why total annual emissions are included in the impact analysis for GHG-1. This wording suggests that the GHG emissions are not intended to be reliable, thereby undercutting the value of the data for CEQA purposes.

The PEIR then provides a high-level description, asserting that certain objectives of the proposed project would generally "reduce GHG emissions" although it is not clear to what the asserted reduction in emissions is being compared. The PEIR also asserts that several County General Plan policies would "minimize GHG impacts" but does not provide substantial evidence explaining how the policies would affect the proposed project's emissions.

The analysis then presents two mitigation measures, GHG-1 and GHG-2, and describes their purported effect on the proposed project's GHG emissions. The PEIR presents these mitigation measures without first determining the significance of the proposed project's impacts, thereby skipping a critical step. The analysis concludes by asserting that it is not feasible to analyze future development under the proposed project because timing and project-specific details are unknown, and therefore, the County's thresholds could be exceeded, but it does not identify or describe the "County thresholds" being referenced.

Moreover, the conclusion that future development cannot be analyzed in any regard is incorrect; even a programmatic EIR still must contain a certain level of information.

The PEIR analysis of operational GHG emissions impacts should be revised in several ways. First, it needs to clearly identify the criteria being used to evaluate the proposed project's GHG emissions under Impact Statement GHG-1. Similarly, the PEIR needs to clearly address whether estimates of annual GHG emissions resulting from the proposed project, including comparisons of estimated annual GHG emissions under the current General Plan, are used in the evaluation of the significance of the proposed project's GHG emissions, and if so, how. If the proposed project's total annual GHG emissions are in fact presented only for "informational purposes" as stated in the PEIR, then the PEIR must explain what this means and why the estimates are not used in the impact analysis. Moreover, before any discussion of mitigation measures, the impact analysis must first clearly analyze whether the GHG emission impacts would be potentially significant, i.e., address whether or not the threshold being applied would be exceeded or not. If the threshold would be exceeded and the impact would be potentially significant, then all feasible mitigation measures to reduce the impact to less than significant must be identified and proposed to be imposed. Also see below for comments on PEIR Mitigation Measures GHG-1 and GHG-2.

- **Impact Statement GHG-2: Implementation of the Proposed Project Could Conflict with an Applicable Greenhouse Gas Reduction Plan, Policy, or Regulation**

The analysis provided for Impact Statement GHG-2 is inadequate on several fronts. For one, the PEIR does not clearly identify the criteria being used to evaluate the proposed project under this threshold of significance. For example, the PEIR discussion of impact thresholds and significance criteria explains that "The project's GHG impacts are evaluated by assessing the project's consistency with applicable local, regional, and statewide GHG reduction plans and strategies." (PEIR p. 4.8-24) It then identifies the 2020-2045 RTP/SCS and the 2017 Scoping Plan as the two GHG reduction plans applicable to the project. The County's Climate Action Plan (CAP) is not identified as an applicable plan, or even referenced in this section. Later, in the impact analysis for GHG-2 (PEIR p. 4.8-30), a discussion of the County's CAP is provided, but the proposed project is not analyzed for potential conflicts with the County's CAP, and the relevance of the discussion provided to the PEIR impact analysis and significance conclusion for Impact Statement GHG-2 is unclear. The PEIR does assert that the proposed project would be "consistent with the emissions reductions targets set by the (County's) CAP" (p. 4.8-36), but offers only unsubstantiated statements that the proposed project would not conflict with growth projections and would reduce VMT and be "consistent with appropriate CAP measures" (which are addressed later in this comment letter).

The PEIR must be revised to include an analysis of the proposed project for consistency or conflicts with the County's Climate Action Plan. It must provide the criteria used to evaluate the proposed project for consistency or conflicts with the County's CAP, and

support its analysis with substantial evidence. In addition, the PEIR needs to assess the significance of the proposed project's GHG emissions impact under Impact Statement GHG-2 before considering the role of mitigation measures in reducing a potentially significant impact. (PEIR p. 4.8-39) As part of this revised analysis, the PEIR should clarify statements, like the one on page 4.8-29, asserting that all future development under the proposed project "would demonstrate compliance with the State's GHG reduction targets." Substantial evidence is needed to support this assertion, including the regulatory requirements and other processes that would achieve this outcome, as well as the specific GHG reduction targets being referenced.

Consistency with the County's Climate Action Plan

The County's CAP is based on anticipated growth using the County's 2015 General Plan, including the number of residential households and commercial/industrial jobs (County CAP Table 3-3). The PEIR explains that the proposed project would allow development that decreases the number of jobs in the project area by 10,055, and increases the number of residential dwelling units by 12,329, when compared to the existing General Plan Land Use Designations (PEIR Table 3-2). The PEIR fails to directly analyze whether the increase in residential development potential resulting from the proposed project would conflict with the County's ability to meet its GHG reduction targets through the measures set forth in its CAP. Similarly, the PEIR does not explain how it is that future development under the proposed project could be found to be consistent with the County's CAP under CEQA Guidelines Section 15183.5, when the anticipated growth of the proposed project is not accounted for in the County's CAP. As the County admits later in the GHG section, "Project consistency with population growth projections is one of the criteria for determining consistency with GHG reduction plans." (PEIR p. 4.8-36)

Consistency with SCAG's Connect SoCal 2020-2045 RTP/SCS

The analysis of the proposed project's consistency with the Connect SoCal 2020-2045 RTP/SCS (PEIR pp. 4.8-30 to 4.8-33) must be revised to analyze whether the changes in development potential under the proposed project, including an increase of over 12,000 residential dwellings and reduction of over 10,000 jobs, would adversely affect SCAG's ability to meet its passenger vehicle GHG reduction target for 2035. The analysis should also be revised to provide additional details and evidence supporting assertions that the proposed project would reduce VMT by "facilitating development opportunities for greater housing variety and density" and "facilitat(ing) a sustainable multi-modal transportation network that includes walkable, bicycle-friendly environments with increased accessibility via transit." (PEIR p. 4.8-31) The PEIR contends that, "(T)he County has no control over vehicle emissions," which ignores the many strategies within the County's control and influence to reduce vehicle emissions, including its ability to support conversion of the vehicle fleet to zero emissions vehicles (ZEVs), installation of charging and fueling infrastructure for ZEVs, and its ability to reduce VMT through regulation of land use patterns and circulation improvements.

In addition, the analysis of proposed project consistency with the five key SCS strategies of the 2020-2045 RTP/SCS (Table 4.8-2, PEIR p. 4.8-31) must be revised to fully evaluate the proposed project's consistency with each of the strategies; the current analysis is incomplete in that it does not address several components of the five key SCS strategies. Moreover, the analysis must be revised to include support and evidence for the conclusions of consistency with SCS strategies.

Consistency with Growth Projections

In Table 4.8-3: Project Consistency with Applicable CARB Scoping Plan Measures (PEIR p. 4.8-34), the County asserts that development under the proposed project would be "consistent with the growth projections in the RTP/SCS." Given that the PEIR reports elsewhere (e.g., PEIR Table 3-2) that the proposed project would allow development that decreases the number of jobs in the project area by 10,055, and increases the number of residential dwelling units by 12,329 when compared to the existing General Plan Land Use Designations, the County must provide additional information and explanation supporting its conclusion that the growth resulting under the proposed project is consistent with growth projections used in the RTP/SCS, which was adopted in September 2020. As the County itself states in Section 3.14, Population and Housing, "General Plan growth projections form the basis of SCAG's planning and policy documents, including regional growth forecasts." (PEIR p. 4.14-9)

The PEIR also references Section 3.14 to conclude that the project would not conflict with County or regional growth projections because "although it would directly increase population through housing development, it would also directly decrease population through development of less-employment generating land uses." (PEIR p. 4.8-36) It is unclear how the County reached the conclusion that the proposed project's increase of 12,329 residential units and decrease of 10,055 jobs, relative to the adopted General Plan, is consistent with the growth projections used in the County's CAP and in SCAG's 2020-2045 RTP-SCS. PEIR Section 3.14 (p. 4.14-9) attempts several arguments to support this conclusion, which are summarized below, but none of these contentions actually supports the conclusion of proposed project consistency with 2020-2045 RTP/SCS growth projections (which, according to the County, are based on the County General Plan) or the County's CAP (which are based on the County's 2015 General Plan).

The GHG analysis includes these flawed assumptions:

- The PEIR asserts that the proposed project would not exceed planned growth projections because the rate of population increase between the proposed project and adopted General Plan, 21%, is lower than the 33% rate of population growth that SCAG has projected for Riverside County between 2021 and 2045.
- The PEIR references the County-wide residential vacancy rate of 13%.

- The PEIR asserts that growth under the proposed project “would occur incrementally through 2045,” housing under the proposed project would be “dispersed...over approximately 50,000 acres,” and that some unspecified amount of population would decrease the proposed project would allow for fewer additional jobs than the adopted General Plan. Please identify the number of units, and projected population.

GHG Mitigation Measures

- PEIR Mitigation Measures GHG-1 and GHG-2 would require that new discretionary developments under the proposed project implement CAP measures equivalent to at least 100 points (according to the CAP’s Screening Tables). It asserts that the mitigation would “ensure GHG emissions from new development are reduced to levels necessary to meet California State targets.” (PEIR p. 4.8-29) This statement is inadequate for the following reasons.

First, as described in the above comments, the PEIR does not provide substantial evidence supporting its conclusion that the development potential of the proposed project, which results in substantial changes to development potential of residential and employment land uses under the adopted General Plan, is accounted for in the growth projections of the County’s CAP. Because the proposed project’s development potential differs substantially from the General Plan growth projections on which the CAP is based, additional analysis is needed to determine whether the County could still meet its CAP targets when requiring development under the proposed project to “garnish at least 100 points” of CAP measures. Moreover, Mitigation Measures GHG-1 and GHG-2 have been crafted to only apply to new “discretionary development” that results from the proposed project. Additional analysis is needed to understand the degree to which development under the proposed project would be processed through ministerial instead of discretionary processes, and by extension, not required to implement CAP measures that reduce GHG emissions. Disclosure of this information is needed to understand the effectiveness of mitigation measures GHG-1 and GHG-2.

In addition, the County must revise the PEIR to reconcile the conflicting statements that the GHG emissions impacts of future development “would be analyzed on a project-by-project basis” (p. 4.8-28) and “would be required to undergo project-specific CEQA review, including analysis of potential operational GHG emissions” (p. 4.8-29), with the language in mitigation measure GHG-2 that projects will be required to implement CAP measures that achieve at least 100 points “in lieu of a project-specific analysis.” If future environmental review will is not anticipated, then significantly more detailed review is required at this juncture. Alternately, if the County intends to tier off of this document for future review, then the County must clearly state that future, project-level analysis will occur.

Hazards and Hazardous Materials

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in hazards and hazardous waste section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of hazard and hazardous material impacts cannot be completed without an accurate project description. Please revise the project description.

Hydrology and Water Quality

The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the hydrology and water quality section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of hydrology and water quality impacts cannot be completed without an accurate project description. Please revise the project description.

Land Use and Planning

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in land use and planning section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of aesthetic impacts cannot be completed without an accurate project description. Please revise the project description.
- Page 4-11-1: The Land Use and Planning Section is entirely inadequate. It does not mention the Western Riverside Council of Governments (WRCOG) as the regional planning agency for the project area, let alone provide any analysis of regional impact within Western Riverside County, or WRCOGs subregional Climate Action Plan GHG reduction measures. Further, the Land Use and Planning section does not acknowledge the proposed Winchester Community Plan and simply refers to all of the existing Area Plans and overlays that will be modified to create the proposed plan.

Mineral Resources

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in mineral resources section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of mineral resource impacts cannot be completed without an accurate project description. Please revise the project description.

Noise and Vibration

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in noise and vibration section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of noise and vibration impacts cannot be completed without an accurate project description. Please revise the project description.

Population and Housing

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in population and housing section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of population and housing impacts cannot be completed without an accurate project description. Please revise the project description.

Public Services

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the public services section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of public services impacts cannot be completed without an accurate project description. Please revise the project description.

Recreation

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the recreation section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of recreation impacts cannot be completed without an accurate project description. Please revise the project description.

Transportation

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the transportation section of the PEIR is flawed due to the inadequacy of the project description. An adequate

analysis of transportation impacts cannot be completed without an accurate project description. Please revise the project description.

Regulatory Setting

- Page 4.17-7 and 4.17-8: The regulatory setting includes LOS-based policies and programs. CEQA documents can no longer base a significance determination on an automobile delay-based analysis, such as LOS; it is therefore unclear why this information is included in the regulatory settings. The document is not precluded from including a LOS analysis for disclosure purposes, such as General Plan Circulation Element or Congestion Management Plan consistency, but the analysis cannot be used as a basis for determining a significant environmental impact. Please clarify the County's approach here.

Impact Analysis

- TRA-1 (Construction Impacts): This impact notes that "site-specific Traffic Management Plans (TMPs) would be required to be implemented for each individual implementing project." However, there is no implementation mechanism mentioned or cross-referenced that would ensure implementation of such plans. How does the County intend to ensure that this implementation occurs?
- TRA-2: TRA-1 (Operational Impacts) notes that the project would result in modifications to Caltrans facilities and other roadways but does not state what those changes would be. If there would be any roadway widening associated with the project, consistent with guidance in the OPR Technical Advisory, induced demand/VMT needs to be analyzed within impact TRA-2.
- TRA-2: The VMT thresholds for retail and other customer land uses shown in Table 4.17-1 are listed as "net regional change." That is not a threshold, which is a metric. The analysis needs to be revised to state what the threshold is for both of these land uses (e.g., no net increase in regional VMT).
- TRA-2: The impact states that "the RIVTAM Model maintains a base year condition of 2012 which, for purposes of this analysis, is considered to be representative of existing conditions." There is no explanation given as to why or how this is representative of existing conditions. Additionally, an updated version of RIVTAM has been released since the completion of this analysis and includes a base year of 2018. Use of the updated and refined model should be considered. The updated RIVTAM model needs to be used for the PEIR traffic analysis, or an explanation included as to why the current version of RIVTAM was not used.
- TRA-2: The impact analysis shows a very high level VMT evaluation in Tables 4.17-2 and 4.17-3, but there is no discussion or disclosure of what land use assumptions were included for any of the modeling. Please provide this.

- TRA-2 (Mitigation): The statement that, “Although many of the VMT reducing design principles, policies, and improvements that are described above may ultimately mitigate and/or potentially reduce the VMT impacts outlined...” is speculative and misrepresents the VMT analysis findings. With the level of VMT increases across the board, it is highly unlikely that any of the VMT impacts would be able to be mitigated to a less than significant level.
- TRA-2 (Mitigation): VMT-reducing design principles incorporated in the Draft Winchester Design Principles are incorrectly presented as mitigation. If these are part of the proposed project, they should be incorporated into the analysis and not included as mitigation. Generally, it is unclear what portion of that which is presented as mitigation is actually part of the project as opposed to being true mitigation.
- TRA-2 (Mitigation): There is no quantification of the proposed VMT mitigation. It is also unclear if all feasible VMT mitigation has been proposed. Please revise and provide the quantification, as well as a more robust discussion of VMT mitigation.
- TRA-3: If there are no existing requirements for construction traffic management, it cannot be assumed that a temporary traffic control plan would be implemented, and associated impacts reduced to a LTS level.

Draft VMT Mitigation Fee Ordinance/Nexus Study

- The County has indicated that the draft VMT Mitigation Fee Ordinance/Nexus Study has been prepared to mitigate traffic impacts in the Winchester Community Plan Area through the development and implementation of a VMT mitigation fee. The draft Ordinance /nNexus study is purportedly required by PEIR mitigation measure TRA-1. The fee appears to be based upon an assumption that two measures (Park and Ride facility and a Metrolink multi-modal facility) will mitigate **all** VMT impacts associated with the proposed Winchester Community Plan. A total of \$11,000,000 is arbitrarily assigned to the cost of facility construction, without consideration of current and ongoing supply chain issues and inflation. Then, a total of 33,569 residential units is assumed (without any basis or support) to be developed within the proposed Winchester Community Plan area, divided by the unrealistically low cost of \$11,000,000 to come up with a per unit VMT mitigation fee of \$328/unit. In short, there is no support for the conclusions that are reached. The VMT Mitigation Fee Ordinance and Nexus Study incorrectly assumes that the 9% residential intensity reduction policy can be eliminated and an unsupported and overstated residential unit count is assumed for analysis purposes.

The VMT Mitigation Fee Ordinance/Nexus Study is purportedly evaluated in the PEIR, although no mention if it can be found in the body of the PEIR text. In addition, there is no mention of 33,569 residential units anywhere in the PEIR. The conclusion of the VMT Mitigation Fee Ordinance/Nexus Study, namely, that the proposed VMT mitigation fee

will mitigate all proposed Winchester Community Plan VMT impacts, is not supported by any substantial evidence or analysis in the PEIR. Please provide an adequate analysis of VMT impacts and a realistic mitigation program, supported by evidence, to demonstrate how proposed Winchester Community Plan VMT impacts would be reduced to less than significant.

Tribal Cultural Resources

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in tribal and cultural resources section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of tribal cultural resources impacts cannot be completed without an accurate project description. Please revise the project description.

Utilities and Service Systems

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in utilities and service systems section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of utilities and service systems impacts cannot be completed without an accurate project description. Please revise the project description. A Water Supply Assessment is required to evaluate the long term viability of water supplies to serve the proposed community plan, especially as relates to worsening drought conditions. Please provide.

Wildfire

- The previous comments on the inadequacy of the project description flow through to all of the PEIR Environmental Issue sections, as the environmental analysis must be based upon an adequate project description. As a result, the analysis contained in the wildfire section of the PEIR is flawed due to the inadequacy of the project description. An adequate analysis of wildfire impacts cannot be completed without an accurate project description. Please revise the project description.

Mandatory Findings of Significance

- Section 4.21 lists 10 environmental issue areas that cannot be reduced to less than significant and remain significant and unavoidable. This section summarizes the findings of the purported “analysis” contained Section 4.0 of the PEIR, which is flawed due to the inadequacy of the project description. An adequate analysis of impacts cannot be

completed without an accurate project description. Please revise the project description, and address all other comments accordingly.

Cumulative Impacts

- Table 5-1 (Cumulative Projects List) contains a grand total of 10 projects (1,187 residential units and 10,283,987 square feet of non-residential uses that embody the entirety of cumulative projects in the vicinity of the proposed Winchester Community Plan. The cumulative projects map (Exhibit 5-3) in the PEIR is blank. It is incomprehensible that only those 10 projects comprise the entire cumulative project list, given the size of the project area and the fact that the project area is one of the fastest developing areas within Riverside County and the State of California.
- Throughout the cumulative impact section, level of significance statements are made without any supporting analysis.

Other CEQA Considerations

- The conclusion of the growth inducing impacts section is that the proposed Winchester Community Plan would not induce growth. Nothing could be further from the truth, as the Plan proposes to eliminate the 9% cap on residential units and proposes numerous general plan amendments to increase residential density within the Plan area. The conclusion is not just incorrect, it is contradicted by the Cooperative Agreement to which the County is a party. This discussion and conclusion must be revised to accurately state what the County is attempting to do.

Alternatives to the Proposed Project

- The PEIR proposes four alternatives to the proposed project. CEQA requires a reasonable range of alternatives that meet most of the basic project objectives be proposed to reduce or eliminate identified environmental impacts. No explanation is provided for how the number of residents, dwelling units and non-residential square footages are calculated for each alternative. It is difficult to understand how each alternative's number of residents, dwelling units and non-residential square footages were determined since the Winchester Community Plan project description does not contain a proposed land use plan or a proposed land use summary table. As a result, it is impossible to determine if an alternative would reduce environmental impacts as compared to the proposed project and/or the other alternatives. Under the existing analysis, it is impossible to identify the environmentally preferred alternative. Again – the project description needs to be adequately prepared to properly understand the formulation of alternatives.

Conclusion and Written Request for Notices

Based on these defects and inadequacies in the Draft PEIR, the City requests that the County suspend any further consideration of the project until a Draft PEIR that fully complies with CEQA is prepared and recirculated for public review and comment. The City objects to any further County action on the project until the necessary environmental review has been completed.

The City requests that written responses to each of the following comments be provided in accordance with CEQA Guidelines Section 15088.

Pursuant to Public Resources Code section 21092.2(a), the City intends that this letter serve as a written request for a copy of all notices that may be issued or filed related to this project or any part or component thereof. Please direct all such notices to me at the address on this letter.

Sincerely,



Luke Watson
Deputy City Manager

cc: Chuck Washington, County Supervisor
Jeffrey Van Wagenen, Riverside County Administrator
Juan Perez, Chief Operating Officer
John Hildebrand, Planning Director County of Riverside
Evan Langan, Project Planner County of Riverside

Aaron Adams, City Manager
Kevin Hawkins, Assistant City Manager
Patrick Thomas, Director of Public Works

Matthew Bassi, City of Wildomar
Karen Brindley, City of Lake Elsinore
Cheryl Kitzerow, City of Menifee
Jim Morrissey, City of Canyon Lake
Jarrett Ramaiya, City of Murrieta

Attachments: Exhibit A, Cooperative Agreement
Exhibit B, Amendment No.1 to the Cooperative Agreement
Exhibit C, Settlement Agreement

Exhibit A:

**Cooperative Agreement Between the City of Temecula and the County of Riverside to
Mitigate Traffic Impacts in Western Riverside County**

**COOPERATIVE AGREEMENT BETWEEN THE CITY OF
TEMECULA AND THE COUNTY OF RIVERSIDE TO
MITIGATE TRAFFIC IMPACTS IN WESTERN
RIVERSIDE COUNTY**

This Agreement is made and entered into as of April 1st, 2005 by and between the City of Temecula, a municipal corporation ("City"), and the County of Riverside, a public subdivision of the State of California ("County"). In consideration of the mutual promises set forth herein, the City and County agree as follows:

ARTICLE 1

RECITALS

This Agreement is made for the following purposes and with respect to the following facts, which the City and County agree to be true and correct:

1.1 Since 1999, the County has been engaged in a project known as the Riverside County Integrated Project (the "RCIP"), which initially consisted of proposals for the Community and Environmental Transportation Acceptability Process (the "CETAP"), the Western Riverside County Multi-Species Habitat Conservation Plan ("MSHCP"), and an updated general plan to replace the County general plan adopted in 1984. The CETAP has not yet been adopted. The MSHCP has been adopted by the County and the member agencies. The State and Federal agencies have also approved the MSHCP and issued the necessary permits for the MSHCP.

1.2 On October 7, 2003, the County adopted its Resolution No. 2003-487, approving a new General Plan (the "General Plan") to replace the prior general plan approved in 1984 and adopted Resolution No. 2003-488 adopting and certifying a Final Environmental Impact Report for the General Plan ("FEIR"). The General Plan designates land uses for the unincorporated areas of the County. The General Plan also describes the infrastructure necessary to serve the designated land uses.

1.3 The City is located in southwestern Riverside County. Two major highways traverse the City, State Route 79 North (Winchester Road) and State Route 79 South, and connect to Interstate 15. The City has improved these roads from two lanes to six lanes in order to accommodate the growth within the City. These roads also serve the unincorporated areas of the County surrounding the City.

1.4 During the public hearing process, the City commented extensively on the proposed General Plan. The City contends, among other things, that the General Plan fails to adequately provide for construction of the traffic improvements required to serve the dwelling units proposed by the General Plan and, therefore, fails to mitigate the traffic impacts created by the General Plan; that the General Plan deficiencies are of particular concern to the City because traffic generated in the Southwest area of the County will severely impact the City unless certain

traffic improvements are built concurrently with the proposed dwelling units; and that no adequate mechanism exists in the General Plan to ensure that traffic mitigation measures identified in the General Plan and the FEIR are in place before the dwelling units creating the need for the mitigation measures are constructed. The County disputes the City's contentions.

1.5 On November 5, 2003, the City filed a Petition for Writ of Mandate in Riverside Superior Court challenging the legality and validity of the General Plan and the FEIR. The action is entitled "*City of Temecula v. County of Riverside; Board of Supervisors of the County of Riverside*," Riverside County Superior Court Case No. RIC 402766 ("Litigation"). The County disputes the City's contention that the General Plan and FEIR are invalid.

1.6 Despite their differences in the Litigation, the City and County desire to cooperatively work together in an effort to improve the highway infrastructure in Western Riverside County for the benefit of all current and future residents of the County. The City and County acknowledge that providing adequate traffic infrastructure for Western Riverside County involves complex engineering, environmental and financial challenges requiring the full cooperation of all federal, state and local governmental agencies, but will provide substantial public benefits for the City, County and the people living and working in the City and the County.

1.7 This Agreement sets forth the framework for a major cooperative effort by the City and the County to provide the traffic infrastructure required for new housing development in Western Riverside County before the creation of actual traffic impacts.

1.8 This Agreement specifically addresses impacts of the General Plan on Major Arterial Roads in Southwest Riverside County in the specific area to be known as the "I-215 Policy Area." This Agreement also specifically addresses impacts of the General Plan on freeways in the "Western Riverside County Area". For the purposes of this Agreement, the "I-215 Policy Area" shall be the area described in and shown on Exhibit A and the "Western Riverside County Area" shall be the area described in and shown on Exhibit D.

1.9 The terms described below shall have the following meanings unless otherwise noted in the Agreement:

1.9.1 "Appropriately formed and fully funded financing mechanism" is defined in Section 2.3.4 and Section 3.3.4 and shall mean a community facilities district, assessment district, or similar infrastructure financing mechanism, which has been formed and which is fully funded to provide for the immediate construction of the Major Arterial Roads required to mitigate project-related traffic impacts. "Appropriately formed financing mechanism" is defined in Section 2.3.4 and Section 3.3.4 and shall mean a community facilities district, assessment district, or similar infrastructure financing mechanism, which has been formed to provide for the construction of the Major Arterial Roads required to mitigate project-related traffic impacts.

1.9.2 "Best efforts" County is defined in Section 2.3.2 and Section 2.3.7. As used in Section 2.3.2, "best efforts" shall mean that the County shall initiate proceedings to amend the General Plan as described in Section 2.1 and shall diligently process the proposed

General Plan Amendment to completion in accordance with all applicable laws, subject to the County's legislative discretion as more particularly described in Section 2.3.5. As used in Section 2.3.7, "best efforts" shall mean that the County shall, at the time an appropriately formed financing mechanism is in place and sufficient funds are available, diligently undertake, without unnecessary delay, all the actions required to enable construction of the Major Arterial Roads, including, but not limited to, preparing and processing the required environmental documentation, design documentation and plans and specifications. As used in Section 2.3.7, "best efforts" shall further mean that the County shall, at the time an appropriately formed and fully funded financing mechanism is in place, diligently initiate and complete construction of the Major Arterial Roads.

1.9.3 "Best efforts" City is defined in Section 3.3.2, and shall mean that the City shall initiate proceedings to amend the General Plan as described in Section 3.1 and shall diligently process the proposed General Plan Amendment to completion in accordance with all applicable laws, subject to the City's legislative discretion as more particularly described in Section 3.3.6.

1.9.4 "City" shall mean the City of Temecula.

1.9.5 "City General Plan Amendment" shall mean the proposed amendment to the Temecula General Plan described in Section 3.1.

1.9.6 "City Land Use Applications" is defined in Section 3.3.3 and shall mean any applications on which the City Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which, would authorize or conditionally authorize the construction of dwelling units within the City, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits.

1.9.7 "County" shall mean the County of Riverside.

1.9.8 "County General Plan Amendment" shall mean the proposed amendment to the Riverside County General Plan described in Section 2.1.

1.9.9 "County Land Use Applications" is defined in Section 2.3.3 and shall mean any applications on which the County Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which, would authorize or conditionally authorize the construction of dwelling units within the I-215 Policy Area, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits.

1.9.10 "Effective date of this Agreement" shall mean the date described in Section 6.11.

1.9.11 "General Plan" shall mean the Riverside County General Plan approved by Resolution No. 2003-487 of the Board of Supervisors of Riverside County on October 7, 2003.

1.9.12 "Freeways" shall mean the I-15 Freeway and the I-215 Freeway within the Western Riverside County Area.

1.9.13 "Freeway Action Plan" shall mean the action plan described in Section 4.4 which shall be negotiated by the City and County following receipt of the Freeway Strategic Study.

1.9.14 "Freeway Strategic Study" shall mean the study described in Section 4.1 to set specific goals for the development of the freeway capacity necessary to meet the traffic generated by new housing development in the Western Riverside County Area and to establish the framework for the joint efforts of the City, County, and other federal, state and local agencies to implement the goals and establish the necessary freeway capacity.

1.9.15 "I-215 Policy Area" is defined in Section 1.8 and shall mean the area in Southwest Riverside County described in and shown on Exhibit A.

1.9.16 "Litigation" shall mean the Petition for Writ of Mandate filed by the City on November 5, 2003 in Riverside Superior Court, entitled "*City of Temecula v. County of Riverside; Board of Supervisors of the County of Riverside,*" Riverside County Superior Court Case No. RIC 402766, challenging the legality and validity of the General Plan and the FEIR.

1.9.17 "Major Arterial Roads" is defined in Section 2.3.1 and Section 3.3.1 and shall mean those roadway projects identified in Exhibit B.

1.9.18 "Priority Phasing Program" shall mean the program described in Exhibit C.

1.9.19 "Western Riverside County Area" shall mean the area described in and shown on Exhibit D.

ARTICLE 2

MEASURES TO MITIGATE THE IMPACT OF NEW HOUSING DEVELOPMENT ON COUNTY ARTERIAL ROADS AND HIGHWAYS

2.1 The County shall use its best efforts to amend the General Plan so that it contains: (1) a policy indicating that the Major Arterial Roads within the I-215 Policy Area shall be constructed and completed concurrently with the construction of the dwelling units creating the demand for the Major Arterial Roads; and (2) a requirement that all land use applications approved by the County within the I-215 Policy Area ("County Land Use Applications") shall contain a condition, in addition to all other appropriate conditions, that building permits shall not

be issued until (a) the subject property is part of an appropriately formed and fully funded financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project or (b) the subject property is part of an appropriately formed financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project and the property owner pays its full proportionate share of the required improvements to the County in trust for the construction of the Major Arterial Roads which will mitigate the traffic impacts of the project or (c) the County otherwise funds or constructs the required improvements using money from other sources. The General Plan Amendments described in this section shall be known as the "County General Plan Amendment."

2.2 All County Land Use Applications approved by the County after the effective date of this Agreement shall contain a condition of approval requiring that building permits shall not be issued until (a) the subject property is part of an appropriately formed and fully funded financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project or (b) the subject property is part of an appropriately formed financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project and the property owner pays his/her/its full proportionate share of the required improvements to the County in trust for the construction of the Major Arterial Roads which will mitigate the traffic impacts of the project or (c) the County otherwise funds or constructs the required improvements using money from other sources.

2.3 The County, to the extent allowed by law, shall facilitate and promote the proceedings necessary to complete processing of the County General Plan Amendment as set forth in Section 2.1 and the County shall diligently process the County General Plan Amendment, including necessary environmental actions without unnecessary delay.

2.3.1 As used in this Agreement, "Major Arterial Roads" shall mean those roadway projects identified in Exhibit B.

2.3.2 As used in Sections 2.1, "best efforts" shall mean that the County shall initiate proceedings to amend the County General Plan as described in Section 2.1 and shall diligently process the proposed Amendment to completion in accordance with all applicable laws, subject to the County's legislative discretion as more particularly described in Section 2.3.5.

2.3.3 As used in this Agreement, County Land Use Applications shall mean any applications on which the County Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which, would authorize or conditionally authorize the construction of dwelling units within the I-215 Policy Area, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits.

2.3.4 As used in this Agreement, "appropriately formed and fully funded financing mechanism" shall mean a community facilities district, assessment district, or similar infrastructure financing mechanism, which has been formed and which is fully funded to provide

for the immediate construction of the Major Arterial Roads required to mitigate project-related traffic impacts.. As used in this Agreement, "appropriately formed financing mechanism" shall mean a community facilities district, assessment district, or similar infrastructure financing mechanism, which has been formed to provide for the construction of the Major Arterial Roads required to mitigate project-related traffic impacts..

2.3.5 The Parties understand and acknowledge that, in the context of processing the County General Plan Amendment and the County Land Use Applications, the County cannot guarantee the ultimate outcome of any public hearings before the County Planning Commission or the County Board of Supervisors or other public bodies of the County, nor prevent any opposition thereto by members of the public or other agencies affected by or interested in the County General Plan Amendment and the County Land Use Applications. The Parties further understand and acknowledge that land use regulations involve the exercise of the County's police power and, at the time of executing this Agreement, it is settled California law that government may not contract away its right to exercise its police power in the future. Avco Community Developers Inc. v. South Coast Regional Com., 17 Cal.3d 785, 800 (1976); City of Glendale v. Superior Court, 18 Cal.App.4th 1768 (1993). The parties further understand and acknowledge that the approval of the County General Plan Amendment and the County Land Use Applications may be subject to procedural or substantive obligations under the California Environmental Quality Act, the State Planning and Zoning Law, or other laws potentially applicable to such approvals. Nothing in this Agreement is intended to constrain the County's consideration of the County General Plan Amendment and the County Land Use Applications in light of the information obtained or developed pursuant to these laws and the County retains the discretion to approve, conditionally approve, or disapprove the County General Plan Amendment and the County Land Use Applications in light of such information. Subject to the foregoing, the County, to the extent allowed by law, shall facilitate and promote the proceedings necessary to complete processing of the County General Plan Amendment as set forth in this section, and the County shall diligently process the County General Plan Amendment, including all necessary environmental actions without unnecessary delay.

2.3.6 The County shall send to the City a public hearing notice for all County Land Use Applications that require a hearing before the County Planning Commission or the County Board of Supervisors.

2.3.7 The County shall use its best efforts to complete the Major Arterial Roads pursuant to the Priority Phasing Program, attached hereto as Exhibit C. As used in this section, "best efforts" shall mean that County shall, at the time an appropriately formed financing mechanism is in place and sufficient funds are available, diligently undertake, without unnecessary delay, all the actions required to enable construction of the Major Arterial Roads, including, but not limited to, preparing and processing the required environmental documentation, design documentation and plans and specifications. As used in this, section "best efforts" shall further mean that the County shall, at the time an appropriately formed and fully funded financing mechanism is in place, diligently initiate and complete construction of the Major Arterial Roads.

ARTICLE 3

MEASURES TO MITIGATE THE IMPACT OF NEW HOUSING DEVELOPMENT ON CITY ARTERIAL ROADS AND HIGHWAYS

3.1 The City shall use its best efforts to amend the City's General Plan so that it contains: (1) a policy indicating that the Major Arterial Roads within the City shall be constructed and completed concurrently with the construction of the dwelling units creating the demand for the Major Arterial Roads; and (2) a requirement that land use applications approved by the City within the City ("City Land Use Applications") shall contain a condition, in addition to all other appropriate conditions, that building permits shall not be issued until (a) the subject property is part of an appropriately formed and fully funded financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project or (b) the subject property is part of an appropriately formed financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project and the property owner pays its full proportionate share of the required improvements to the City in trust for the construction of the Major Arterial Roads which will mitigate the traffic impacts of the project or (c) the City otherwise funds or constructs the required improvements using money from other sources. The City General Plan Amendments described in this section shall be known as the "City General Plan Amendment."

3.2 All City Land Use Applications approved by the City after the effective date of this Agreement shall contain a condition of approval which requires that building permits shall not be issued until (a) the subject property is part of an appropriately formed and fully funded financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project or (b) the subject property is part of an appropriately formed financing mechanism to build the components of the Major Arterial Roads which will mitigate the traffic impacts of the project and the property owner pays his/her/its full proportionate share of the required improvements to the City in trust for the construction of the Major Arterial Roads which will mitigate the traffic impacts of the project or (c) the City otherwise funds or constructs the required improvements using money from other sources.

3.3 The City, to the extent allowed by law, shall facilitate and promote the proceedings necessary to complete processing of the City General Plan Amendment as set forth in Section 3.1, and the City shall diligently process the City General Plan Amendment, including necessary environmental actions without unnecessary delay.

3.3.1 As used in this Agreement, "Major Arterial Roads" shall mean those roadway projects identified in Exhibit B.

3.3.2 As used in Sections 3.1, "best efforts" shall mean that the City shall initiate proceedings to amend the City General Plan as described in Section 3.1 and shall diligently process the proposed Amendment to completion in accordance with all applicable laws, subject to the City's legislative discretion as more particularly described in Section 3.3.5.

3.3.3 As used in this Agreement, City Land Use Applications shall mean any applications on which the City Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which, would authorize or conditionally authorize the construction of dwelling units within the City, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits.

3.3.4 As used in this Agreement, "appropriately formed and fully funded financing mechanism" shall mean a community facilities district, assessment district, or similar infrastructure financing mechanism, which has been formed and which is fully funded to provide for the immediate construction of the Major Arterial Roads required to mitigate project-related traffic impacts. As used in this Agreement, "appropriately formed financing mechanism" shall mean a community facilities district, assessment district, or similar infrastructure financing mechanism, which has been formed to provide for the construction of the Major Arterial Roads required to mitigate project-related traffic impacts..

3.3.5 The Parties understand and acknowledge that, in the context of processing the City General Plan Amendment and the City Land Use Applications, the City cannot guarantee the ultimate outcome of any public hearings before the City Planning Commission or the City Council or other public bodies of the City, nor prevent any opposition thereto by members of the public or other public agencies affected by or interested in the City General Plan Amendment and the City Land Use Applications. The Parties further understand and acknowledge that land use regulations involve the exercise of the City's police power and, at the time of executing this Agreement, it is settled California law that government may not contract away its right to exercise its police power in the future. Avco Community Developers Inc. v. South Coast Regional Com., 17 Cal.3d 785, 800 (1976); City of Glendale v. Superior Court, 18 Cal.App.4th 1768 (1993). The parties further understand and acknowledge that the approval of the City General Plan Amendment and the City Land Use Applications may be subject to procedural or substantive obligations under the California Environmental Quality Act, the State Planning and Zoning Law, or other laws potentially applicable to such approvals. Nothing in this Agreement is intended to constrain the City's consideration of the City General Plan Amendment and the City Land Use Applications in light of the information obtained or developed pursuant to these laws and the City retains the discretion to approve, conditionally approve, or disapprove the City General Plan Amendment and the City Land Use Applications in light of such information. Subject to the foregoing, the City, to the extent allowed by law, shall facilitate and promote the proceedings necessary to complete processing of the City General Plan Amendment as set forth in this section, and the City shall diligently process the City General Plan Amendment, including all necessary environmental actions without unnecessary delay.

3.3.6 The City shall send to the County a public hearing notice for all City Land Use Applications that require a hearing before the City Planning Commission or the City Council.

ARTICLE 4

MEASURES TO MITIGATE THE IMPACT OF NEW HOUSING DEVELOPMENT ON WESTERN RIVERSIDE COUNTY AREA FREEWAYS

4.1 The City and the County shall jointly request that the Riverside County Transportation Commission ("RCTC") prepare a Freeway Strategic Study for the Western Riverside County Area which shall examine the freeway capacity, set specific goals for the development of the freeway capacity necessary to accommodate the trips generated by new housing development and establish the framework for the joint efforts of the City, County and other federal, state and local agencies to implement the goals and establish the necessary freeway capacity. The Joint Request for the Freeway Strategic Study shall ask that the Freeway Strategic Study be completed within four (4) months of the date of submittal of the Joint Request. The Joint Request shall be submitted to RCTC within thirty (30) days of the effective date of this Agreement. The parties authorize the Mayor of the City and the Chairperson of the Board of Supervisors to execute the Joint Request on behalf of their respective agencies.

4.2 The Freeway Strategic Study shall specifically study and analyze the following issues: (1) the current capacities of the freeways within Western Riverside County Area ("Freeways"); (2) the projected traffic growth projections for the Freeways as of January 1 in the years 2010, 2015, 2020, 2025 and 2030, based upon assumptions concerning the build-out of new housing as described in Exhibit E; (3) the percentage of traffic growth for the Freeways in those years attributable to new housing development in the Western Riverside County Area; (4) the currently proposed improvements for the Freeways; (5) the current funding options for the currently proposed improvements for the Freeways; and (6) the potential funding sources for improvements necessary to meet the projected traffic growth for the Freeways at build-out of the Western Riverside County Area.

4.3 The City and the County shall share equally in the costs incurred by RCTC in preparing the Freeway Strategic Study.

4.3.1 The County shall invoice the City for the City's share of the RCTC costs and the City shall pay such invoice within thirty (30) days of the date the invoice is deemed given under Section 6.7 of this Agreement.

4.3.2 During the course of RCTC's work on the Freeway Strategic Study, the City, the County and RCTC staff shall meet monthly to discuss the progress of the work and to review any additional work which may need to be undertaken by the consultant.

4.4 Following completion of the Freeway Strategic Study, the City and County shall meet and negotiate in good faith to develop a Freeway Action Plan for funding the freeway improvements necessary to meet the expected demand as determined by the Freeway Strategic Study. As part of the development of the Freeway Action Plan, the City and the County shall also form a Freeway Task Force composed of private and public stakeholders to build consensus

and secure participation of other Western Riverside County Area Cities in the Freeway Action Plan. The Freeway Task Force shall specifically include, but shall not be limited to, a representative from each of the following: the City and the County, RCTC, the Western Riverside Council of Governments ("WRCOG"), the development community and the environmental community.

4.5 In the event a third party files litigation concerning the Freeway Strategic Study or the Freeway Action Plan, or any portion thereof, the City and the County shall share equally in the costs of defending the litigation, provided the City's share shall not exceed the maximum sum of one hundred fifty thousand dollars (\$150,000.00).

4.6 Ad hoc subcommittees of the City Council and the County Board of Supervisors, along with their staffs, shall meet monthly to review the progress of the proposed General Plan Amendment (Section 2.1), the conditions of approval for the County and City Land Use Applications (Section 2.2 and Section 3.2) and the Freeway Strategic Study (Section 4.1).

ARTICLE 5

SETTLEMENT OF LITIGATION

5.1 The City shall dismiss without prejudice the Litigation within twenty- five (25) days of the effective date of this Agreement, subject to the City's right to refile the Litigation as provided in this Agreement.

5.2 The City shall have the right to refile the Litigation, subject to the provisions of Sections 5.2.1 through 5.2.6, inclusive, in the event that: (1) the County does not, within three (3) months of the effective date of this Agreement, complete the staff work required for the County General Plan Amendment, including necessary environmental documentation, and set a public hearing date before the Planning Commission; (2) the County does not, for any reason, adopt the County General Plan Amendment within nine (9) months of the effective date of this Agreement; or (3) the County does not adopt the jointly developed Freeway Action Plan described in Section 4.4 within one (1) year after completion of the Freeway Strategic Study described in Section 4.2.

5.2.1 The City's right to refile the Litigation shall expire one (1) year and thirty (30) days after completion of the Freeway Strategic Study. As used in this Agreement, "completion of the Freeway Strategic Study" shall mean the date RCTC transmits the final version of the Freeway Strategic Study to the City Council and the County Board of Supervisors.

5.2.2 In the event the City exercises its right to refile the Litigation, the refiled lawsuit shall not challenge the General Plan except with respect to the analysis of traffic impacts, including mitigation measures associated with such impacts, within the Third Supervisorial District of the County, as that District was configured on the effective date of this Agreement.

5.2.3 The prayer clause in the refiled Litigation shall request relief only with respect to the General Plan as it applies and relates to traffic impacts within the Third

Supervisory District. The prayer clause shall specifically state that the City does not request that the Court set aside the General Plan in its entirety. All pleadings, briefs, arguments and proposed orders filed by the City addressing the scope of relief, including proceedings pursuant to Public Resources Code Section 21168.9, shall be consistent with this provision.

5.2.4 The County specifically agrees that the City shall have the right to refile the Litigation pursuant to the terms of this Agreement notwithstanding the applicable statute of limitations governing legal challenges to the General Plan and agrees to toll the statute of limitations for a legal challenge to the General Plan so as to enable the City to exercise its rights under this Agreement. Pursuant to this Agreement, the County does not toll or waive the defense of the statute of limitations as to any persons, agencies or entities other than the City.

5.2.5 The County further agrees, on behalf of itself and any successors or assigns, that in the event the Litigation is refiled the County will not raise any applicable statute of limitations as a defense to the refiled Litigation and will allow the City to proceed with prosecution of the refiled Litigation subject to the restrictions set forth in this Agreement.

5.2.6 Subject to the restrictions set forth in Section 5.2.2 and Section 5.2.3, nothing herein is intended to, nor shall it be construed to, prohibit the City from challenging a project approved by the County on the grounds that the project fails to comply with the California Environment Quality Act, or other laws.

5.3 If the County adopts the jointly developed Freeway Action Plan, then, and only then, shall Sections 5.3.1 through 5.3.6 become operative. As used in this Agreement, "adopts the jointly developed Freeway Action Plan" shall mean the County adopts a resolution approving the Freeway Action Plan. The County is not required to adopt or otherwise implement the specific measures described in the Freeway Action Plan in order to obtain the benefits conferred by Sections 5.3.1 through 5.3.6.

5.3.1 Within twenty (20) days after the County adopts the jointly developed Freeway Action Plan, the City shall file with the Court a request for dismissal, with prejudice, of the Litigation.

5.3.2 Each party shall bear its own attorney fees and expenses in the Litigation.

5.3.3 In consideration of the promises of the parties specified in this Agreement and the satisfaction of the conditions for settlement, the parties shall fully and forever release, acquit, and discharge each other, their officers, elected officials, attorneys, sureties, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors, successors-in-interest, assigns, and all persons acting by, through, under or in concert with them of and from any and all past, present, or future claims, demands, obligations, actions, causes of action, including those for damages, injunctive or declaratory relief, or for relief by way of writ of mandate, for costs, losses of service, expenses, liability, suits, and compensation of any nature whatsoever, whether based on tort, contract, or other theory of recovery, known or unknown, that they now have, have had, asserted or could have asserted in the Litigation or otherwise relate to the alleged actions or inactions of the County with respect to the Litigation. Nothing contained

herein shall relieve any party hereto of its continuing obligations imposed by law or by the provisions of this Agreement, including, without limitation, the Judgment in the case of *Endangered Habitats League v. County of Riverside (Domenigoni-Barton Properties)*, Riverside County Superior Court Case No. RIC 369801, consolidated with *City of Temecula v. County of Riverside (Domenigoni-Barton Properties)* Riverside County Superior Court Case No. RIC 369989.

5.3.4 The parties hereto acknowledge that they are familiar with Section 1542 of the California Civil Code which provides:

“A general release does not extend to claims which a creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

The parties being aware of the aforesaid code section, each hereby expressly waives any rights they might have hereunder. This release shall not operate to release any claims the parties may later have for the enforcement of the obligations created by this Agreement.

5.3.5 The City warrants and represents to the County that it has not assigned, conveyed or otherwise transferred any of its rights to the claims described in or arising out of the Litigation to any other person, entity, firm or corporation not a party to this Agreement, in any manner, including by way of subrogation or operation of law or otherwise. In the event that any claim, demand or suit is made or instituted against the County because City made an actual assignment or transfer, City agrees to indemnify and hold the County harmless against such claim, and to pay and satisfy any such claim, including necessary expenses of investigation, reasonable attorneys' fees and costs.

5.3.6 The County warrants and represents to the City that the execution and delivery of this Agreement by County will not (i) violate any judgment, order, injunction, decree, regulation or ruling of any court or governmental entity or (ii) conflict with, result in a breach of, or constitute a default under any material agreement or instrument to which the County is a party or by which the County may be bound.

ARTICLE 6

MISCELLANEOUS

6.1 This Agreement contains the complete expression of the whole agreement between the parties hereto, and there are no promises, representations, agreements, warranties or inducements, either expressed verbally or implied, except as are fully set forth herein. This Agreement cannot be enlarged, modified, or changed in any respect except by written agreement between the parties.

6.2 Each and all of the covenants, conditions and restrictions in this Agreement shall

inure to the benefit of and shall be binding upon the parties, their successors-in-interest, agents, representatives, assignees, transferees.

6.3 No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either expressed or implied) is intended nor shall it be construed to confer upon any person or entity, other than the City and the County, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

6.4 In entering into this Agreement, the parties represent that they have relied upon the legal advice of their attorneys, who are the attorneys of their own choice, and that these terms are fully undertaken and voluntarily accepted by them. The parties further represent that they have no question with regard to the legal import of any term, word, phrase, or portion of this Agreement, or the Agreement in its entirety, and accept the terms of this Agreement as written.

6.5 The parties hereto represent and warrant to each other that they have full authority to execute this Agreement.

6.6 The headings employed to identify the provisions contained herein are solely for the convenience of the parties to this Agreement. If any ambiguity appears in either the headings or the provisions attendant thereto, such ambiguity shall not be construed against any party to this Agreement on the grounds that such party drafted this Agreement.

6.7 Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either party to this Agreement by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed or to any officer of that party, or, in lieu of personal service, on the third business day following deposit in the United States mail, certified, postage prepaid, addressed to:

County of Riverside
County Administrative Center
4080 Lemon Street
Riverside, California 92501
Attention: Transportation Land Management Agency Director

City of Temecula
Post Office Box 9033
43200 Business Park Drive
Temecula, California 92589-9033
Attention: City Manager

6.8 If any litigation is commenced between the parties to this Agreement concerning the rights and duties of either in relation to this Agreement, the prevailing party shall be entitled to, in addition to any other relief that may be granted in the litigation, reasonable attorneys fees as determined by the court presiding over the dispute.

6.9 The following Exhibits to this Agreement are incorporated herein as though set forth in full:

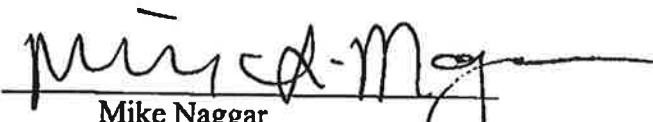
Exhibit A	I-215 Policy Area
Exhibit B	Major Arterial Roads
Exhibit C	Priority Phasing Program
Exhibit D	Western Riverside County Area
Exhibit E	Assumptions of Build-Out of I-215 Policy Area

6.10 This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

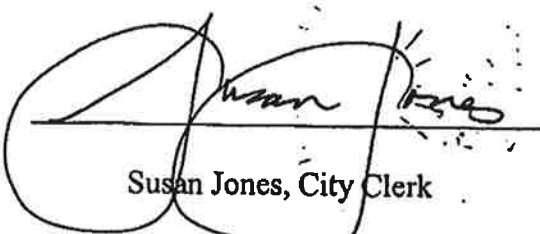
6.11 The effective date of this Agreement is the date the parties sign the Agreement. If the parties sign the Agreement on more than one date, then the last date the Agreement is signed by a party shall be the effective date.


IN WITNESS WHEREOF, the undersigned have executed this Agreement in the State of California.

CITY OF TEMECULA

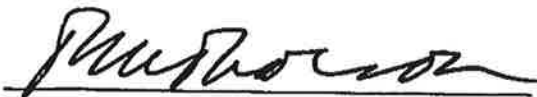

Mike Naggar
Mayor Pro Tempore

Attest:

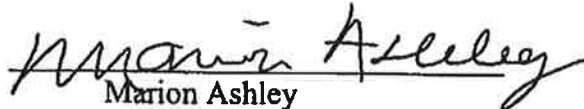

Susan Jones, City Clerk





Approved as to Form


Peter M. Thorson
City Attorney

COUNTY OF RIVERSIDE


Marion Ashley
Chairman, Board of Supervisors

Attest:
Nancy Romero, Clerk to Board of Supervisors


By: 
Deputy Clerk

Approved as to Form
William C. Katzenstein, County Counsel

By: 
Katherine Lind
Deputy County Counsel

EXHIBIT "B"

MAJOR ARTERIAL ROADS

Newport Road, including Interchange at I-215 and roadway improvements from Goetz Road to Winchester Road (SR 79S).

Scott Road, including Interchange at I-215 and roadway improvements from I-15 to Winchester Road (SR 79N).

Clinton Keith Road, including Interchange at I-15 and roadway improvements from I-15 to Winchester Road (SR 79N).

Winchester Road Phase I, from Murrieta Hot Springs Road to Domenigoni Parkway to 4 lanes.

Winchester Road Phase II, 4 to 6 lanes.

Winchester Road Phase III, 6 to 8 lanes.

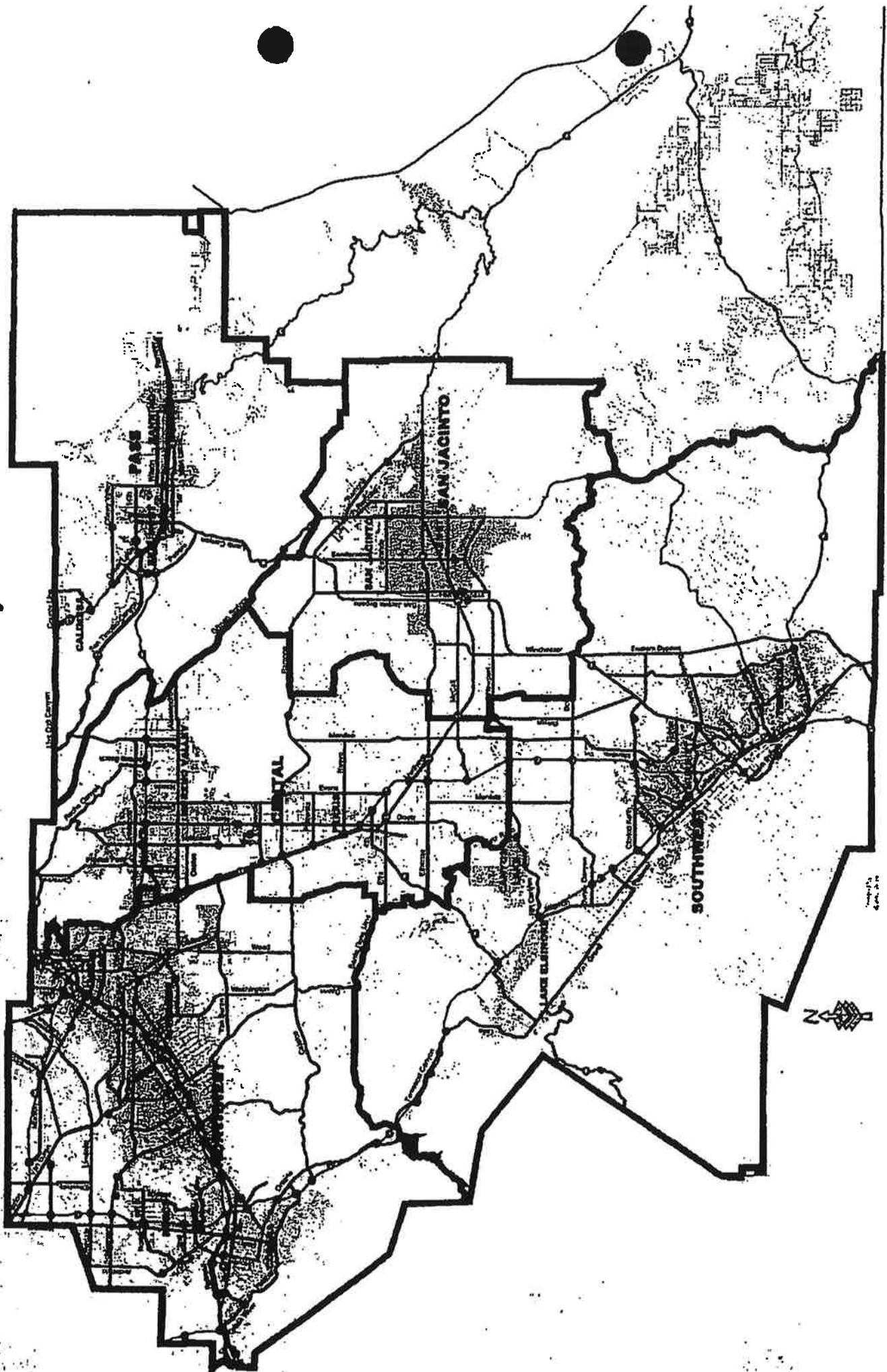
Exhibit "C"

Southwest Riverside County Transportation Strategic Plan

Priority	Anticipated Permits 2,000 du's/yr	Estimated Year of Completion	Transportation Improvement	Cost of Improvement (\$Millions)		Funding Sources
				Highway	Interchange Total	
1		2009	Newport Road, including Interchange at I-215 and roadway improvements from I-215 to Winchester Road (SR 79S). Scott Road, including Interchange at I-215 and roadway improvements from I-15 to Winchester Road (SR 79N). Clinton Keith Road, including Interchange at I-15 and roadway improvements from I-15 to Winchester Road (SR 79N). Winchester Road Phase I, from Murrieta Hot Springs Road to Domenigoni Parkway to 4 lanes.	19.8	14.5	CFD Formed
				27.9	14.0	Proposed CFD
				32.6	13.0	Proposed CFD
2		2012	French Valley Interchange at I-15, including 6 lanes from I-15 to Winchester Road (SR 79N).	38.6	100.0	Proposed CFD Measure A, TUMF
3		2015	Eastern By-Pass, construct 4 lanes to a new interchange on the I-15 south of SR 79S.	111.2	29.0	TUMF, Measure A, CFD Proposed
4		2012	Freeway Widening Phase IA, I-215, 4 to 6 lanes, CETAP Corridor		250	Measure A, State, FED
5		2016	Winchester Road Phase II, 4 to 6 lanes.	70		Measure A, TUMF
6		2025	Winchester Road Phase III, 6 to 8 lanes.	100		Measure A, TUMF
7		2020	Freeway Widening Phase IB, I-15, 8 to 10 lanes	200		Measure A, State, FED
8		2025	Freeway Widening Phase II, I-215 from 6 to 8 lanes, I-15, from 10 to 12 lanes	400		Measure A, State, FED
9		2030	Freeway Widening Phase III, I-215 from 8 to 10 lanes, I-15, from 12 to 14 lanes	TBD		

Note: The Freeway Widening Projects will be refined with the completion of the Freeway Strategic Study and Implementation Plan

Exhibit "D" Western Riverside County Area



Scale: 0 1 2 4 6 Miles
North Arrow
Copyright © 1998

Exhibit "E"
Assumptions of Build-out of I-215 Policy Area

Dwelling Units	Study Area Outside CFDs	CFDs	Total (County Study Area)
Areas in Acres	78,314 (72% of Area)	31,003 (28% of Area)	109,317
Build-Out	72,066 (64% of Units)	39,934 (36% of Units)	112,000
Built Units (Includes un-Built Recorded and Large Lots for CFDs)	19,929 (71% of Built Units)	8,185 (29% of Built Units)	28,114
Units Remaining to be Built	52,137 (62% of Remaining Units)	31,749 (38% of Remaining Units)	83,886

County unincorporated area

Exhibit B:

**First Amendment to the Cooperative Agreement Between the City of Temecula and the
County of Riverside to Mitigate Traffic Impacts in Western Riverside County**

**AMENDMENT NO. 1
TO THE
COOPERATIVE AGREEMENT BETWEEN THE CITY OF
TEMECULA AND THE COUNTY OF RIVERSIDE TO
MITIGATE TRAFFIC IMPACTS IN WESTERN
RIVERSIDE COUNTY**

This Amendment is made and entered into as of November 14, 2007^b by and between the City of Temecula, a municipal corporation ("City"), and the County of Riverside ("County"), a public subdivision of the State of California ("County").

ARTICLE 1

RECITALS

This Agreement is made for the following purposes and with respect to the following facts, which the City and County agree to be true and correct:

On April 12, 2005, the City and the County of Riverside entered an agreement entitled: "COOPERATIVE AGREEMENT BETWEEN THE CITY OF TEMECULA AND THE COUNTY OF RIVERSIDE TO MITIGATE TRAFFIC IMPACTS IN WESTERN RIVERSIDE COUNTY" ("COOPERATIVE AGREEMENT").

The COOPERATIVE AGREEMENT calls, among other things, for the City and the County to implement certain measures to mitigate the impact of new housing development on City and County arterial roads and highways within the boundaries of the I-215 Policy Area. ("The Measures").

The Measures call for the County to condition all County Land Use Applications authorizing the construction of residential dwelling units to be part of an appropriately funded financing mechanism (such as a Community Facilities District - CFD) that will build the major arterial road components identified in the COOPERATIVE AGREEMENT.

The County has been imposing conditions of approval that implement the requirements of the COOPERATIVE AGREEMENT.

Now that the City and the County have been implementing the terms of the COOPERATIVE AGREEMENT for over a year, they have identified modifications to the COOPERATIVE AGREEMENT that will facilitate implementation and enhance the timely delivery of transportation infrastructure.

In light of the above, the City and the County hereby wish to amend the COOPERATIVE AGREEMENT as follows:

ARTICLE 2

COOPERATIVE AGREEMENT AMENDMENTS

Section 1. Exhibit A to the COOPERATIVE AGREEMENT, referenced in Section 1.8 thereof, is amended as shown in "Revised Exhibit A", which is attached hereto and incorporated herein by this reference. Revised Exhibit A modifies the boundaries of the original I-215 Policy Area to include the following sub-areas:

- Newport Road/I-215 Interchange CFD – Sub-area A
- Scott Road/I-215 Interchange CFD – Sub-area B
- Clinton Keith Road Extension CFD – Sub-area C
- Washington Street Construction – Sub-area D
- Clinton Keith Road Extension Fee Payment – Sub-area E
- Newport Road Extension CFD – Sub-area F
- Newport Road Realignment CFD – Sub-area G

The County shall use these sub-areas as a guideline in determining how County Land Use Applications should be conditioned.

Section 2. Section 1.9.9 of the COOPERATIVE AGREEMENT is amended to read as follows:

"1.9.9 'County Land Use Applications' is defined in Section 2.3.3 and shall mean any applications on which the County Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which would authorize, or conditionally authorize, the construction of dwelling units within the I-215 Policy Area, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits. County Land Use Applications shall not include any applications for parcel maps that would result in the creation of four or fewer parcels, provided that the parcels created could not be further subdivided without a General Plan amendment. County Land Use Applications shall also not include any applications for minor changes to approved tentative tract maps that would add only one residential unit to the maps."

Section 3. Section 2.3.3 of the COOPERATIVE AGREEMENT is amended to read as follows:

"2.3.3 As used in this Agreement, County Land Use Applications shall mean any applications on which the County Planning Commission has not taken final action as of the effective date of this Agreement, the approval of which would authorize, or conditionally authorize, the construction of dwelling units within the I-215 Policy Area, including, but not limited to, applications for General Plan amendments, specific plans, specific plan amendments, zone changes, development agreements, subdivision maps and planned development permits. County Land Use Applications shall not include any applications for parcel maps that would result in the creation of four or fewer parcels, provided that the parcels created could not be further subdivided without a General Plan amendment. County Land Use Applications shall also not include any applications for minor changes to approved tentative tract maps that would add only one residential unit to the maps."

Section 4. A new Section 1.9.19 is added to the COOPERATIVE AGREEMENT to read as follows:

“1.9.19 ‘Subdivision map extension application’ shall mean an application to extend the time available to record a final map.”

Section 5. A new Section 1.9.20 is added to the COOPERATIVE AGREEMENT to read as follows:

“1.9.20 ‘TUMF’ shall mean the Transportation Uniform Mitigation Fee adopted by the Western Riverside Council of Governments and its member jurisdictions (including the City and the County), as subsequently amended.”

Section 6. Existing Section 1.9.19 is renumbered Section 1.9.21.

Section 7. A new Section 2.2.1 is added to the COOPERATIVE AGREEMENT to read as follows:

“2.2.1 To facilitate the formation of financing mechanisms, the County has implemented Section 2.2 of the COOPERATIVE AGREEMENT such that subdivision maps are required to comply therewith prior to recordation of a final map. Notwithstanding the County’s implementation procedure, the City and County recognize that certain subdivision maps were tentatively approved prior to adoption of the COOPERATIVE AGREEMENT, but have not recorded for a variety of reasons. Recognizing that substantial time and money have been invested in these maps and that their recordation may be further delayed by the requirements of the COOPERATIVE AGREEMENT as implemented by the County, the County has developed the alternative procedure set forth in Section 2.2.2 that will allow these maps to record while still securing the funding necessary for the needed transportation improvements.”

Section 8. A new Section 2.2.2 is added to the COOPERATIVE AGREEMENT to read as follows:

“2.2.2 In considering a subdivision map extension application for any map tentatively approved prior to the effective date of the COOPERATIVE AGREEMENT (April 12, 2005), the County may, at the request of the subdivider, conditionally approve the application to require the subdivider to pay (a) the applicable TUMF at the earliest date allowed by the TUMF Ordinance and (b) an early recordation fee, which shall be 50% of the TUMF in effect at the time of recordation. The County shall earmark the early recordation fee for use only on the major arterial road that most benefits the subdivision, as determined by the County. This alternative procedure is purely voluntary and any subdivider choosing not to request it shall be subject to all other terms of the COOPERATIVE AGREEMENT as implemented by the County.”

Section 9. Section 5.2 of the COOPERATIVE AGREEMENT is amended to read as follows:

“5.2 The City shall have the right to refile the Litigation, subject to the provisions of Sections 5.2.1 through 5.2.6, inclusive, in the event that: (1) the County

does not, within four (4) months of the effective date of Amendment No. 1 to the COOPERATIVE AGREEMENT, complete the staff work required for the County General Plan Amendment, including necessary environmental documentation, and set a public hearing date before the Planning Commission; (2) the County does not, for any reason, adopt the County General Plan Amendment within eight (8) months of the effective date of Amendment No. 1 to the COOPERATIVE AGREEMENT; or (3) the County does not adopt the jointly developed Freeway Action Plan described in Section 4.4 within one (1) year after completion of the Freeway Strategic Study described in Section 4.2.”

ARTICLE 3

MISCELLANEOUS

The parties hereto represent and warrant to each other that they have full authority to execute this Agreement.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

The effective date of this Agreement is the date the parties sign the Agreement. If the parties sign the Agreement on more than one date, then the last date the Agreement is signed by a party shall be the effective date.

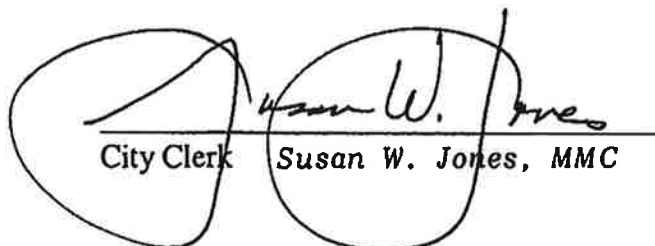
IN WITNESS WHEREOF, the undersigned have executed this Agreement in the State of California.

CITY OF TEMECULA



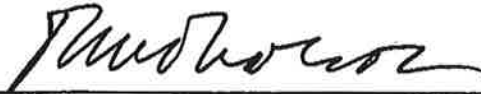
Mayor Ron Roberts

Attest:



City Clerk Susan W. Jones, MMC

Approved as to Form



City Attorney *Peter M. Thorson*

COUNTY OF RIVERSIDE




JOHN TAVAGLIONE
CHAIRMAN, BOARD OF SUPERVISORS

Attest:

Nancy Romero, Clerk of the Board of Supervisors

By: 
Deputy Clerk

Approved as to Form
Joe Rank, County Counsel

By: 
Katherine A. Lind
Principal Deputy County Counsel

REVISED EXHIBIT A

I-215 Policy Area

PRINTED August 3, 2006

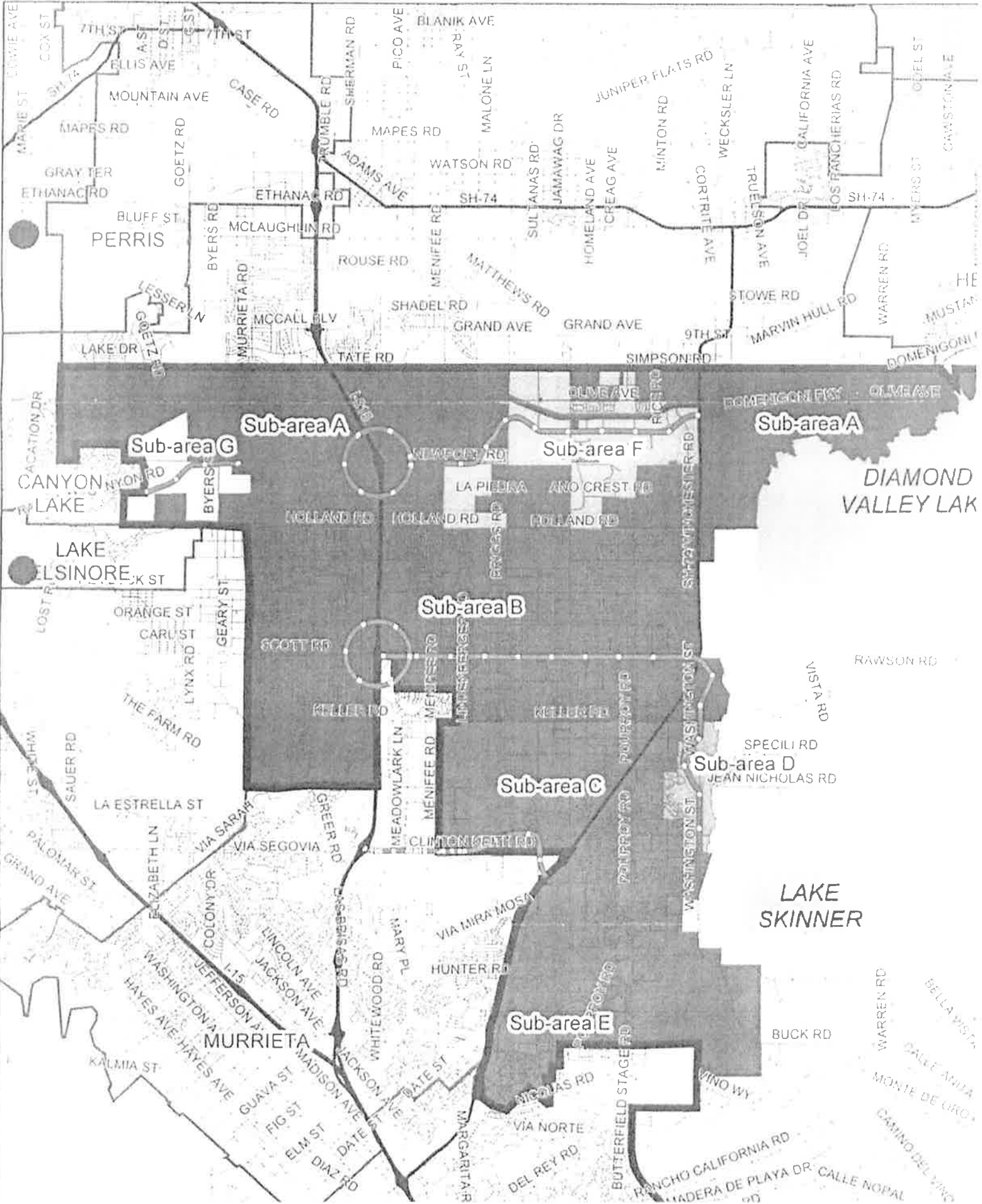


Exhibit C:

**Settlement Agreement among NNP_Spencer's Crossing, LLC, The City of Temecula, and the
County of Riverside**

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and among NNP-Spencer's Crossing, LLC ("Developer"), the City of Temecula ("City"), and the County of Riverside ("County") effective as of January 14, 2003.

RECITALS

- A. On July 6, 2001, the City of Temecula filed a Petition for Writ of Mandate against the County of Riverside ("County"), as Case No. 360766 (the "Lawsuit"), contesting the County's certification of Final EIR No. 411 (the "EIR") and adoption of (1) Resolution No. 2001-135 approving *inter alia* General Plan Amendment No. 472, (2) Resolution No. 2001-111 approving Specific Plan No. 312 (French Valley), and (3) Ordinance No. 348.3996 approving Zone Change No. 6383 (collectively the "Approvals"). The Approvals authorize development of the real property depicted on Exhibit A hereto ("French Valley") with 1,793 residential dwelling units and 1.7 acres of commercial uses. Developer is the successor in interest to the original applicant for the Approvals (Tucalotta Hills Associates and French Valley Association) and is now fee owner of French Valley and a real party in interest in the Lawsuit.
- B. The City contends, *inter alia*, that the County violated CEQA and the Planning and Zoning Law in connection with the Approvals and that the significant adverse traffic impacts of the Approvals must be mitigated by the construction of roadway construction and improvements identified in the EIR. Developer and County dispute the City's claims, but Developer recognizes that certain roadway improvements are necessary to provide adequate circulation to the development of the 1,793 residential dwelling units allowed in French Valley by the Approvals.
- C. As directed by the California Environmental Quality Act, City and Landowner have met to discuss the issues raised in the Lawsuit, and explore potential for settlement of those issues.
- D. Through settlement discussions, the City expressed concerns that French Valley will develop without the completion of improvements to Clinton Keith Road connecting SR 79 to I-215 ("Clinton Keith Road"). Without the completion of Clinton Keith Road, traffic from unincorporated areas in the County north of the City will adversely burden SR 79 (Winchester Road) through the City to I-15. At the same time, Developer recognizes that Clinton Keith Road is needed to provide an adequate circulation system to serve the French Valley development.
- E. Clinton Keith Road is an important regional circulation system improvement with or without development of French Valley. Finding a way to cause Clinton Keith Road to be built expeditiously is a transcendent goal for the City and French Valley.
- F. Successfully designing, funding, constructing and opening Clinton Keith Road requires dedicated and determined participation by motivated property owners, and support by governmental entities, including the City, the County, and the City of Murrieta. Developer has

taken the lead in pursuing private landowner and political support for Clinton Keith Road, and is best situated to provide the continued private landowner leadership required to successfully complete Clinton Keith Road.

G. The cost of designing and constructing Clinton Keith Road is such that it cannot be privately funded and completed, even in substantial part, prior to any development proceeding. Revenues from development are a critical element of successfully funding Clinton Keith Road. However, City believes development should be linked in phase with discrete milestone events in the accomplishment of Clinton Keith Road, so that development is at least coincident with reasonable certainty of the completion of Clinton Keith Road on a reasonable timetable.

H. The more private and public funds invested in completing Clinton Keith Road, the more likely it is that Clinton Keith Road will be built.

I. As a result of the settlement discussions between City and Developer, and in light of the foregoing recitals, the parties have agreed upon a schedule of milestone events and corresponding residential unit phasing plan, which will avoid the necessity of bringing the Lawsuit to a hearing, and instead result in its dismissal. Accordingly, the parties now wish to resolve the dispute embodied in the Lawsuit without further litigation and without admission of the merits of the contentions of any party by any other party on the terms set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. Unit Phasing with Circulation System Improvements. In consideration for City's dismissal of the Lawsuit with prejudice, Developer agrees that it will phase residential unit development in French Valley in accordance with the milestone schedule attached hereto as Exhibit B. As depicted on Exhibit B, as each milestone event or set of events is satisfied, building permits may be issued for one hundred (100) dwelling units. The parties understand that while the milestone events are identified on Exhibit B in the order it is anticipated they will occur, the order in which they are listed on Exhibit B is not material to this Agreement; provided, however, that building permits for (1) the first 100 units will not be issued until a park and ride facility is completed as described in milestone "A," and (2) not more than 500 units will be released prior to accomplishment of milestone "F": securing funding for Clinton Keith Road. "Clinton Keith Road" as used in this Agreement means a road with a minimum of four traffic lanes between the French Valley Project and I-215 and the improvements, or interim improvements, to the I-215 and Clinton Keith Interchange necessary to accommodate traffic from the French Valley Project. The park and ride described in milestone "A" shall be open and available to the public and maintained by Developer, its successors, or by an assignee of Developer approved by the City, which approval shall not be unreasonably withheld provided the assignee is capable of maintaining the facility. ✓

2. French Valley Development Agreement. In order to justify the up-front costs Developer will be incurring for Clinton Keith Road and other improvements and the risks inherent in the Exhibit B phasing program and milestone schedule, and to implement the Exhibit B phasing program and milestone schedule, Developer will apply to the County for approval of a Development Agreement for French Valley that will incorporate the Exhibit B phasing program and milestone schedule as a project requirement, and provide a process for verifying the accomplishment of each milestone event(s). City agrees to support Developer's application for such a development agreement so long as the development agreement contains the phasing plan described in Exhibit B to this Agreement, provides a reasonable method for monitoring development and determination of accomplishment of the milestones, and does not increase overall the density and intensity of development in French Valley allowed by the Approvals. The County shall use its best efforts to expeditiously process and consider approval of the development agreement. The portion of the development agreement conditioning the issuance of building permits on the accomplishment of the milestones described in Exhibit B of this Agreement shall be enforceable by the City against the County, Developer and then-current owners of the affected portions of French Valley. In the event the County declines to approve the Development Agreement application, or attaches conditions to the Development Agreement that are unacceptable to Developer, Developer agrees that it will nonetheless provide evidence reasonably satisfactory to City of the accomplishment of each milestone event or package of events prior to obtaining the corresponding allocation of building permits, and that any dispute concerning the accomplishment of one or more milestone events shall be subject to non-binding, expedited arbitration by a mutually acceptable member of JAMS.

3. Continued Support for Clinton Keith Road/French Valley Development. City agrees that so long as the overall intensity and density of development of French Valley is not greater than as allowed pursuant to the Approvals, and is phased in accordance with this Agreement, City shall not oppose future development of French Valley. City agrees to support County's expedited processing of Clinton Keith Road as an important regional circulation system improvement, and in so doing to use reasonable efforts to enlist the support of the City of Murrieta for improvements to Clinton Keith Road within its jurisdiction.

4. Dismissal, Release and Enforcement. Concurrently with the execution of this Agreement, City agrees to execute for filing and file a dismissal of the Lawsuit with prejudice. Upon execution of this agreement and dismissal of the lawsuit, City shall have the right to enforce the terms and provisions of this Agreement against French Valley as contractual obligations of the Developer. Developer agrees to advise any subsequent buyer of all or any portion of French Valley of the existence and obligations of this Agreement, which obligation will be satisfied upon execution and recordation of a Development Agreement as provided in Paragraph 2 above. In the event Developer applies for approval of a subdivision map for all or any portion of French Valley prior to County action on the Development Agreement, or thereafter if no Development Agreement is executed and recorded for French Valley, Developer shall immediately notify the City of the filing of the application for the subdivision map, and Developer and County agree that the subdivision map shall be conditioned to comply with the milestones and phasing established by Exhibit B to this Agreement, and shall recite that the condition shall be enforceable by the City as a contractual right flowing from the settlement of the Lawsuit. County will place a copy of this Agreement in the Specific Plan file for French Valley.

swj
[Signature]

5. General Provisions.

- a. If any dispute arises out of or concerning this Settlement Agreement and/or the Mutual Release, the prevailing party shall be entitled to recover, in addition to any damages and/or equitable relief, its reasonable attorneys fees in that dispute.
- b. This Agreement and the exhibits hereto contain the entire agreement and understanding between the parties concerning the subject matter of this settlement and supersede and replace all prior negotiations, proposed agreements and agreements, written or oral.
- c. This Agreement and the exhibits hereto may be amended or modified only by a written instrument signed by all parties or their successors in interest.
- d. This Agreement and the exhibits hereto shall be interpreted, enforced and governed by the laws of the State of California.
- e. This Agreement and the exhibits hereto shall be construed as if the parties jointly prepared them and any uncertainty or ambiguity shall not be interpreted against any one party.
- f. If any provision of this Agreement or the exhibits hereto shall be deemed unenforceable for any reason, the remaining provisions will be given full force and effect.
- g. This Agreement and the exhibits hereto may be executed in counterparts which when taken together constitute the entire agreement among the parties hereto.
- h. The person(s) signing this Agreement on behalf of any specified party represents that he or she has full authority to execute this Agreement on behalf of such party.
- i. This Agreement shall inure to the benefit of, and be binding upon, the heirs, successors in interest, and assignees of the respective parties. All heirs, successors and assignees shall be bound by the duties of the parties arising under this Agreement.
- j. In the event that Clinton Keith Road is significantly delayed, City and Developer agree to meet and confer in good faith on possible additional circulation system improvements that may be feasible, and provide similar congestion relief to City, as a potential substitute to the milestone events listed on Exhibit B.
- k. The waiver of any provision of this Agreement shall be invalid unless evidenced by a writing signed by the party to be charged therewith. The waiver of, or failure to enforce, any provision of this Agreement shall not be a waiver of any further breach of such provision or of any other provision hereof. The waiver by any party of the time for performing any act shall not be a waiver of the time for performing any other act or acts required under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.


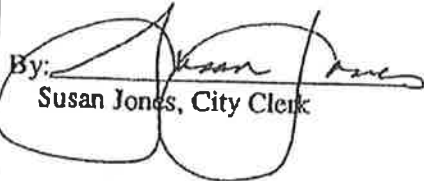



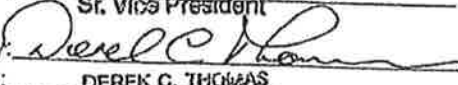
<p>"CITY" City of Temecula</p> <p>By: <u></u> Jeff Stone, Mayor</p> <p>ATTEST:</p> <p>By: <u></u> Susan Jones, City Clerk</p> <p>APPROVED AS TO FORM:</p> <p>By: <u></u> Peter Thorson, City Attorney</p>	<p>"COUNTY" County of Riverside</p> <p>By: _____</p> <p>ATTEST:</p> <p>By: _____</p> <p>APPROVED AS TO FORM:</p> <p>By: _____</p>
<p>"DEVELOPER" NNP-Spencer's Crossing, LLC  a Delaware limited liability company</p> <p>By: <u></u> Its: <u>LaDonna K. Monsees</u> Sr. Vice President</p> <p>By: <u></u> Its: <u>DEREK C. THOMAS</u> SR. VICE PRESIDENT</p>	



EXHIBIT A
DEPICTION OF FRENCH VALLEY

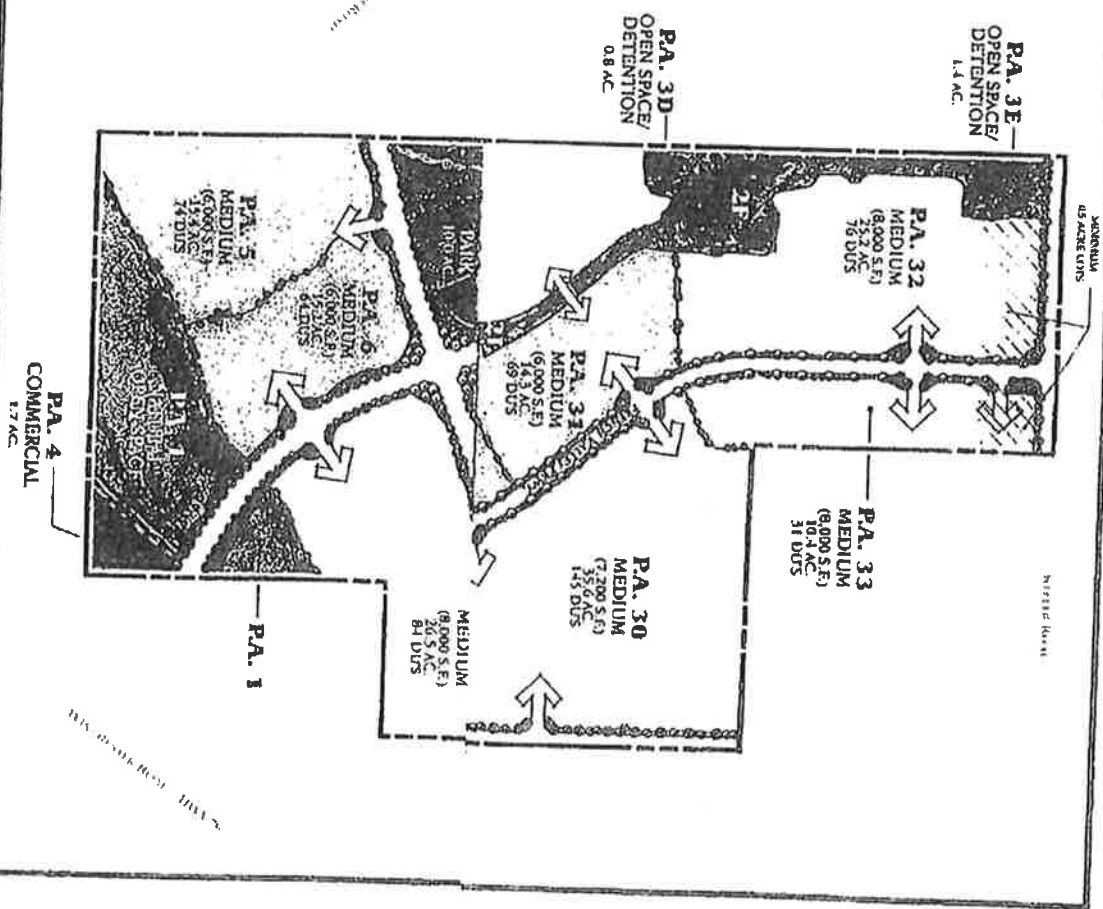
TUCALOTA HILLS ASSOCIATES LLC
 19800 MACARTHUR BLVD, SUITE 700
 IRVINE, CA 92612

French Valley

**FIGURE III.A-1
 SPECIFIC PLAN
 LAND USE PLAN**

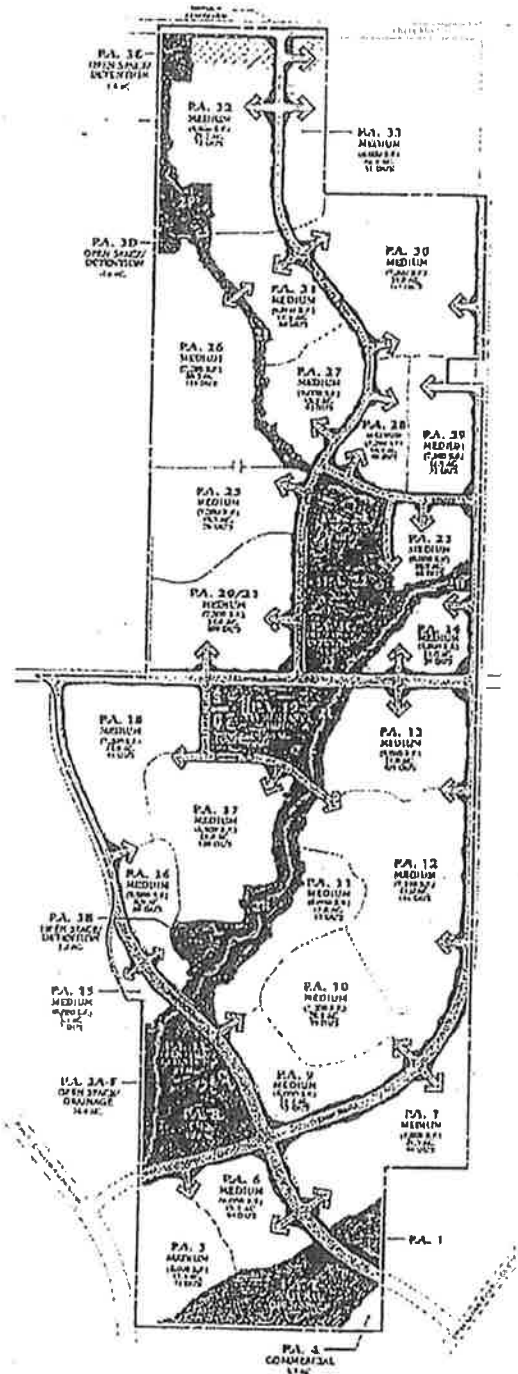
LAND USE SUMMARY

LAND USE	ACRES	DENSITY	DUS
Medium Residential - 6,000 s.f.	744	1.0	28
Medium Residential - 7,200 s.f.	2184	1.0	87
Medium Residential - 6,000 s.f.	1564	1.5	68
Residential Medium	443.4	1.0	1,793
Path	14.0	-	-
Open Space/Defention	11.2	-	-
Elementary School	20.0	-	-
Open Space/Expanded Pathways	64.1	-	-
Commercial	1.7	-	-
Major Road	41.3	-	-



LAND USE SUMMARY

LAND USE	ACRES	DENSITY	DU'S
Medium Residential - 8,000 s.f.	74.4	3.0	224
Medium Residential - 7,200 s.f.	218.4	4.0	871
Medium Residential - 6,000 s.f.	156.6	4.5	698
Residential Subtotal	449.4	4.0	1,793
Parks	16.0	-	-
Open Space/ Detention	13.3	-	-
Elementary Schools	20.0	-	-
Open Space/ Expanded Pathways	66.1	-	-
Commercial	1.7	-	-
Major Roads	11.3	-	-
Nonresidential Subtotal	158.4	-	-
Project Totals	607.8	3.3	1,793



LAND USE PLAN

French Valley

TUCALOTA HILLS ASSOCIATES LLC
 19800 MACARTHUR BLVD. SUITE 700
 IRVINE, CA 92612

FIGURE III.A-2



EXHIBIT B

CLINTON KEITH ROAD MILESTONE SCHEDULE

Building permits for 100 units will be released upon the accomplishment of each of the following milestone events for the completion of Clinton Keith Road ("CKR"). "Clinton Keith Road" as used in this Agreement means a road with a minimum of four traffic lanes between the French Valley Project and I-215 and the improvements, or interim improvements, to the I-215 and Clinton Keith Interchange necessary to accommodate traffic from the French Valley Project.

A. 100 units at:	<ul style="list-style-type: none"> • execution of an agreement for preliminary design and environmental clearances for CKR; and • approval by the Board of Supervisors of the expanded boundaries and the funding levels of the Southwest Area Road and Bridge Benefit District ("RBBD") for CKR
B. 100 units at:	<ul style="list-style-type: none"> • completion of a 250-space park-and-ride facility either on-site or off-site north of the Temecula City limits open and available for public use.
C. 100 units at:	<ul style="list-style-type: none"> • circulation to the public of the draft environmental document for CKR
D. 100 units at:	<ul style="list-style-type: none"> • execution of the "at Risk" final design contract for CKR
E. 100 units at:	<ul style="list-style-type: none"> • Certification of the final environmental document by lead agency pursuant to CEQA and, if applicable, NEPA for CKR; and • award of the CKR bridge structural design contract; and • identification of CKR right-of-way ("ROW") requirements (i.e., completion of 35% of CKR roadway design)
F. 100 units at:	<ul style="list-style-type: none"> • funds for the completion of CKR are available pursuant to the financing plan
G. 100 units at:	<ul style="list-style-type: none"> • finalization of ROW requirements and completion of ROW appraisals for CKR
H. 100 units at:	<ul style="list-style-type: none"> • 95% completion of the CKR roadway and bridge design • completion of ROW acquisition for CKR
I. 100 units at:	<ul style="list-style-type: none"> • completion of final roadway design, including final structural design of the CKR bridge; and • receipt of all environmental clearances; and • award of contracts for construction of CKR
J. Remaining units at:	CKR completed and open for public use