



Agenda Report

File #: 18-2355

AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION

DATE: 12/10/2018

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

SUBJECT:

Public Hearing for City Council consideration of Ordinance No. 3290, amending Chapter 16.21 to include a process for Western Riverside Council of Governments calculation and collection of fees under the Western Riverside County Transportation Uniform Mitigation Fee (TUMF) Program.

RECOMMENDED ACTION:

That the City Council introduce by title only and waive full reading for consideration of Ordinance No. 3290, amending Chapter 16.21 to include a process for Western Riverside Council of Governments calculation and collection of fees under the Western Riverside County Transportation Uniform Mitigation Fee (TUMF) Program.

ANALYSIS:

The City is a Member Agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and eighteen (18) cities located in Western Riverside County. Recognizing that there is insufficient funding to address the impacts of new development on the regional system of highways and arterials in Western Riverside County ("Regional System"), the WRCOG Member Jurisdictions developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System to account for new development in Western Riverside County could be made up in part by the imposition of a development impact fee, known as the Transportation Uniform Mitigation Fee ("TUMF"), on future residential, commercial, and industrial development. On March 5, 2003, the City Council adopted Ordinance No. 2629 adding Chapter 16.21 to the Corona Municipal Code to authorize the City's participation in the WRCOG TUMF program, and authorizing imposition of a development impact fee to fund the TUMF program. WRCOG, upon recommendation by the WRCOG Executive Committee, recently adopted a revision to the TUMF calculation and collection process to provide agencies an option in which WRCOG calculates and collects TUMF on behalf of member agencies that elect to delegate the fee calculation and collection to WRCOG.

Member agency staff, including the City of Corona, are currently responsible for calculating and collecting TUMF for all new development within its jurisdiction. TUMF funds are remitted to WRCOG monthly and in-depth reviews are conducted on an annual basis. On October 1, 2018, WRCOG approved a policy change to the TUMF calculation process to allow member agencies the option to shift responsibility for TUMF calculations and collections to WRCOG in an effort to improve the cost-effectiveness of the process for WRCOG and its member agencies.

The option to delegate the TUMF calculation and collection to WRCOG provides numerous benefits, including a significant reduction in local agency staff time required to calculate and collect the TUMF, elimination of the need for extensive end of the year reviews, and a shift of the responsibility for errors from the member agency to WRCOG. Under the current process, the City bears the responsibility for any errors related to TUMF calculations and collections. This update to the process will result in savings to the City's Planning and Public Work Department resources, in addition to the City's Finance Division resources.

The general process for TUMF calculations by WRCOG will require City staff to electronically complete TUMF calculation worksheets with project-specific details, and submit to WRCOG. WRCOG staff has committed to a 48-hour response time - wherein most calculations will be completed within 48-hours, or additional information will be requested by WRCOG within 48-hours if there are unique project circumstances to consider. WRCOG staff will maintain a database of all credit agreements and the credit agreement process will not change significantly. WRCOG will host a secure, online web portal to provide the option for electronic fee payment by developers. Developers will also have the option of going to the WRCOG office to make TUMF payments in person. Once a project has paid TUMF, receipt of payment will be forwarded to the developer and applicable member agency staff. Because WRCOG will be responsible for all calculations and collections, City staff time required for TUMF monthly reports and annual reviews would be dramatically reduced.

In the event of a TUMF assessment dispute, developers will retain the option to appeal the assessment by WRCOG and pay the TUMF in protest, so that the project can still move forward. The TUMF dispute resolution process will be streamlined, allowing developers to go directly to WRCOG with disputes. Most notably, responsibility for TUMF miscalculations will shift from the member agency to WRCOG, given that the information provided by the member agency is complete and accurate.

WRCOG calculation and collection of TUMF is permissible under the Mitigation Fee Act. Shifting responsibility to WRCOG is not mandatory at this time; thus, member agencies could also retain TUMF calculation and collection responsibility. WRCOG calculation and collection of TUMF requires approval of the proposed TUMF Ordinance N0. 3290 and could take effect as soon as April 2019.

COMMITTEE ACTION:

Not applicable.

STRATEGIC PLAN:

Not applicable.

FISCAL IMPACT:

Proposed Ordinance No. 3290 will result in savings to the Public Works Department and Finance

Division resources since responsibilities of calculating and collected TUMF will be shifted to WRCOG though no direct cost savings have been identified.

ENVIRONMENTAL ANALYSIS:

This action is exempt under CEQA Guidelines Sections 15061(b)(3), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The recommended action simply updates the Transportation Uniform Mitigation Fee Program ordinance to provide the ability for an agency to calculate and collect fees and there is no possibility that this action will have a significant effect on the environment. Therefore, no further environmental analysis is required.

PREPARED BY: TOM KOPER, P.E., ASSISTANT PUBLIC WORKS DIRECTOR

REVIEWED BY: NELSON D. NELSON, P.E., PUBLIC WORKS DIRECTOR

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

Attachment: Ordinance No. 3290

ORDINANCE NO. 3290

**AN ORDINANCE OF THE CITY OF CORONA,
CALIFORNIA, AMENDING CHAPTER 16.21 TO INCLUDE
A PROCESS FOR WESTERN RIVERSIDE COUNCIL OF
GOVERNMENTS CALCULATION AND COLLECTION OF
FEES UNDER THE WESTERN RIVERSIDE COUNTY
TRANSPORTATION UNIFORM MITIGATION FEE
(TUMF) PROGRAM**

WHEREAS, the City of Corona (“City”) is a member agency of the Western Riverside Council of Governments (“WRCOG”), a joint powers agency comprised of the County of Riverside and seventeen cities located in Western Riverside County; and

WHEREAS, the member agencies of WRCOG, recognizing that there is insufficient funding to address the impacts of new development on the regional system of highways and arterials in Western Riverside County (“Regional System”), developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System could be made up, in part, by the imposition of a development impact fee on future residential, commercial, and industrial development; and

WHEREAS, on November 5, 2002, the voters in Riverside County approved Measure “A” which extended the half-cent sales tax for thirty years to provide funding for various transportation improvements throughout Riverside County, including the acquisition, construction, operation, and maintenance of streets, roads, and highways; and

WHEREAS, Section 5 of the Expenditure Plan for Measure “A” requires that the City participate in the WRCOG Transportation Uniform Mitigation Fee (“TUMF”) program in order to receive its fair share of the transportation funds generated by Measure “A”; and

WHEREAS, the TUMF program requires each member entity of WRCOG, including the City, to adopt an ordinance imposing a development impact fee on new construction within that entity’s jurisdiction for purposes of funding the TUMF program; and

WHEREAS, Chapter 16.21 to the Corona Municipal Code authorizes the City’s participation in the WRCOG TUMF program and imposition of a development impact fee to fund the TUMF program, the amount of which is to be established by resolution (“TUMF Fee”); and

WHEREAS, member agencies of WRCOG are currently responsible for calculating and collecting the TUMF Fee for all new development within its jurisdiction, which the member agencies then remit to WRCOG on a monthly basis; and

WHEREAS, WRCOG, upon the recommendation of the WRCOG Executive Committee, has adopted a revision to the TUMF calculation and collection process to provide an

option in which WRCOG calculates and collects the TUMF Fee on behalf of member agencies that elect to delegate the fee calculation and collection task to WRCOG; and

WHEREAS, the City Council desires to amend Section 16.21.060 of Chapter 16.21 of the Corona Municipal Code to permit WRCOG to calculate and collect the TUMF Fee on behalf of the City under the TUMF program.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 16.21.060. Section 16.21.060 (Procedures for levy, collection and disposition of fees) of Chapter 16.21 (Transportation Uniform Mitigation Fee Program) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“16.21.060 Procedures for the Levy, Collection and Disposition of Fees.

(A) **Authority of the Public Works Department.** The Director of Public Works, or his/her designee, is hereby authorized to is hereby authorized to provide WRCOG with all necessary information concerning new Development Projects that are subject to the TUMF to enable WRCOG to calculate ~~levy and collect~~ the TUMF fees ~~and make all determinations required by this chapter~~ in a manner consistent with the TUMF Administrative Plan.

(B) **Payment ~~of the TUMF~~ and Collection.** Payment of the TUMF fees shall be as follows:

(1) All fees collected hereunder shall be calculated and collected by WRCOG for deposit, investment, accounting and expenditure in accordance with the provisions of this chapter, the TUMF Administrative Plan and the Mitigation Fee Act.

~~(1)~~(2) The fees shall be paid at the time a certificate of occupancy is issued for the Development Project or upon final inspection, whichever comes first (the “Payment Date”). However, this section should not be construed to prevent payment of the fees prior to issuance of an occupancy permit or final inspection. Fees may be paid at the issuance of a building permit, and the fee payment shall be calculated based on the fee in effect at that time, provided the developer tenders the full amount of his/her TUMF obligation. If the developer makes only a partial payment prior to the Payment Date, the amount of the fee due shall be based on the TUMF fee schedule in place on the Payment Date. The fees shall be calculated according to fee schedule set forth in the resolution adopted pursuant

to Section 16.21.040(A) and the calculation methodology set forth in the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time.

~~(2)~~(3) The fees required to be paid shall be the fee amounts in effect at the time of payment is due under this chapter, not the date the chapter is initially adopted. The City shall not enter into a development agreement which freezes future adjustments of the TUMF.

~~(3)~~(4) If all or part of any ~~d~~Development ~~p~~Project is sold prior to payment of the fee, the property shall continue to be subject to the requirement for payment of the fee. The obligation to pay the fee shall run with the land and be binding on all the successors in interest to the property.

~~(4)~~(5) Fees shall not be waived.

(C) ~~**Disposition of Fees**~~**Issuance of Certificate of Occupancy.**
~~All fees collected hereunder shall be transmitted to the Executive Director of WRCOG along with a corresponding Remittance Report by the tenth (10) day of the close of the month for the previous month in which the fees were collected for deposit, investment, accounting and expenditure in accordance with the provisions of this chapter, TUMF Administrative Plan, and the Mitigation Fee Act~~The City shall not issue a certificate of occupancy for any Development Project until WRCOG has provided written confirmation to the City that it has collected the TUMF fee.

(D) **Appeals.** Appeals shall be filed with WRCOG in accordance with the provisions of the TUMF Administrative Plan. Appealable issues shall be the application of the fee, application of credits, application of reimbursement, application of the legal action stay and application of exemption.

(E) **Reports to WRCOG.** The Director of Public Works, or his/her designee, shall prepare and deliver to the Executive Director of WRCOG, periodic reports as will be established under Section 16.21.070.”

SECTION 2. Effect. No provisions of this Ordinance shall entitle any person who has already paid the TUMF to receive a refund, credit or reimbursement of such payment. This Ordinance does not create any new TUMF.

SECTION 3. Severability. If any one or more of the terms, provisions or sections of this Ordinance shall to any extent be judged invalid, unenforceable and/or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions and sections of this Ordinance shall not be affected thereby and shall be valid and enforceable.

SECTION 4. Judicial Review. In accordance with State law, any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be commenced within 90 days of the date of adoption of this Ordinance.

SECTION 5. CEQA Findings. The City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance simply transfers the obligation to calculate and collect the Transportation Uniform Mitigation Fee from the City to WRCOG and there is no possibility that adopting this Ordinance will have a significant effect on the environment. Therefore, no further environmental analysis is required.

SECTION 6. Publication. In accordance with California Government Code section 36933(a), within fifteen days after its passage the City Clerk shall cause this Ordinance to be published at least once, with the names of those City Council members voting for or against it, in a newspaper of general circulation published and circulated within the City. If there is no such newspaper, the City Clerk shall cause the Ordinance to be posted in at least three public places in the City or published in a newspaper of general circulation printed and published in the county and circulated in the City.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days from and after its final passage.

ADOPTED this 19th day of December, 2018.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California duly held the 6th day of December, 2018, and adopted by the City Council of the City of Corona, California, at an adjourned regular meeting thereof held on the 19th day of December, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 19th day of December, 2018.

City Clerk of the City of Corona, California

(SEAL)

ORDINANCE NO. 3290

AN ORDINANCE OF THE CITY OF CORONA, CALIFORNIA, AMENDING CHAPTER 16.21 TO INCLUDE A PROCESS FOR WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS CALCULATION AND COLLECTION OF FEES UNDER THE WESTERN RIVERSIDE COUNTY TRANSPORTATION UNIFORM MITIGATION FEE (TUMF) PROGRAM

WHEREAS, the City of Corona (“City”) is a member agency of the Western Riverside Council of Governments (“WRCOG”), a joint powers agency comprised of the County of Riverside and seventeen cities located in Western Riverside County; and

WHEREAS, the member agencies of WRCOG, recognizing that there is insufficient funding to address the impacts of new development on the regional system of highways and arterials in Western Riverside County (“Regional System”), developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System could be made up, in part, by the imposition of a development impact fee on future residential, commercial, and industrial development; and

WHEREAS, on November 5, 2002, the voters in Riverside County approved Measure “A” which extended the half-cent sales tax for thirty years to provide funding for various transportation improvements throughout Riverside County, including the acquisition, construction, operation, and maintenance of streets, roads, and highways; and

WHEREAS, Section 5 of the Expenditure Plan for Measure “A” requires that the City participate in the WRCOG Transportation Uniform Mitigation Fee (“TUMF”) program in order to receive its fair share of the transportation funds generated by Measure “A”; and

WHEREAS, the TUMF program requires each member entity of WRCOG, including the City, to adopt an ordinance imposing a development impact fee on new construction within that entity’s jurisdiction for purposes of funding the TUMF program; and

WHEREAS, Chapter 16.21 to the Corona Municipal Code authorizes the City’s participation in the WRCOG TUMF program and imposition of a development impact fee to fund the TUMF program, the amount of which is to be established by resolution (“TUMF Fee”); and

WHEREAS, member agencies of WRCOG are currently responsible for calculating and collecting the TUMF Fee for all new development within its jurisdiction, which the member agencies then remit to WRCOG on a monthly basis; and

WHEREAS, WRCOG, upon the recommendation of the WRCOG Executive Committee, has adopted a revision to the TUMF calculation and collection process to provide an

option in which WRCOG calculates and collects the TUMF Fee on behalf of member agencies that elect to delegate the fee calculation and collection task to WRCOG; and

WHEREAS, the City Council desires to amend Section 16.21.060 of Chapter 16.21 of the Corona Municipal Code to permit WRCOG to calculate and collect the TUMF Fee on behalf of the City under the TUMF program.

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“16.21.060 Procedures for the Levy, Collection and Disposition of Fees.

(A) **Authority of the Public Works Department.** The Director of Public Works, or his/her designee, is hereby authorized to is hereby authorized to provide WRCOG with all necessary information concerning new Development Projects that are subject to the TUMF to enable WRCOG to calculate the TUMF fees in a manner consistent with the TUMF Administrative Plan.

(B) **Payment and Collection.** Payment of the TUMF fees shall be as follows:

(1) All fees collected hereunder shall be calculated and collected by WRCOG for deposit, investment, accounting and expenditure in accordance with the provisions of this chapter, the TUMF Administrative Plan and the Mitigation Fee Act.

(2) The fees shall be paid at the time a certificate of occupancy is issued for the Development Project or upon final inspection, whichever comes first (the “Payment Date”). However, this section should not be construed to prevent payment of the fees prior to issuance of an occupancy permit or final inspection. Fees may be paid at the issuance of a building permit, and the fee payment shall be calculated based on the fee in effect at that time, provided the developer tenders the full amount of his/her TUMF obligation. If the developer makes only a partial payment prior to the Payment Date, the amount of the fee due shall be based on the TUMF fee schedule in place on the Payment Date. The fees shall be calculated according to fee schedule set forth in the resolution adopted pursuant to Section 16.21.040(A) and the calculation methodology set forth

in the Fee Calculation Handbook adopted July 14, 2003, as amended from time to time.

(3) The fees required to be paid shall be the fee amounts in effect at the time of payment is due under this chapter, not the date the chapter is initially adopted. The City shall not enter into a development agreement which freezes future adjustments of the TUMF.

(4) If all or part of any Development Project is sold prior to payment of the fee, the property shall continue to be subject to the requirement for payment of the fee. The obligation to pay the fee shall run with the land and be binding on all the successors in interest to the property.

(5) Fees shall not be waived.

(C) **Issuance of Certificate of Occupancy.** The City shall not issue a certificate of occupancy for any Development Project until WRCOG has provided written confirmation to the City that it has collected the TUMF fee.

(D) **Appeals.** Appeals shall be filed with WRCOG in accordance with the provisions of the TUMF Administrative Plan. Appealable issues shall be the application of the fee, application of credits, application of reimbursement, application of the legal action stay and application of exemption.

(E) **Reports to WRCOG.** The Director of Public Works, or his/her designee, shall prepare and deliver to the Executive Director of WRCOG, periodic reports as will be established under Section 16.21.070.”

SECTION 2. Effect. No provisions of this Ordinance shall entitle any person who has already paid the TUMF to receive a refund, credit or reimbursement of such payment. This Ordinance does not create any new TUMF.

SECTION 3. Severability. If any one or more of the terms, provisions or sections of this Ordinance shall to any extent be judged invalid, unenforceable and/or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions and sections of this Ordinance shall not be affected thereby and shall be valid and enforceable.

SECTION 4. Judicial Review. In accordance with State law, any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be commenced within 90 days of the date of adoption of this Ordinance.

SECTION 5. CEQA Findings. The City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance simply transfers the obligation to calculate and collect the Transportation Uniform Mitigation Fee from the City to WRCOG and there is no possibility that adopting this Ordinance will have a significant effect on the environment. Therefore, no further environmental analysis is required.

SECTION 6. Publication. In accordance with California Government Code section 36933(a), within fifteen days after its passage the City Clerk shall cause this Ordinance to be published at least once, with the names of those City Council members voting for or against it, in a newspaper of general circulation published and circulated within the City. If there is no such newspaper, the City Clerk shall cause the Ordinance to be posted in at least three public places in the City or published in a newspaper of general circulation printed and published in the county and circulated in the City.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days from and after its final passage.

ADOPTED this 19th day of December 2018.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California, duly held the 6th day of December, 2018, and adopted by the City Council of the City of Corona, California, at an adjourned regular meeting thereof held on the 19th day of December, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 19th day of December, 2018.

City Clerk of the City of Corona, California

(SEAL)