

**AMENDMENT NO. 1
TO THE IMPROVEMENT AND CREDIT AGREEMENT
BETWEEN THE (CITY/COUNTY) OF _____
AND **[**ENTER NAME OF DEVELOPER**]****

1. Parties and Date.

This **AMENDMENT NO. 1** to the **IMPROVEMENT AND CREDIT / REIMBURSEMENT AGREEMENT** (“Amendment”) is entered into as of this ___ day of _____, 20__, by and between the (City/County) of _____, **[**a California municipal corporation (“City”) or a subdivision of the State (“County”)**]**, and _____, a California **[**INSERT TYPE OF ENTITY - a corporation, a partnership, a sole proprietorship or other legal entity**]**, with its principal place of business at **[**ENTER ADDRESS**]** (“Developer”). (City/County) and Developer are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

2. Recitals.

2.1 Agreement. The (City/County) and Developer entered into the **IMPROVEMENT AND CREDIT / REIMBURSEMENT AGREEMENT** (“Agreement”) dated _____, 20__ as it relates to the construction of improvements on the Property located at _____ (“Project”). As a condition of the (City/County)’s approval of the Project, the (City/County) has required Developer to construct certain street and transportation improvements of regional importance (“TUMF Improvements”).

2.2 Amendment Purpose. As the (City/County) is one of the participating jurisdictions in the TUMF Program that adopted both the Transportation Uniform Mitigation Fee Nexus Study: 2009 Update (“2009 Nexus Study”) and the “Addendum 1 – Temporary Fee Reduction” (“Addendum”), and given that the Addendum has expired, this Amendment shall allow the Developer to amend its TUMF Obligation during a limited period of adjustment as discussed in Section 3.3 below. In addition, a Developer who is presently constructing his/her Project in phases may obtain a pro-rata adjustment to its TUMF Obligation if an existing or future phase(s) of the Project shall occur under a different nexus study.

2.3 TUMF Improvements. The TUMF Improvements are generally described as _____.

2.4 Amendment Authority. This Amendment is authorized pursuant to Section 15.8 of the Agreement.

3. Terms.

3.1 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

3.2 Developer’s TUMF Obligation. Section 14.1 of the Agreement is hereby replaced in its entirety and shall now provide as follows:

14.1 Developer’s TUMF Obligation. Developer hereby agrees and accepts that as of the date of this Amendment, the amount Developer is obligated to pay to (City/County) pursuant to (insert appropriate reference for city or county) the full or pro-rata share (if phases are involved) of the Transportation Uniform Mitigation Fee (TUMF) as maybe required for the Project in the amount of _____ (\$_____) (“TUMF Obligation”) as determined by the fee schedule and the TUMF Nexus Study 2009 Update which is now in effect since the aforementioned Agreement was originally executed by both Parties.

3.3 Limited Period of Adjustment. Section 14.2 of the Agreement is hereby replaced in its entirety and shall now provide as follows:

14.2 Limited Period of Adjustment. The Developer submits this Amendment in order to obtain a higher Maximum TUMF Share given that the Developer has agreed to pay the full TUMF Obligation as required under the 2009 Nexus Study and this Amendment is submitted before WRCOG’s adoption of the following year’s Construction Cost Index (“CCI”) in February of each year for the duration of the policy reduction. Developer understands that the failure to submit an Amendment before the CCI is adopted shall mean that the original TUMF Obligation calculated under the original Agreement shall control and the Developer will be required to accept the Adjusted Maximum Share provided forth under the Addendum.

3.4 Continuing Effect of Agreement. Except as amended by this Amendment, all other provisions of the aforementioned Agreement remain in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears, it shall mean the Agreement as amended by this Amendment.

3.5 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

3.6 Terms. All terms shall follow the definitions provided in the Agreement or the TUMF Administrative Plan.

Draft Template – For Use Between Public Agency and Developer
"Amendment"

[SIGNATURE ON FOLLOWING PAGE]

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

(CITY/COUNTY)

[ENTER DEVELOPER NAME]

By: _____

By: _____

[ENTER NAME/TITLE OF
AUTHORIZED SIGNATORY]

Date: _____

Date: _____

Attest:

Approved as to Form:

By: _____